



# Unified Development Code

*City of Ocean Springs*

***Approved 3/26/2019 – Effective 4/26/2019***

***Updated: 7/09/2024***

ORDINANCE NO. 2019-01

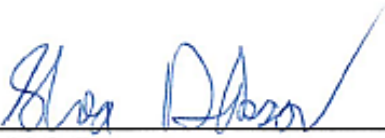
**AN ORDINANCE AMENDING NO. 13-1976 BEING THE  
"COMPREHENSIVE ZONING ORDINANCE OF OCEAN SPRINGS, MISSISSIPPI",  
TO ADOPT THE UNIFIED DEVELOPMENT CODE**

The above Ordinance having been first reduced to writing, the vote was follows:

|                           |            |
|---------------------------|------------|
| <b>Alderman Gill</b>      | <u>Aye</u> |
| <b>Alderman Authement</b> | <u>Aye</u> |
| <b>Alderman Bellman</b>   | <u>Aye</u> |
| <b>Alderman Papania</b>   | <u>Aye</u> |
| <b>Alderman Blackman</b>  | <u>Aye</u> |
| <b>Alderman Impey</b>     | <u>Aye</u> |
| <b>Alderman Cox</b>       | <u>Aye</u> |

**BY ORDER OF THE MAYOR AND BOARD OF ALDERMEN** of the City of Ocean Springs,

Mississippi, on this the 26th day of March, 2019.

  
\_\_\_\_\_  
**MAYOR**

  
\_\_\_\_\_  
**CITY CLERK**

**AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE**

| ORDINANCE NUMBER | DATE OF MAYOR/BOARD OF ALDERMEN APPROVAL | SUBJECT                                                                                                                                   |
|------------------|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 2019 – 09        | May 28, 2019                             | General flood regulations                                                                                                                 |
| 2019 – 11        | June 18, 2019                            | Planning Commission membership                                                                                                            |
| 2019 – 12        | June 18, 2019                            | Tree Protection Committee and tree regulations                                                                                            |
| 2019 – 14        | July 2, 2019                             | Signs for hospitals and medical campuses                                                                                                  |
| 2019 – 16        | September 3, 2019                        | Feather flag signs                                                                                                                        |
| 2019 – 18        | October 1, 2019                          | Flood zone maps                                                                                                                           |
| 2020 – 01        | January 7, 2020                          | Zoning Districts                                                                                                                          |
| 2020 – 02        | January 7, 2020                          | Design Review                                                                                                                             |
| 2020 – 04        | February 4, 2020                         | Zoning Districts                                                                                                                          |
| 2020 – 05        | February 4, 2020                         | Design Review – Landscaping                                                                                                               |
| 2020 – 06        | February 18, 2020                        | Flood Damage Prevention                                                                                                                   |
| 2020 – 10        | May 19, 2020                             | Tree Protection Committee                                                                                                                 |
| 2020 – 16        | October 20, 2020                         | Tree Protection Regulations                                                                                                               |
| 2020 – 17        | October 20, 2020                         | Public Hearing Requirements                                                                                                               |
| 2020 – 21        | December 15, 2020                        | Tree Protection – application fee                                                                                                         |
| 2020 – 22        | December 15, 2020                        | Design Review – application fee                                                                                                           |
| 2021 – 01        | January 19, 2021                         | Certificate of Appropriateness – application fee                                                                                          |
| 2021 – 02        | January 19, 2021                         | Lot Consolidation Process / Development Review Process / Clarify Reconfiguration for Lots and Parcels / Parcel Reconfiguration Fee        |
| 2021 – 26        | December 7, 2021                         | Re-Adoption of the UDC and subsequent amendments to include reversion of the RM-1 Zoning District to the previous R-1A code requirements. |
| 2022 – 05        | July 5, 2022                             | Medical Cannabis Facilities and Establishments                                                                                            |
| 2022 – 06        | July 5, 2022                             | Fences within the Porter Avenue Corridor and Downtown Overlay Districts                                                                   |
| 2022-10          | October 4, 2022                          | Fences as Setback Encroachments / Fences and Screening Walls-Sight Triangles / Accessory Uses and Structures – Permitting                 |
| 2022-11          | October 4, 2022                          | Off-street Parking Requirements                                                                                                           |
| 2022-15          | November 1, 2022                         | Demolition of Structures Over 50 Years Old Outside of Historic Districts                                                                  |
| 2023-05          | May 5, 2023                              | Planned Unit Developments                                                                                                                 |
| 2023-06          | May 5, 2023                              | R-6 Inclusion                                                                                                                             |
| 2024-02          | April 2, 2024                            | Various Clarifications for Definitions and Procedural Requirements                                                                        |

[illegible]

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# Chapter 1. Administration

## ADMINISTRATION, GENERALLY

### 1.1 TITLE

This ordinance shall be known as the "Unified Development Code of Ocean Springs, Mississippi" ("UDC") and may be so cited.

### 1.2 AUTHORITY

The provisions of this ordinance are adopted pursuant to the authority set forth in Sections 17-1-37 and 17-1-5 et seq. of the Mississippi Code of 1972, as amended.

### 1.3 APPLICABILITY

The use of buildings and land within the City of Ocean Springs is subject to all other regulations as well as the UDC, whether or not such other provisions are specifically referenced in the UDC. References to other regulations or provisions of the UDC are for the convenience of the reader. The lack of a cross-reference does not exempt any land, building, structure, or use from other regulations. This UDC establishes many, but not all, of the standards and procedures for development. Other portions of the Municipal Code, as well as other standards, may apply to development, including, but not limited to, adopted building codes, fire codes, utility, street and drainage design and construction standards. The issuance of any development approval pursuant to this Code shall not relieve the recipient from the responsibility to comply with other municipal, county, state or federal laws, ordinances or regulations.

### 1.4 ENACTMENT, REPEAL OF EXISTING ZONING, SUBDIVISION, OTHER REGULATIONS

This UDC was passed, approved and adopted by the Board of Aldermen of the City of Ocean Springs as Ordinance **2019-01** on **February 25, 2019**. Upon the adoption of the UDC, the following are hereby repealed in their entirety:

*Table 1.1: Ordinances Replaced by Unified Development Code (UDC)*

| Name                              | City Code Section and/or Ordinance Number                                                                                                                                |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Zoning Ordinance                  | Appendix D: Zoning Ordinance, except Section 510 of Appendix D, Ordinance no. 2015-11 as amended; and Article XI Short-Term Rentals; (Ordinance no. 13-1976, as amended) |
| Subdivision Regulations           | Appendix C: Subdivision Regulations (Ordinance no. 8-2003, as amended)                                                                                                   |
| Design Review Ordinance           | Chapter 7, Article I, Section 25 (Ordinance no's. 19-2006 & 20-2006, as amended)                                                                                         |
| Flood Damage Prevention Ordinance | Chapter 7, Article VII                                                                                                                                                   |

| Name                                   | City Code Section and/or Ordinance Number                                               |
|----------------------------------------|-----------------------------------------------------------------------------------------|
| Junk Ordinance                         | Chapter 11, Article III (Ordinance 10-1987)                                             |
| Historic Preservation                  | Chapter 17, Section 3 (Ordinance no. 4-1990, as amended)                                |
| Landscape Ordinance                    | Appendix C, Article III, Section 69 (Ordinance 1-1994, as amended by Ordinance 12-1995) |
| Sexually Oriented Businesses Ordinance | Chapter 4.5, Article II, Division 3                                                     |
| Stormwater Ordinance                   | Chapter 23, Article V (Ordinance no. 14-2000)                                           |
| Tree Protection Ordinance              | Chapter 22.75, Article II (Ordinance 16-1987)                                           |
| Waterview Preservation Ordinance       | Appendix D, Article V, Section 508 (Ordinance 16-2007)                                  |

All ordinances or parts of ordinances in conflict herewith are repealed, but nothing contained herein shall prevent the prosecution of any person or the bringing of a civil action to enjoin any person for the prior violation of any ordinance or part of any ordinance hereby repealed.

## 1.5 CONSISTENCY WITH COMPREHENSIVE PLAN

The UDC shall be consistent with the Comprehensive Plan, and with regard to development approvals, applicable area and overlay corridor plans or overlay districts. An amendment to the text or map of the UDC is consistent and in accordance with the Comprehensive Plan or ~~area or~~ corridor plan or overlay districts if it complies with the goals, objectives, policies, and strategies contained in the Comprehensive Plan or applicable plan. Any amendments to the UDC, including but not limited to development approvals, shall be consistent with the adopted Comprehensive Plan, as it may be amended from time to time, in effect at the time of the request for an amendment, an adopted area or corridor plan; or overlay districts. ~~and the CIP.~~

## 1.6 COORDINATION WITH OTHER REGULATIONS

### 1.6.1 UDC as Paramount Regulation

Where a regulation contained in the UDC imposes higher standards than those required under another statute, ordinance or regulation, the regulation adopted under the UDC controls. If the other statute, ordinance or regulation imposes higher standards, that statute, ordinance, or regulation controls so long as it is consistent with the purposes, findings and intent of the UDC and with the goals, objectives, policies and strategies of the Comprehensive Plan.

### 1.6.2 Development Under Prior Regulations

Development under prior regulations shall be allowed, provided a valid development approval has not expired. All new applications shall comply with the provisions of this UDC, except that a Final Plat may be approved if it is consistent with a valid Preliminary Plat. Any permit issued under prior



regulations shall expire twenty-four (24) months or two (2) years after adoption of this UDC. Legal non-conforming situations may continue in conformance with this UDC.

### 1.6.3 Relationship to Private Agreements

This UDC is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the regulations of this UDC are more restrictive or impose higher standards or requirements than such easement, covenant or other private agreement, the regulations of this UDC shall govern.

## 1.7 CONCURRENT PROCESSING

One of the principal purposes of the UDC is to encourage applicants to concurrently submit for multiple development approvals for a single project in order to speed up and make more efficient the development approval process. Any application which includes requests for two or more development approvals shall cumulatively comply with the requirements of the UDC for each type of development and development approval applied for prior to engaging in that type of development. The City may issue a development order denying, approving, approving with conditions and mitigation requirements, approving any part of an application, approving other parts in phases or denying other parts.

## 1.8 EXEMPTIONS

### 1.8.1 Application of Regulations During Local Emergency

The Board of Aldermen shall have the authority to waive standards within this UDC during local emergencies declared by federal, state or local officials.

### 1.8.2 Specific Exemptions

The Board of Aldermen shall have the authority to waive standards within this UDC if the following apply:

- A. Exemptions granted by State law;
- B. The acquisition of land by the City for right-of-way;
- C. Leaseholds for space within a multi-occupant building or a commercial building site, provided the property is a part of an approved subdivision;
- D. Leaseholds for agricultural uses provided the uses do not include a residence or other purpose not directly related to agricultural use;
- E. The conveyance of parcels of land or interests therein for use as right-of-way for railroads or other public utility facilities which does not involve new streets or off-site easements;
- F. Conveyances relating to the dedication of land for a public use;
- G. A conveyance made to correct a description in a plat, such as:

1. To correct an error in the description of property in a plat; or
  2. To show the proper location or character of any monument which has been changed in location or character or which was shown incorrectly on the prior plat.
- H. City Initiated Requests. The Mayor, Planning Commission or Board of Aldermen may initiate a request for any development permit on behalf of the City. Such requests shall not be subject to fees but shall otherwise follow the same procedures established herein.
- I. If an Applicant is prevented from completing and having accepted such required site improvements within the prescribed time by reason of strikes, riots, acts of God, acts of a public enemy, injunction, or other cause similar to those enumerated beyond the Applicant's reasonable control, the Applicant shall be entitled to an extension of time equal to the time of such delay that shall be fixed by written certificate made by the Public Works Official. It is expressly declared that no such allowance of time will be made unless claimed by the Applicant and allowed and certified in writing by the Public Works Official at the end of each period of such delay.

## **1.9 INTERPRETATION**

### **1.9.1 Generally**

This Code shall be interpreted to promote the safety, health, convenience, comfort, prosperity, and general welfare of the public. Interpretation and application of the UDC are the basic and minimum requirements for the protection of public health, safety, comfort, morals, convenience, prosperity, and welfare. The UDC shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in the UDC shall be construed in accordance with Chapter 7 - Definitions, of the UDC, which is incorporated by reference. The UDC contains numerous graphics, pictures, illustrations, and drawings in order to assist the reader in understanding and applying the UDC. However, to the extent that there is any inconsistency between the text of the UDC and any such graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.

### **1.9.2 Rules of Language**

Words and phrases used in this UDC shall be interpreted as follows:

- A. The UDC shall be interpreted by considering, among others:
1. The intent of the Board of Aldermen when adopting this ordinance; the occasion and necessity for the provision; the circumstances under which it was enacted;
  2. The threat to the public health, safety and welfare to be remedied;
  3. The former provision, if any, including other provisions upon the same or similar subjects;
  4. The consequences of a particular interpretation;
  5. Legislative, administrative, and City Attorney interpretations of the provision.
- B. Every provision shall be construed, if possible, to give effect to all its terms. When the words of a provision in its application to an existing situation are clear and free from all ambiguity,

the letter of the provision shall not be disregarded under the pretext of pursuing the spirit. When the words of a provision are not explicit, the intention of the Board of Aldermen shall be determined by communication with the Aldermen.

- C. General words are construed to be restricted in their meaning by particular and specific words. When a general provision is in conflict with a specific provision, the two shall be construed, if possible, so effect may be given to both. If irreconcilable, the specific shall prevail and be construed as an exception to the general, unless the general was enacted as a later amendment to the UDC, then it shall be construed to have the latter general provision prevail.
- D. In the case of a difference in meaning or implication between the text of the UDC and the captions for each section, the text shall control.
- E. Where an amendment is adopted and conflicts with or overlooks a provision of the UDC, the two shall be interpreted together, if possible, and effect shall be given to each. If the amendment is irreconcilable, the latest in date of final adoption shall prevail.
- F. When the UDC has been amended more than once, the latest amendment shall be read into the UDC as previously amended and not as originally adopted.
- G. Words and phrases are construed according to the rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined by this Chapter, are construed according to the special meaning or their definition.
- H. Words used in the present tense include the future; words in the singular include the plural; and words of one gender include the other gender, unless the context clearly indicates the contrary.
- I. All words, terms and phrases not otherwise defined herein shall be given their usual and customary meaning, unless the context clearly indicates a different meaning was intended.
- J. The word "shall" be always mandatory; the word "may" be permissive and is at the discretion of the appropriate decision-maker.

### 1.9.3 Graphics

Illustrations are provided for the convenience of the user. In case of a conflict with the text, the text shall control.

### 1.9.4 Computation of Time

Unless otherwise specifically provided, the timeframe specified for the performance of an act, duty, notice, matter, payment, or thing shall begin on the day following the submittal of an application or the preceding action. Specified timeframes shall not end on a Saturday, Sunday or a City-recognized holiday, but shall end on the following business day. Unless otherwise specified, times are stated in calendar days, including weekends and holidays.

## 1.10 PURPOSE AND INTENT

The UDC and all development approvals and development orders issued pursuant to the UDC are designed to implement and be consistent with the goals, objectives, policies, and strategies of the Comprehensive Plan through comprehensive, concurrent, consistent, integrated, effective, and concise land development regulation. The UDC is designed to protect and promote the health, safety and general welfare of the present and future residents of the City. The UDC is a police power, public nuisance, environmental and land use regulation designed to establish separate land use, growth management, environmental, fiscal, adequate public facility, traffic, police and fire, school, library, storm water management, emergency service and preparedness, health and safety, protection of cultural and historical resources, lessening of air and water pollution, assurance and conservation of water resources, promotion of sustainability, green development and new urbanism, and to provide standards to protect from adverse public nuisance or land use effects and impacts resulting from public or private development within the City. The UDC intends that no development activity shall occur on any public or private property within the jurisdiction of the UDC until and unless all applicable development approvals for the development activity have been granted. Therefore, the UDC shall:

- A. Require that no new development approval shall be granted unless there are adequate and available capital facilities and services or a plan to provide adequate capital facilities and services.
- B. Assure that properties receiving development approvals are permitted to continue and complete the project through all stages and phases under the provisions of the UDC as they existed at the time of submission of a complete application for development approval, in exchange for commitments to advance adequate public facilities and services for needs generated by new development, to eliminate existing deficiencies and to partially meet county and regional facility and service needs;
- C. Establish sustainable design and improvement standards and review processes by which development applications shall be evaluated, including the preparation of environmental, fiscal impact, traffic, water availability, emergency service and response, and adequate public facility and services studies, reports and assessments ("SRAs");
- D. Require that development and administrative fees; dedications; public improvement district rates, charges and fees; homeowner association assessments; public and private utility rates, fees and charges; and other appropriate mitigation, conditions and exactions be proportionately conditioned upon new development to meet the need for adequate public facilities and services at adopted levels of service, the need for which is generated by the development at the time of development approval.
- E. Express and reflect the highly unique sense of place and the desirable qualities of Ocean Springs through innovative and sustainable design and architectural standards for development compatible with new urban design, traditional neighborhood and historic communities.
- F. Encourage all new development to use energy and resource conservation measures and encourage attainment of sustainable building and neighborhood standards for all public and private buildings, structures and land uses.

- G. Ensure that building projects are planned, designed, constructed, and managed to minimize adverse environmental impacts; to conserve natural resources; and to enhance the quality of life in Ocean Springs.
- H. Develop strategies to encourage infill development over outlying sprawl expansion.
- I. Establish zoning districts and patterns of use that allow for new development to establish mixed use walkable neighborhoods contiguous to urban boundaries and integrated with the existing urban pattern where appropriate.
- J. Respect historical patterns, precedents, and boundaries in the development approval process for new development and redevelopment.
- K. Require that new development reflect the transportation network of the region and provide within each development a framework of transportation alternatives and inter-connectivity, including transit, pedestrian, and bicycle systems to maximize access and mobility throughout the region while reducing dependence upon the automobile where appropriate.
- L. Place high regard for the protection of individual property rights in appropriate balance with the community's need to implement the goals, objectives, policies and strategies of the Comprehensive Plan.

#### **1.11 SEVERABILITY**

If any court of competent jurisdiction decrees that any specific provision of the UDC is invalid or unenforceable, that determination shall not affect any provision not specifically included in the order or judgment. If any court of competent jurisdiction determines that any provision of the UDC cannot be applied to any particular property, building, structure or use, that determination shall not affect the application of the UDC to any other property, building, structure or use not specifically included in the order or judgment.

#### **1.12 EFFECTIVE DATE**

This ordinance shall not take effect and be in force until 30 days from and after its passage, and the same shall be published and recorded in the ordinance book as required by law.

#### **1.13 PLANNING DIRECTOR - RESPONSIBILITIES**

The Planning Director shall perform the following duties:

- A. Serve as staff for the Board of Aldermen, Planning Commission, the Zoning and Adjustment Board and other City boards and Commissions as directed by the Board of Aldermen, and shall act as a liaison to other governments, districts, utilities, neighborhoods and associations in land use matters;
- B. Review and render interpretations of this UDC, the Official Zoning Map, the Comprehensive Plan and the Capital Improvements Program;
- C. Make recommendations to the Board of Aldermen, Planning Commission, the Zoning and Adjustment Board and other City boards and Commissions as directed by the Board of

Aldermen regarding amendments to of this UDC, the Official Zoning Map, the Comprehensive Plan and the Capital Improvements Program;

- D. Accept applications for development approval; certify the completeness of submitted applications with the requirements of these regulations; review and prepare staff reports recommending approval, approval with conditions or denial of applications for amendments to the Comprehensive Plan, amendments to the Future Land Use Map, amendments to the text of this UDC and all legislative and quasi-judicial applications;
- E. Accept applications for, review, and approve, approve with conditions or deny, applications for all development approvals which the Planning Director is authorized to issue;
- F. Monitor development projects to ensure compliance with conditions of a development approval;
- G. Facilitate the creation and adoption of special area, corridor and neighborhood plans;
- H. Monitor and assist in the enforcement of these Regulations;
- I. Review development applications to ensure that all necessary permits, licenses, franchises and approvals have been obtained from federal, state, local governmental districts, public and private utilities and other public agencies; the amount and applicability of administrative and consulting fees, the administrative enforcement of the UDC, the adequacy of security instruments and escrow deposits and issuance of ministerial development approvals, subject to appeal to the Planning Commission;
- J. Keep a record of all permits, appeals, variances, certificates, reviews and such other transactions and correspondence pertaining to the administration of these Regulations; and
- K. Coordinate and manage the technical review by appropriate City departments of applications and plans submitted for development or construction approval, amendments to the UDC, the zoning map, the Comprehensive Plan, or any area or neighborhood. The Fire, Police, Public Works, Parks and Recreation, Building and Code Enforcement departments, and the City Engineer, shall be consulted on a regular basis; and other City departments, City Attorney, Ocean Springs school district, public and private utilities, cities, state or federal agencies may be consulted on an as-needed basis.

#### **1.14 PUBLIC WORKS DIRECTOR - RESPONSIBILITIES**

The Public Works Director shall be appointed by the Board of Aldermen, and shall perform the following duties:

- A. Assist the Planning Director with development review responsibilities;
- B. Review subdivisions, vacations or abandonment of streets, servitudes, and plats for conformance with this Code and make written recommendations;
- C. Determine the amount of the letter of credit, cash escrow or surety bond required for the construction of public improvements; and
- D. Review and approve, approve with conditions, or deny applications for construction plans in conformance with this Code.

### **1.15 BUILDING OFFICIAL - RESPONSIBILITIES**

The Building Official shall be appointed by the Board of Aldermen, and shall perform the following duties:

- A. Monitor development projects to ensure compliance with conditions of a development approval;
- B. Keep a record of all permits, appeals, variances, certificates, reviews and such other transactions and correspondence pertaining to the administration of these Regulations;
- C. Facilitate the creation and adoption of plans relating to Floodplain Management;
- D. Review floodplain development approval applications to ensure that the provisions of these Regulations will be met;
- E. If the Code Enforcement Official finds that any provision of this UDC is being violated, the Official shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering action necessary to correct it; and
- F. To remedy a violation of this UDC, the Code Enforcement Official shall order the discontinuance of the illegal activity and take any other action authorized by this UDC, the Ocean Springs Code of Ordinances and the Board of Aldermen to ensure compliance and to prevent violation of its provisions.

### **1.16 CITY ARBORIST - RESPONSIBILITIES**

#### **1.16.1 Duties**

A City Arborist, if appointed by the Board of Aldermen, would perform the following duties:

- A. Review and act on landscape site plans, including review and approval of alternative landscape site plans;
- B. Inspect landscaping prior to issuance of a certificate of occupancy;
- C. Review and act on applications for tree preservation credits;
- D. Review and approve specified exceptions to landscaping provisions;
- E. Make determinations pursuant to the application and enforcement of the landscaping requirements in this UDC; and
- F. Make recommendations on landscaping variances to the Zoning and Adjustment Board.

### **1.17 DESIGN REVIEW COMMITTEE**

#### **1.17.1 Appointment and Composition**

A Design Review Committee ("DRC") shall be established, with the members of the DRC appointed by the Board of Aldermen. The Design Review Committee shall consist of five (5) regular members to include the Planning Director and one Planning Commissioner elected by the Planning Commission. In addition, the DRC shall include one architect and two at-large members, all

residents of the City of Ocean Springs. All members of the DRC shall serve staggered terms not to exceed four (4) years, and shall be eligible for reappointment.

All DRC members shall have a demonstrated interest, competence, knowledge, or expertise in community design. To the extent available in the community, the Board shall appoint professional members from related disciplines of architecture, architectural history, urban design or interior design, archaeology, planning, cultural anthropology, law, and related fields.

#### 1.17.2 Responsibilities

The Design Review Advisory Committee shall be responsible for the following:

- A. Recommend to the Board of Aldermen minimum standards of design;
- B. Review, on at least an annual basis, the operations and implementation of this UDC, and recommend to the Board of Aldermen any amendments to either the administrative sections of this UDC or to the minimum standards of design that they may deem necessary to enhance such operations and implementation;
- C. Provide counsel and advice to the Planning Director on matters pertaining to community appearance;
- D. It shall be responsible for reviewing and making a recommendation on applications for a Building Permit in which the use of steel or other metal is included as a major exterior design element; and
- E. Other tasks and activities as the Board of Aldermen may designate.

### 1.18 TREE PROTECTION COMMITTEE

#### 1.18.1 Appointment and Composition

- A. The Tree Protection Department shall be composed of the City's Building Department.  
(Ord. No. 2019-12, § II, 6-18-19) (Ord. No. 2020-10, § II, 5-19-20)

#### 1.18.2 Responsibilities

- A. Receive and review applications for any work proposed to be done which may result in destruction of any tree or trees covered by the UDC. The Tree Protection Department ("TPD") shall review the application and make a recommendation to the Board of Aldermen; and
- B. To protect trees as an economic and aesthetic asset while also allowing for responsible economic growth.  
(Ord. No. 2019-12, § II, 6-18-19) (Ord. No. 2020-10, § II, 5-19-20)



## **1.19 HISTORIC PRESERVATION COMMISSION**

### **1.19.1 Appointment and Composition**

- A. A Historic Preservation Commission (“HPC”) is hereby established. The members of the HPC shall be appointed by the Board of Aldermen. The HPC shall consist of seven (7) members, all residents of the City of Ocean Springs. All members of the HPC shall serve staggered terms not to exceed three (3) years and shall be eligible for reappointment. The HPC annually shall elect from its membership a chairman, vice-chairman, and secretary; and
- B. All HPC members shall have a demonstrated interest, competence, knowledge, or expertise in historic preservation. To the extent available in the community, the Board shall appoint professional members from the primary historic preservation related disciplines of architecture, architectural history, history, urban design or interior design, archaeology, planning, cultural anthropology, law and related fields.

### **1.19.2 Responsibilities**

- A. Preserve, promote, and develop the historic resources of Ocean Springs and accomplish the purposes set forth in the Mississippi Local Government Historic Preservation Act of 1978;
- B. Advise the Board of Aldermen as to the designation of historic districts, landmarks, and landmark sites and to perform such other functions as may be provided by law;
- C. Recommend to the Board the adoption of ordinances designating landmarks, landmark sites, and historic districts;
- D. Initiate or receive from the owners of record of a proposed landmark or landmark site or a majority of the owners of record in a proposed historic district, a thorough investigation of historic, architectural, archaeological, and/or cultural significance of the buildings, structures, features, sites, and surroundings of such districts, landmarks, and landmark sites. The findings shall be collected and/or received in a cohesive printed format, made a matter of public record, and made available for public inspection. This survey will be maintained in a file and updated a minimum of once every five (5) years;
- E. Review applications proposing erection, alteration, restoration, demolition or moving of any landmark or building located on a landmark site or within an historic district so designated by the Board and shall issue or deny certificates of appropriateness accordingly;
- F. Promulgate and publish such standards and rules of procedure as are necessary to carry out the provisions of this article;
- G. The Commission is authorized to apply for, receive, hold, and spend funds from private and public sources, in addition to appropriations made by the City for the purpose of carrying out provisions of this article subject to all federal, state and local laws, rules, ordinances and standard accounting practices;

- H. The Commission shall not consider interior arrangements or interior use except for interiors that have been designated architecturally or historically significant after written consent has been obtained from the owner of the property; and
- I. This is a recommending body with final decisions to be made by the Mayor and Board of Aldermen.

## **1.20 PLANNING COMMISSION**

### **1.20.1 Appointment and Composition**

There is hereby established a Commission to be known as the Planning Commission. The Planning Commission shall consist of seven (7) members, all of whom shall reside within the City limits. The members of the Planning Commission shall be appointed by the Board of Aldermen. The members of the Planning Commission shall have a term of office of three (3) years. The members are to be selected so that the Commission consists of one resident member from each ward, along with an at-large member who may reside in any ward. Members shall be selected from among those ward residents who have submitted written applications. Should a member move out of the ward for which he or she was selected to represent, the Board of Aldermen shall replace that member with a ward resident as soon as is practicable. The ward residency requirement may be waived upon duly adopted resolution of the Board of Aldermen. The Planning Commission shall elect from among its members, its own chairman, vice-chairman, and secretary, and shall provide from time to time such rules and regulations, which are not inconsistent with any ordinances for its own organization and procedure as it may deem proper.

(Ord. No. 2019-11, §1, 6-18-19)

### **1.20.2 Responsibilities**

- A. The Planning Commission may make annual reports to the Board of Aldermen covering their investigations, transactions and recommendations; in addition, it shall make such other reports as it may deem proper, or as may be required by the Board of Aldermen;
- B. Make recommendations for the Comprehensive City Plan for the future development, including recommendations relative to the location, length, width, and arrangements of the streets, alleys, bridges, viaducts, parks, parkways, playgrounds, boulevards, or other public grounds or improvements, the platting of public property into lots, plots, streets or alleys, the locations of railroad or street car lines, transportation or other channels for communication of any kind, the grouping of public buildings, the design and placing of memorials, works of art, power or lighting plants, street lighting standards, telegraph and telephone poles, street name signs, billboards and projecting signs;
- C. Make recommendations in connection with the execution and detailed interpretation of the City plan, and make such changes and adjustments in the plan as may be deemed desirable from time to time;
- D. Make recommendations upon any matter relating to zoning regulations which may be referred to it by the Board of Aldermen, and assume such other related duties and responsibilities as may be delegated to it by the Board of Aldermen;

- E. Prepare and recommend to the Board of Aldermen rules controlling the subdivision of land;
- F. Make recommendations regarding the approval or disapproval of plats for land subdivision, lots splits zoning and conditional zoning permits;
- G. Recommend from time-to-time legislation which may be desirable to further the purpose of City planning; and
- H. In addition to all other powers and duties provided by the provisions of this chapter, the Planning Commission shall have such other powers and/or duties as may be provided by the Board of Aldermen.

## 1.21 ZONING AND ADJUSTMENT BOARD

### 1.21.1 Appointment and Composition

There is hereby created for Ocean Springs a Zoning and Adjustment Board ("ZAB") with the powers and duties as hereinafter set forth. The Ocean Springs ZAB shall consist of five (5) members appointed by the Board of Aldermen. The appointed members shall be named for three (3) year terms, in such manner that memberships shall expire on succeeding years. The Zoning and Adjustment Board shall elect a chairperson, vice- chairperson and secretary. Responsibilities of the secretary include keeping of minutes, providing correspondence and arranging meetings as required.

### 1.21.2 Responsibilities

- A. The ZAB is a recommending committee of the City of Ocean Springs. All recommendations of this committee will be forwarded to the mayor and board of aldermen for ratification and approval;
- B. Power to hear and recommend on administrative appeals from any decision of the Planning Director, Public Works Official or Building Official;
- C. If it is a matter of interpretation of the terms of this UDC or the municipal code, the ZAB shall render a recommendation through its minutes to the Board of Aldermen for ratification and final approval;
- D. 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~~
- E. **ZAB shall have the right by a majority vote to decrease any minimum requirement and to increase any maximum requirement.**

- F. **ZAB does not possess powers to increase or decrease ~~except for the required~~ minimum lot area in residential zoning districts.**
- G. **The Zoning Board of Adjustment shall grant a variance without a hardship by up to twenty-five percent (25%) (20%) and shall be allowed only for good and substantial reasons which shall be made part of the record.**
- H. **The Zoning Adjustment Board cannot grant a variance for over twenty percent 20% unless a “hardship” has been proven and the variance request meets the criteria.**  
  
**Hardship the exceptional hardship that would result from a failure to grant the requested variance. The variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship.**
- I. Powers relative to Exceptions: Upon appeal, the ZAB is hereby empowered to permit the extension of a district not to exceed one hundred (100) feet where the boundary lines of a district divide a lot in single ownership as shown on record. To interpret the provisions of these regulations where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts which map is attached to and made a part of these regulations; and
- J. In exercising the abovementioned powers, the ZAB 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 to that end shall have all the powers of the officer from whom the appeal is taken.

## **1.22 BOARD OF ALDERMEN**

### **1.22.1 Responsibilities**

- A. Appoint members to the Planning Commission, Zoning and Adjustment Board, Historic Preservation Committee, Tree Protection Committee, Design Review Committee, Library Board, Park Advisory Board, and any other committee, Commission or board as the Board of Aldermen determine;
- B. Decide all requests for amendments to the Plan and Future Land Use Map upon receipt of recommendations from the Planning Commission;
- C. Decide all requests for amendments to the zoning map and the Code text upon receipt of recommendations from the Planning Commission;
- D. Decide all requests for major subdivisions, overlay district developments, conditional use permits, and special use permits upon recommendation of the Planning Commission;
- E. Review and decide on all subdivision Concept Plans, including multi-family;
- F. Approve rules and regulations for public improvements;

- G. Act upon recommendations of the Planning Commission except as provided for in this Code;
- H. Adopt fees and authorize waivers to fees;
- I. Decide applications for waivers from public improvement requirements;
- J. Decide requests for closing or abandoning streets;
- K. Decide on annexations;
- L. Decide on all demolitions in the Historic Districts, Central Business, and Municipal Service Districts;
- M. Decide all requests for encroachments by properties coming under the review of the HPC; and
- N. Other responsibilities assigned by this Code, the City Charter, other sections of the Municipal Code, or State Law.

### **1.23 COMPLIANCE**

#### **1.23.1 Use of Land**

Except as herein specifically provided, no building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used, except under the following circumstances:

- A. The use shall be permitted in the district in which the use is located, pursuant to Chapter 3 of this UDC;
- B. No more than one principal building may be located on one lot, unless otherwise authorized;
- C. No mobile home, camper, bus or tractor trailer may be used as an accessory structure in a residential district;
- D. No structure or land shall be occupied or used without first obtaining a Certificate of Occupancy; and
- E. All uses shall comply with all applicable building, life, safety, fire and health codes adopted by the City and all applicable regulations adopted by the County, State or federal governments.

#### **1.23.2 Subdivision of Land**

Except as herein provided, no land shall be divided or subdivided, except in conformance with this code and subject to the following conditions:

- A. All divisions or subdivisions of land into two or more tracts, parcels or lots that are located within the jurisdiction of the City shall be subject to the procedures and requirements established herein;

- B. No subdivision plat shall be filed for record, recorded, or modified until approved in conformance with this code;
- C. No land dedicated shall be used for a public purpose, nor shall a subdivision or property containing such land or part thereof be made or recorded prior to obtaining final plat approval; and
- D. No grading, clearing, and grubbing, shall occur prior to the completion of a tree inventory and issuance of Concept Plan approval or site development plan approval, except for development of a single-family residence on a lot one (1) acre or less in size.

#### 1.23.3 Transfer of Land or Permits

No parcel of land in a subdivision created after the adoption date of this UDC shall be transferred or sold; nor shall a Building Permit or Certificate of Occupancy be issued for any use or structure thereon, until a plat has been recorded with the Register of Deeds.

#### 1.23.4 Fees

Any action on an application for development shall be subject to payment of the required fee. The amount of fees for development permits and applications are located in the Planning Department. All required fees shall accompany an application, shall be made payable to the City of Ocean Springs, and shall be submitted to the Planning Director. All fees are non-refundable.

### 1.24 ENFORCEMENT

#### 1.24.1 Inspection of Work in Progress

As the work pursuant to a permit progresses, the Building Inspector shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this Code and the terms of the permit. In exercising this power, the Building Inspector has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purpose of inspection or other enforcement action.

#### 1.24.2 Violations to Be Corrected

When the Building Inspector finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall each immediately remedy the violations of law.

#### 1.24.3 Stop Orders

Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article or the approved permits and plans, if the violation poses an imminent threat to life, safety and/or the environment; or where no permits have been issued prior to work commencing, or for other good causes, the Building Inspector may order the work to be immediately stopped. The stop order shall be in writing and directed to the person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage,

and the conditions under which the work may be resumed. Violation of a stop order constitutes a misdemeanor.

#### 1.24.4 Violation

Any person found to be violating this Code shall be guilty of a misdemeanor, subject to fines and other penalties as allowed by law.

#### 1.24.5 Revocation of Permits or Approvals

Development approvals may be revoked in accordance with Chapter 2.

#### 1.24.6 Actions in Event of Failure to Take Corrective Action

If the owner of a building or property shall fail to take prompt corrective action, the Building Official shall give him written notice, by certified or registered mail, to his last known address or by personal service:

- A. That the building or property is in violation of this Code;
- B. That a hearing will be held before the appropriate Board or Court at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- C. ~~That if~~ Following the hearing, the Building Official may issue such order to alter, vacate, or demolish the building or structure as appropriate.

#### 1.24.7 Order to Take Corrective Action

If, upon a hearing held pursuant to the notice prescribed above, the Building Inspector shall find that the building or development is in violation of this Code, the Building Inspector shall make an order in writing to the owner, requiring the owner to remedy the violations, within such period, not less than sixty (60) days, the Building Inspector may prescribe; provided, that where the Building Inspector finds that there is imminent danger to life or other property, the Building Inspector may order that corrective action be taken in such lesser period as may be feasible.

#### 1.24.8 Appeal

Any owner who has received an order to take corrective action may appeal in writing to the Building Code Board of Adjustments and Appeals and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Building Inspector shall be final. The Board of Aldermen shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

#### 1.24.9 Civil Remedies and Enforcement Powers

In addition to the remedies allowed by law, the regulations and standards contained in this Article may be enforced through the issuance of a civil citation by the Building Inspector or his designee.

#### 1.24.10 Separate Offenses May Be Charged

Each day a violation occurs shall be a separate violation, punishable as a separate offense.

#### 1.24.11 Enforcement and Penalties, Historic Preservation Violations

- A. Violation by any person of the provisions of this article or failure to comply with any of its requirements, after having been duly notified by the Planning Director, housing official, or building official, following the commission's determination of the type, nature, and extent of the violation of this article, shall, upon conviction thereof, constitute a misdemeanor; and
- B. Any person who violates the provisions of this article or fails to comply with any of its requirements, after having been duly notified by the Planning Director, housing official, or building official, shall, upon conviction thereof, be fined from one hundred dollars (\$100.00) to one thousand dollars (\$1,000.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, or property designated a landmark site, landmark, or within an historic district, and any architect, builder, contractor, engineer, agent or other person who commits, or participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 9-1989, § 18, 12-5-89)



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# Chapter 2. Process

## 2.1 PURPOSE AND INTENT

The purpose and intent of this chapter is to: establish the authority of those responsible for application of the UDC and to consolidate and designate the procedures for filing and processing applications for development approval. The format is designed to allow users to quickly and efficiently ascertain the various steps involved in obtaining development approval, from the initiation and filing of an application through the administrative completeness review, the review for compliance with substantive standards, and the public hearings. The provisions of this chapter are designed to implement the Comprehensive Plan and all area or neighborhood plans, corridor plans and functional or special purpose plans.

## 2.2 GENERALLY

No development or development activity is permitted unless all development approvals applicable to the proposed development are issued in accordance with this Chapter. Development approvals are required for all development, unless otherwise excepted, to ensure compliance with the various adopted codes, standards, and laws, and to ensure consistency with the Comprehensive Plan and policies of the City. This division describes procedural elements common to all applications. The specific procedures followed in reviewing various applications for development approval differ. Reference shall be made to the appropriate section in this chapter, which addresses the procedures and requirements of a particular application. Generally, the procedures for all applications have five common elements:

- A. Submittal of a complete application, including required fee payments and appropriate information and studies;
- B. Review of the submittal by appropriate staff, agencies, and boards;
- C. A decision to approve, approve with conditions, or deny together with the description of the actions authorized and the time period for exercising rights;
- D. If necessary, amending or appealing the decision; and
- E. Recording the decision.

## 2.3 APPOINTMENTS, MEMBERS

### 2.3.1 Administration

Each Committee, Commission or Board (hereinafter referred to as “reviewing body”) shall identify a chairman and vice-chairman. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.

### 2.3.2 Appropriations and Staff Support

The City is authorized to make appropriations necessary to the reviewing body to employ planners, engineers, clerks, technical experts or other persons and to obtain the equipment, supplies, and other materials necessary as may be required for the performance of the reviewing body’s duties as may be authorized by the Board of Aldermen. All expenses and appropriations are subject to City and state

law.

### 2.3.3 Members

Each member of a reviewing body shall be eligible for reappointment. Vacancies shall be filled by the Board of Aldermen, and appointments to fill vacancies shall be for unexpired terms only. All members of the reviewing body shall serve without pay. If an appointed member of a reviewing body is absent for two consecutive meetings without excuse, then the member may be removed by the Board of Aldermen, with recommendation from the reviewing body.

### 2.3.4 Quorum

A quorum shall consist of one more than half the number of the reviewing body.

### 2.3.5 Disqualification of Members by Conflict of Interest

Members of the reviewing body whose professional services are being used by an Applicant must disqualify themselves from that application. Such disqualification shall prohibit all action by the Commissioner including discussion, deliberation, voting, recommendation or participation as a reviewing body member. Likewise, any member of the reviewing body who has an interest in the property in question or who is employed with a firm that has been hired to aid the Applicant in any matter whatsoever, or who has a proprietary, tenancy, or personal interest in any case to be considered by the reviewing body shall be disqualified from participating in the consideration of any request for a permit.

## 2.4 NOTICE PROVISIONS

### 2.4.1 Generally

The notice requirements for each type of application are prescribed in the individual subsections of this chapter and/or the state statute. The notice requirements for certain types of public hearings are established in **Table 2.1** provided, however, that to the extent of any inconsistency between the provisions of this section and any state statute, the state statute governs.

### 2.4.2 Contents of Notices

The notice shall state the time, date, and place of hearing, and a description of the property subject to the application that includes, at a minimum:

- A. The street address or, if there is no street address, the distance to the nearest intersecting street;
- B. The current zoning classification, if any;
- C. The category of development approval requested and a brief description of the proposed development, including density or building intensity, revised zoning classification (if any), and uses requested; and
- D. The real property tax assessment roll parcel number.



### 2.4.3 Action to be Consistent with Notice

The reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable) of the application, or denial of the application.

### 2.4.4 Minor Amendments Not Requiring Re-Notification

This section governs to the extent consistent with provisions relating to minor amendments for a specific type of application. The reviewing body may allow minor amendments to the application without re-submittal of the entire application. For purposes of this section, “minor amendments” are amendments that:

- A. Do not increase the number of dwelling units, floor area, height, impervious surface development, or any additional land-use disturbance;
- B. Do not introduce different land uses than that requested in the application;
- C. Do not request larger land area than indicated in the original application;
- D. Do not request greater variance than that requested in the application;
- E. Do not allow any diminution in buffer or transition areas, reduction in landscaping, reduction of required yards, or any change in the design characteristics or materials used in construction of the structures; or
- F. Do not reduce or eliminate conditions attached to a legislative or quasi-judicial development order unless a new notice is provided.

*Table 2.1:*

*Notice Requirements for Approvals Requiring a Public Hearing OR Public Comment Meeting*

| Development Application             | Publication | Mail | Signage | Internet |
|-------------------------------------|-------------|------|---------|----------|
| ✓ - Required, ☐ - Optional          |             |      |         |          |
| Comprehensive Plan / Plan Amendment | ✓           | ☐    | ☐       | ✓        |
| UDC Text Amendment                  | ✓           | ☐    | ☐       | ✓        |
| UDC Map Amendment                   | ✓           | ✓    | ✓       | ✓        |
| Major Variance                      | ✓           | ✓    | ✓       | ✓        |
| Appeal                              | ✓           | ✓    | ✓       | ✓        |
| Conditional Use Permit              | ✓           | ✓    | ✓       | ✓        |
| Subdivision Sketch Plat             | ✓           | ✓    | ✓       | ✓        |
| Subdivision Preliminary Plat        | ✓           | ✓    | ✓       | ✓        |
| Subdivision Final Plat              |             | ☐    | ✓       | ✓        |

| Development Application                                     | Publication                                                                                                                                                                                                     | Mail                                                                                                                                                                                                                                                             | Signage                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Internet                                                                                                                        |
|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Subdivision Plat Amendment                                  | ✓                                                                                                                                                                                                               | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Concept Plan                                                | ✓                                                                                                                                                                                                               | ✓                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Site Plan                                                   | ✓                                                                                                                                                                                                               | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Tree Preservation Plan                                      | ✓                                                                                                                                                                                                               | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Lot Split                                                   |                                                                                                                                                                                                                 | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Landmark or Historic District Designation                   | ✓                                                                                                                                                                                                               | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Certificate of Appropriateness                              |                                                                                                                                                                                                                 | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| Demolition by Neglect                                       | ✓                                                                                                                                                                                                               | ✗                                                                                                                                                                                                                                                                | ✓                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ✓                                                                                                                               |
| <b><i>Conditions unless otherwise indicated in UDC:</i></b> | Notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date affixed for the hearing. Notice shall be published in an official paper of record. | Notice shall be sent to each owner, as indicated by the most recently approved real property assessment tax roll, of real property within 500 feet of the property. Notice shall be sent to registered neighborhood associations within 500 feet of the project. | Post at least one (1) sign at least fifteen (15) days prior to the hearing in conspicuous places visible from each street along the frontage of the subject property. Sign shall measure at least 2 feet x 1.5 feet with letters at least 2 inches in height. The sign shall state: <i>Site of Proposed Development Approval. Required by the City of Ocean Springs Unified Development Code.</i> The sign shall refer to the Dept. of Community Development for information. | A copy of the notice must be posted on the City's website from the time of publication until the proceeding has been completed. |

(Ord. No. 2020-17, § II, 10-20-20)

## 2.5 PUBLIC HEARINGS AND PUBLIC COMMENTS

### 2.5.1 Purpose

- A. PUBLIC HEARING: The purpose of a public hearing is to provide the public with an opportunity to be heard consistent with procedures provided by statute and State of Mississippi Open Meetings laws.
- B. PUBLIC COMMENT MEETING: The purpose of a public comment meeting is to provide the public with an opportunity to present facts and opinions to the appropriate recommending body and/or legislative body about a development application that is on that body's agenda, without the publication and process requirements associated with a Public Hearing.

(Ord. No. 2020-17, § III, 10-20-20)

### 2.5.2 Meetings

All meetings of the reviewing body shall be open to the public. Meetings of the reviewing body shall be at the call of the Chairman and at such other times as the reviewing body shall determine. The reviewing body shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the appointment of a full Commission and regular meetings shall be scheduled at least once every month unless there is no business or request to come before the board. The meeting place of said Commission shall be the Board Chamber of the City Hall, or such other place as a meeting may be adjourned to if a need to do so arises. The Chairman or any two (2) members may call a special meeting by giving written notice to every other member of the Commission stating the date and time of such meeting either by hand delivery thereof at least five (5) days before the meeting date or by mailing such notice to each member, posted at least eight (8) days before the meeting date.

### 2.5.3 Rules of Order

The reviewing body shall develop and adopt rules of procedure which shall govern the conduct of its business, development of criteria and procedural matters subject to the approval of the board. Such rules of procedure shall be a matter of public record.

### 2.5.4 Application

Reviewing bodies shall investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action. These decisions involve two key elements:

- A. The finding of facts regarding the specific proposal; and
- B. The exercise of discretion in applying the standards of the ordinance.

### 2.5.5 Conduct of Public Hearing and Public Comment Meeting

- A. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing shall state, for the record, his/ her name, address, and, if appearing on behalf of an organization or group, the name and mailing address of the organization or group.
- B. Members of the reviewing body conducting the hearing may ask questions of the Applicant, staff, or public, or of any witness, and may require questions be submitted to the chairman of the reviewing body who will direct the question to the appropriate party.
- C. Testimony may be presented by the Applicant, and any member of the public, but need not be submitted under oath or affirmation. The reviewing body may establish a time limit for testimony and may limit testimony where it is repetitive or irrelevant.

(Ord. No. 2020-17, § III, 10-20-20)

### 2.5.6 Order of Proceedings for Public Hearings

The order of proceedings is as follows:

- A. The Planning Director or designees shall present a description of the proposed development and the relevant sections of plans and ordinances involved, and set forth the legal or factual issues to be determined. A written or oral recommendation may be given at the opening of the hearing or, in complex cases, may be reserved by the Planning Director to review the testimonial and document any evidence. The recommendation shall address each factor required by the UDC to be considered prior to development approval;
- B. The Applicant shall present such information or evidence that the Applicant deems appropriate, subject to reasonable time limits established by the reviewing body;
- C. Public testimony, including expert or lay witnesses on the Applicant's behalf, and relevant evidence either in support of or in opposition to the proposed development shall be received;
- D. The Planning Director or other staff member shall not respond to any statement made by the Applicant or any public comment during the hearing, but may respond to questions from the reviewing body concerning any statements or evidence received during the deliberations;
- E. The Applicant may reply to any testimony or evidence presented by staff or the public; and
- F. The body conducting the hearing shall close the public portion of the hearing and conduct deliberations.

(Ord. No. 2020-17, § III, 10-20-20)

#### 2.5.7 Order of Proceedings for Public Comment Meetings

The order of proceedings is as follows:

- A. The Planning Director or designee shall present a description of the application including applicable sections of the currently adopted code;
- B. The Applicant may present such information that the Applicant deems appropriate, subject to time limits established by the reviewing body;
- C. Public comment may be received subject to time limits established by the reviewing body; and
- D. The body conducting the public meeting shall conduct deliberations.

(Ord. No. 2020-17, § III, 10-20-20)

## 2.6 PUBLIC RECORD

### 2.6.1 Record

- A. The reviewing body shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions by any appropriate means as prescribed by rule and consistent with state law. Such record shall be provided at the request of any person upon application to the City Clerk.
- B. All development review decisions and all approved maps, plans and plats shall be maintained in the permanent files of the Planning Department and shall be recorded with the County recorder of deeds or City Clerk as required by statute.

## **2.7 APPEALS**

### **2.7.1 Applicability**

Any person, including any officer or agency of the City of Ocean Springs, who is aggrieved by a final development order relating to an application for development approval by the Planning Director, may appeal such development order to the Zoning and Adjustment Board in the manner provided in this section.

### **2.7.2 Notice of Appeal**

A notice of appeal shall be filed with the Zoning and Adjustment Board within 30 days after the decision by the Planning Director. The appeal shall contain a written statement of the reasons for which the appellant claims the final decision is erroneous. The appeal shall be accompanied by the fee established by the Board of Aldermen.

### **2.7.3 Time Limit**

The Zoning and Adjustment Board shall hear the appeal within 60 days after the filing of the appeal. The appellate body shall approve or deny the appeal, or defer action for good cause.

## **2.8 PRE-APPLICATION CONFERENCE**

Before any application is filed with the Planning Director, any Applicant for development approval shall attend a pre-application meeting with the Planning Director. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the application.

## **2.9 COMPLETENESS REVIEW**

This section applies to any application, unless otherwise provided in the regulations for the specific application.

### **2.9.1 Application Materials**

No application is complete unless all of the information required herein is included and all filing fees have been paid. An application that includes such information is deemed complete. Current application materials shall be made available by the Planning Director. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the UDC or statute.

### **2.9.2 Timing**

Whenever the UDC establishes a time period for processing an application, such time period does not commence until the Planning Director has reviewed such application for completeness in order to determine whether the application has been properly submitted, the Applicant has corrected all deficiencies in the application, and the Planning Director has determined it to be complete. Review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether application complies with the provisions of the UDC.

- A. Not later than five (5) working days after the Planning Director has received an application, the Planning Director shall determine in writing whether the application is complete and shall immediately transmit the determination to the Applicant. If the application requires review by any other local or special district, or regional, state, or federal agency or entity, the Planning Director shall within five (5) working days transmit the application to such agency or entity requesting written comments within five (5) working days. In such case, the Planning Director shall have ten (10) days to render his/her decision. If the written determination is not made within the 5- or 10-day period, whichever is applicable, after receipt of the application, the application shall be deemed complete for purposes of this chapter. Upon receipt of any re-submittal of the application, a new five-day period shall begin, during which period the Planning Director shall determine the completeness of the application. If the application is determined not to be complete, the Planning Director's determination shall specify those parts of the application that are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The Applicant shall submit materials to the Planning Director in response to the list and description;
- B. If the application, together with the submitted materials, are determined not to be complete, the Planning Director shall specify in writing the information required and the Applicant may resubmit the application with the information required by the Planning Director or may appeal that decision in writing to the reviewing body for which the application was submitted or if for a ministerial permit, the Zoning and Adjustment Board;
- C. Nothing in this section precludes an Applicant and the Planning Director from mutually agreeing to an extension of any time limit provided by this section; and
- D. If the reviewing agency fails to act within the time period required for completeness review, the application is deemed complete.

#### 2.9.3 Limitation on Further Information Requests

After the Planning Director or the appellate hearing body accepts a development application as complete, the Planning Director or the hearing body may, in the course of processing the application, request the Applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if such would be required by the hearing body to render a final determination on the merits.

#### 2.9.4 Approvals

- A. If a recommending body has failed to convene a quorum or to make a recommendation approving or denying such action at two consecutive meetings, such action, at the option of the Applicant, shall be deemed to be a negative recommendation the Planning Director shall then submit the application to the Board of Aldermen for its consideration.
- B. Recommending bodies shall act on an application within sixty (60) days after the date the application is found to be complete. An application is deemed approved by a recommending body unless the recommending agency has provided reasons for disapproval within the sixty (60) day period.

## **2.10 RIGHT OF ENTRY**

Solely in performance of its official duties and only at reasonable times, the Commission, or its duly authorized agents, is authorized to enter upon private land for examination or survey thereof with the express written consent of the owner of record or occupant thereof.

## **2.11 NEIGHBORHOOD PARTICIPATION**

It is the policy of the City of Ocean Springs to encourage Applicants to meet with surrounding neighborhood residents prior to filing an application for a development approval requiring a public hearing.

### **2.11.1 Purpose**

- A.** Encourage Applicants to pursue early and effective communication with the affected public in conjunction with applications, giving the Applicant an opportunity to understand and attempt to mitigate any documentable adverse impact of the proposed project on the adjoining community and to educate and inform the public; and
- B.** Provide citizens and property owners of affected areas with an opportunity to learn about applications and to work with Applicants to resolve concerns at an early stage of the process; and
- C.** Facilitate ongoing communication between the Applicants, interested citizens, property owners, City of Ocean Springs staff, Boards and Commissions, and elected officials throughout the application review process.
- D.** Registration  
A neighborhood registry may be maintained by the Planning Director.
- E.** In order to be included within the neighborhood registry, the neighborhood association shall provide the following information:
  - 1. A map or written description of the neighborhood boundaries;
  - 2. A list of representatives or officers in the association, including their addresses and phone numbers;
  - 3. The date the association was founded;
  - 4. The approximate population and number of housing units in the neighborhood; and
  - 5. The identification of and, approximate square footage and number of employees in the neighborhood.
- F.** The neighborhood association shall contact the Planning Director in the event of a change in the above- referenced information. An Applicant shall be entitled to rely on the above-referenced information for purposes of preparing any notices or otherwise contacting neighborhood associations where required by this chapter.
- G.** Upon a neighborhood association registration as provided herein, the Planning Director shall notify the neighborhood association of any application for rezoning or master site plan approval filed within the boundaries of a registered neighborhood association.

- H. Individual citizens who reside outside of the 500-foot notice area required by this chapter, but within the boundaries of a registered neighborhood association, are considered notified when any such notification is sent to the neighborhood association within 500 feet of the subject site.

#### 2.11.2 Neighborhood Meeting

Neighborhood review as a preparatory step in the development process is strongly encouraged for any development application that requires a public hearing and encouraged for ministerial development orders. If such a meeting is held, the Applicant should provide a written report on the results of its citizen participation efforts to the Planning Director, which shall be forwarded to the reviewing body. Inclusion of citizen participation will be noted by the reviewing body.

### 2.12 REVOCATION OF A DEVELOPMENT APPROVAL

#### 2.12.1 Initiation

The Planning Director shall investigate alleged violations of imposed condition or conditions and shall determine whether or not to terminate or suspend a development approval. If the Planning Director determines that a termination, or suspension, of a development approval is appropriate, a recommendation, including the reason or reasons for their determination, shall be made to the hearing body who shall conduct a public hearing on the matter.

#### 2.12.2 Grounds for Revocation

The following are grounds for revocation of a development approval:

- A. The intentional provision of materially misleading information by the Applicant (the provision of information is considered “intentional” where the Applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence); and
- B. The failure to comply with any condition of a development approval.

#### 2.12.3 Notice and Public Hearing

Notice of the hearing shall be provided to the development approval holder at least 10 calendar days prior to the hearing. Said notice shall be in writing and delivered by personal service or certified mail and shall advise of the Planning Director’s recommendation as well as the date and location of the hearing before the hearing body.

#### 2.12.4 Decision and Notice

The hearing body shall prepare a development order approving, approving with conditions, or denying the Planning Director’s recommendation. The development order shall contain findings that address the basis for the decision. The development order shall state the condition or conditions that have been violated and the harm such violation has caused. In the case of a suspension of the use, the development order shall state the length of time for such violation to be cured. In the case of a termination, the development order shall state the reason such violation cannot be cured.



#### 2.12.5 Appeals

An aggrieved party may appeal the hearing body's decision to a court of competent jurisdiction. The appeal shall be presented within the period of time authorized by state statute.

#### 2.12.6 Right Cumulative

The right to revoke a development approval, as provided in this section, is cumulative to any other remedy allowed by law.

### 2.13 STUDIES, REPORTS AND ASSESSMENTS

#### 2.13.1 Generally

Developments that may likely have a significant impact on public infrastructure, the natural environment or the City's financial capacity, due to the number of dwelling units, building size or height, or proximity to sensitive lands, may necessitate the preparation of impact study(ies). The applicant shall provide studies, reports and assessments ("SRAs"), when required by the Planning Director, together with the application for discretionary development approval, and certified as complete by the Planning Director, before any public hearing is held by the Planning Commission or the Board of Aldermen. The SRAs, with all other application submittals, shall become part of the public record. SRAs are intended to identify project benefit, compatibility and impact.

#### 2.13.2 When Required

- A. Studies, Reports and/or Assessments (SRAs) may be required for any application for discretionary development approval to determine:
  - 1. Fiscal or economic impact assessment;
  - 2. Environmental impact assessment; and/or
  - 3. Traffic impact assessment.
- B. Development of Communitywide Impact. A development of communitywide impact is defined as any project that would have community-wide impact on the health, safety or welfare of citizens in Ocean Springs. Because of their impact developments of communitywide impact provide opportunities for review, approval and development whose size thresholds equal or exceed 100 residential dwelling units or 100,000 or more square feet of non-residential uses.

#### 2.13.3 When Not Required

SRAs shall not be required for an application for administrative approval for any land, lot or parcel of land, which has been subject to a prior discretionary development approval process or the registration of a non-conforming use.

#### 2.13.4 Preparation of SRAs

All consultants engaged by the applicant shall be approved by the Planning Director, as qualified experts in their respective field. All such consultants shall disclose any information as to conflict of interest or other disqualifying interest.

### 2.13.5 Information to Be Supplied for SRAs

An applicant making an application for development approval requiring SRAs shall submit, with the application for concept plan approval, the following information necessary to prepare the SRAs:

- A. An accurate map of the project site and of all property in common ownership, depicting: existing topography; public or private buildings, structures and land uses; utilities; easements; public or private roads or streets; nonconformities; environmentally sensitive lands; archaeological, cultural or historic resources; and any other reasonable requirements of the Planning Director;
- B. The approximate location, arrangement, size, FAR of any buildings and structures and parking facilities proposed for construction within the development project;
- C. A detailed description of the development uses and activities proposed for the project site and of all property in common ownership and the character of the development to be achieved through the project;
- D. The approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities, public and private utility lines and facilities, public buildings, structures or facilities, community centers, and other non-residential facilities and structures within ¼-mile of the project site perimeter;
- E. The proposed traffic circulation and connectivity plan, including the number of daily and peak hour trips to and from the site and the proposed traffic routes to the nearest intersection with a major arterial, state highway or interstate highway;
- F. The approximate location of all fire, police, and emergency response service facilities and all roads and public facilities and utilities shown on the capital improvement and services plan; floodways, floodplains, wetlands, or other environmentally sensitive lands and natural resources on the applicant's property; location of historic, cultural and archeological sites and artifacts, wildlife and vegetation habitats and habitat corridors within ¼-mile of the project site perimeter;
- G. A statement explaining how the proposed project complies with the goals, objectives, policies and strategies of the Comprehensive Plan and any area or corridor plan covering, adjacent to, or within ¼-mile of the project site perimeter;
- H. A statement or visual presentation of how the project will relate to and be compatible with adjacent and neighboring areas, within ¼-mile of the project site perimeter;
- I. All other pertinent and relevant information as the Planning Director may reasonably require necessary to evaluate and assess impacts, if any, of the proposed development project.

Table 2.2: Development Review Process Overview

| Development Application                                             | Public Review Process                                               | Recommendation                                                   | Final Decision                                              | Appeal            |
|---------------------------------------------------------------------|---------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------|-------------------|
| Approvals Requiring a Public Hearing:                               |                                                                     |                                                                  |                                                             |                   |
| Comprehensive Plan / Plan                                           | Legislative Public Hearing                                          | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| UDC Text Amendment                                                  | Legislative Public Hearing                                          | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| UDC Map Amendment                                                   | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| Conditional Use Permit                                              | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| Subdivision Sketch Plat                                             | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| Subdivision Preliminary Plat                                        | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| Subdivision Plat Amendment                                          | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| Concept Plan                                                        | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | Board of Aldermen |
| Site Plan                                                           | Quasi-Judicial Hearing                                              | Planning Commission                                              | Board of Aldermen                                           | District Court    |
| Tree Preservation                                                   | Quasi-Judicial Hearing                                              | Tree Protection Committee                                        | Board of Aldermen                                           | District Court    |
| Landmark or Historic District Designation                           | Quasi-Judicial Hearing                                              | Historic Preservation Committee                                  | Board of Aldermen                                           | District Court    |
| Demolition by Neglect                                               | Quasi-Judicial Hearing                                              | Historic Preservation Committee                                  | Board of Aldermen                                           | District Court    |
| Vacations of Streets, Easements, or Plats                           | ---                                                                 | Planning Director                                                | Board of Aldermen                                           | District Court    |
| Approvals Requiring a Public Comment Meeting (not a Public Hearing) |                                                                     |                                                                  |                                                             |                   |
| <del>Major</del> Variance                                           | Public Comment Meeting                                              | Zoning and Adjustment Board                                      | Board of Aldermen                                           | District Court    |
| Appeal                                                              | Public Comment Meeting                                              | Zoning and Adjustment Board                                      | Board of Aldermen                                           | District Court    |
| Lot Split                                                           | <del>Public Comment Meeting</del> <b>Planning Director Approval</b> | <del>Planning Commission</del> <b>Planning Director Approval</b> | <del>Board of Aldermen</del> <b>Administrative Approval</b> | District Court    |

| Development Application                        | Public Review Process  | Recommendation                     | Final Decision    | Appeal            |
|------------------------------------------------|------------------------|------------------------------------|-------------------|-------------------|
| Certificate of Appropriateness                 | Public Comment Meeting | Historic Preservation Commission   | Board of Aldermen | District Court    |
| Subdivision Final Plat                         | Public Comment Meeting | Planning Commission                | Board of Aldermen | District Court    |
| Approvals NOT Requiring a Public Hearing:      |                        |                                    |                   |                   |
| Minor Variance (Exception)                     | ---                    | Planning Director                  | Planning Director | Board of Aldermen |
| Improvement Guarantee                          | ---                    | Planning Director                  | City Attorney     | Board of Aldermen |
| Construction Plan                              | ---                    | Planning Director                  | Building Official | Board of Aldermen |
| Non-Residential and Multi-Family Design Review | ---                    | Administrative Design Review Group | Planning Director | Board of Aldermen |
| Home Occupation Permit                         | ---                    | ---                                | Planning Director | Board of Aldermen |
| Parcel Consolidation                           | ---                    | ---                                | Planning Director | Board of Aldermen |
| Parcel Reconfiguration                         | ---                    | ---                                | Planning Director | Board of Aldermen |
| General Permits:                               |                        |                                    |                   |                   |
| Land Disturbance                               | ---                    | Planning Director                  | Building Official | Board of Aldermen |
| Floodplain Development                         | ---                    | Planning Director                  | Building Official | Board of Aldermen |
| Sign Permit                                    | ---                    | Planning Director                  | Building Official | Board of Aldermen |
| Driveway Permit / Access Permit                | ---                    | Planning Director                  | Planning Director | Board of Aldermen |
| Building Permit                                | ---                    | Planning Director                  | Building Official | Board of Aldermen |
| Certificates of Occupancy                      | ---                    | ---                                | Building Official | Board of Aldermen |
| Temporary Use Permit                           | ---                    | ---                                | Building Official | Board of Aldermen |

(Ord. No. 2020-17, § IV, 10-20-20); (Ord. No. 2021-02, § III, 1-19-21)

## 2.14 PLANS AND PLAN AMENDMENTS

This section establishes uniform procedures for the preparation or amendment of the comprehensive plan. Where the existing comprehensive plan does not provide sufficient densities, or where the goals and objectives do not support a proposed development, these procedures may be used to apply for an amendment to the comprehensive plan.

### 2.14.1 Applicability

- A. Generally. This section applies to any amendment to the comprehensive plan or to the preparation or amendment of a developments ~~within a conservation overlay district~~ or other specific plans~~s~~.
- B. Specific Plans. A specific plan accompanying the development of specific property or properties provides a bridge between the comprehensive, area, and neighborhood plan policies, and specific regulations, and which may be approved to permit mixed-use and development in overlay districts. A specific plan is considered an amendment to, and a part of, the comprehensive plan. A specific plan shall include text and a diagram or diagrams that specify all of the following in detail:
  - 1. The distribution, location, and extent of the uses of land, including open space, within the area covered by the specific plan or any applicable area plan;
  - 2. The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the specific plan and needed to support the land uses described in the specific plan;
  - 3. Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;
  - 4. A program of implementation measures, including zoning, land development regulations, programs, public works projects, financing measures, conditions, covenants, and regulations necessary to carry out subsections (1), (2), and (3), above; and
  - 5. A statement of the relationship of the specific plan to the comprehensive plan.
- ~~C. Area Plans. An area plan is a plan that provides specific planning, design, and implementation, for a defined geographic area of the City of Ocean Springs to guide specific development applications, governmental facilities, official maps, utility and infrastructure plans, annexations, and creation of special districts.~~

### 2.14.2 Initiation

- A. A property owner or his/her designated representative may initiate a comprehensive, area or specific plan amendment. The Applicant may combine an application for an amendment to the comprehensive plan with an application for approval of a rezoning, and said applications may be processed concurrently;
- B. Before any application is made, the Applicant shall schedule a pre-application conference with the Planning Director to discuss, in general, the procedures and requirements for a comprehensive plan amendment request pursuant to these regulations;

- C. An application for a comprehensive, area or specific plan amendment shall be filed with the Planning Director and shall contain the specific plan or any applicable area plan; information pursuant to this UDC; and
- D. The Planning Commission, the City of Ocean Springs, the Planning Director, a property owner, a neighborhood association, or the owner of any business located in the City of Ocean Springs may initiate a request for an amendment to the future land use maps of the comprehensive plan. The application for amendment of the future land-use map may be accompanied by an application for a zoning district map amendment. By resolution, the City of Ocean Springs may establish a schedule prescribing when and how frequently comprehensive plan text amendments will be considered.

#### 2.14.3 Decision

The Planning Commission shall hold a legislative public hearing and shall render its decision in accordance with the procedures set forth herein. The Board of Aldermen shall hold a public hearing and shall render its decision in accordance with the procedures set forth herein.

#### 2.14.4 Criteria

In determining whether the proposed amendment shall be approved, the Planning Commission and City of Ocean Springs shall consider the factors set forth in Mississippi Code Title 17, Chapter 1 – Planning and Zoning and all other relevant statutory requirements. No specific plan will be approved unless it is consistent with the Comprehensive Plan.

#### 2.14.5 Scope of Approval

The approval of an amendment to the comprehensive plan does not authorize the use, occupancy, or development of property. The approval of a plan amendment shall require the Applicant to apply for zoning changes and/or subdivision or site plan approval consistent with the goals, objectives, and policies of the comprehensive plan.

### 2.15 UDC AMENDMENTS

#### 2.15.1 Applicability

The provisions of this section apply to any application to:

- A. Revise the text of the UDC (Text Amendment); or
- B. Reclassify a tract, parcel, or land area from one zoning district to another (Map Amendment).

#### 2.15.2 Approval Process Summary

*Table 2.3: UDC Amendment Process*

| UDC Amendment Process                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose: to amend the text or the zoning map.                                                                                                                                                       |
| A text amendment may be filed by any person, the Board of Aldermen or the Planning Commission; A zoning change may be filed by the property owner, the Board of Aldermen or the Planning Commission |
| The Planning Commission and the Mayor and Board of Aldermen shall evaluate the amendment against the policies of the comprehensive plan.                                                            |

### 2.15.3 Initiation

- A. All petitions, applications, recommendations, or proposals for changes in the zoning district classification of property (referred to as a “rezoning”) or for changes in the text of the UDC shall be filed with the Planning Director.
- B. Text amendments may be proposed by any person, the Board of Aldermen or the Planning Commission.
- C. A proposed rezoning may be initiated by:
  1. The Board of Aldermen or Planning Commission by resolution; or
  2. An application properly signed and filed by the owner or, with the owner’s specific written consent, a contract purchaser or owner’s agent of a property included within the boundaries of a proposed rezoning, unless otherwise provided by the UDC. The applicant may file an application for subdivision plat approval concurrent with an application for a rezoning.
- D. A Map Amendment:
  1. The Board of Aldermen or Planning Commission by resolution; or by the property owner; may initiate the amendment request; and
  2. Applications for zoning map amendments shall be submitted at least twenty-five (25) days prior to the date of the Planning Commission meeting at which the application will be reviewed. If the submission deadline date falls on a Saturday or Sunday, the application must be received by the following Monday.

### 2.15.4 UDC Text Amendments.

1. The Planning Director shall forward applications for text amendments to the Board of Aldermen in an open meeting with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with the provisions of this UDC; and
2. Upon receipt of a petition for an ordinance amendment as provided herein, the Board of Aldermen may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the Planning Director, to draft an appropriate ordinance.

#### 2.15.5 Decision

##### A. Process

1. UDC Text Amendments shall be processed as legislative public hearings.
2. UDC Map Amendments shall be processed as quasi-judicial hearings.

##### B. Planning Commission Action. The Planning Commission shall hold a legislative public hearing and shall render its recommendation in accordance with the procedures set forth in this Chapter.

##### C. Board of Aldermen Action

1. Within thirty (30) days of the Planning Commission recommendation, the application shall be submitted to the Board of Aldermen to review at a legislative public hearing;
2. The Board of Aldermen is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments;
3. The Board of Aldermen need not await the recommendations of the Planning Commission before taking action on a proposed amendment, nor is the Board of Aldermen bound by any recommendations of the Planning Commission that are before it at the time it takes action on a proposed amendment;
4. At the conclusion of the public hearing on a proposed amendment, the Board of Aldermen may proceed to vote on the proposed amendment, refer it to a committee for further study or take any other action consistent with its usual rules of procedure; and
5. Voting on amendments to this Chapter shall proceed in the same manner as other ordinances, subject to the provisions for protests to zoning district changes as set forth herein.

#### 2.15.6 Criteria

In its review of an application, the Hearing Bodies shall consider the following criteria as applicable to the UDC text or Zoning Map amendment. No single factor is controlling; instead, each must be weighed in relation to the other standards.

- A. Consistency. Rezoning shall be consistent with the adopted Comprehensive Plan;
- B. Mississippi law requirements. There must have been either an error in the initial zoning or a change in the character of the neighborhood to such an extent as to justify reclassification of the property and some demonstrated compelling need before existing zoning may be changed;
- C. Adverse Impacts on Neighboring Lands. The Hearing Body shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. Further, the City finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences, such as traffic congestion and air pollution. Accordingly, rezonings may promote mixed uses subject to a high degree of design control;
- D. Suitability as Presently Zoned. The Hearing Body shall consider the suitability or unsuitability of the tract for its use as presently zoned. This factor, like the others, must often be weighed in relation to the other standards, and instances can exist in which the use for which land is zoned may be rezoned



upon proof of a real public need, substantially changed conditions in the neighborhood, or to effectuate important goals, objectives, policies, and strategies of the Comprehensive Plan, specification, or UDC;

- E. Health, Safety, and Welfare. The amendatory ordinance must bear a substantial relationship to the public health, safety or general welfare, or protect and preserve historical and cultural places and areas. The rezoning ordinance may be justified, however, if a substantial public need or purpose exists, and this is so even if the private owner of the tract will also benefit.;
- F. Public Policy. Certain public policies in favor of the rezoning may be considered. Examples include a need for affordable housing, economic Development, mixed-use Development, or sustainable environmental features, which are consistent with neighborhood, area, or specific plans;
- G. Size of Tract. The Hearing Body shall consider the size, shape, and characteristics of the tract in relation to the affected neighboring lands. Amendatory ordinances shall not rezone a single lot when there have been no intervening changes or other saving characteristics. Proof that a small tract is unsuitable for use as zoned, or that there have been substantial changes in the immediate area, may justify an amendatory ordinance;
- H. Other Factors. The Hearing Body must consider any other factors relevant to a rezoning application under state law; and
- I. The council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

#### 2.15.7 Effect of Approval

The approval of an amendment to the UDC text or Zoning Map does not authorize the use, occupancy, or Development of property until the Applicant receives necessary Development approvals, such as subdivision, site plan and building permit approval.

#### 2.15.8 Recording Procedures

When the amendment involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat of such land showing the new zoning classifications and indicating their boundaries. The Planning Director shall refer to the attested ordinance as a record of the current zoning status until such time as the zoning map can be changed.

#### 2.15.9 Subsequent Applications

- A. Applicability. The provisions of this subsection do not apply to any application for a rezoning that is initiated by the Board of Aldermen.
- B. Withdrawal After Planning Commission Hearing. No rezoning application shall be received or filed with the Planning Commission if, during the previous six months, an application requesting a change to the same zoning district was received or filed and withdrawn after a full, fair, complete, and final hearing occurred on the rezoning before the Planning Commission. However, if the Applicant certifies with a sworn affidavit that the evidence is new, relevant, and substantial, and could not have been secured at the time set for the original hearing, the Planning Commission may hear and consider the application.

- C. Denial of Rezoning. No application for rezoning to the same zoning district shall be received or filed with the Planning Commission within one year after the Board of Aldermen has denied an application for rezoning of the same property.

## 2.16 VARIANCE

### 2.16.1 Applicability

The Zoning and Adjustment Board shall have the power to vary these regulations when it can be shown by the Applicant that extraordinary hardships or identifiable concerns are brought about by strict compliance with these regulations and that a variance is required so that substantial justice may be done and the public interest secured provided that such variations will not have the effect of reducing or nullifying the intent and purpose of the UDC comprehensive City plan. No nonconforming use of neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted use of lands, buildings, or other structures in adjacent districts, shall be considered as grounds for issuance of a variance permitting similar uses.

### 2.16.2 Approval Process Summary

*Table 2.4: Variance Approval Process*

| Variances                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose: to vary the UDC regulations in cases where extraordinary hardships exist                                                                                    |
| Applicant files application and provides information on the existing conditions and how compliance with the UDC would affect the reasonable use of land or buildings |
| ZAB evaluates the application against criteria on general conditions, flood hazards and historic structures                                                          |

### 2.16.3 Initiation

A variance application shall be filed with the Planning Director. The application shall state fully the special conditions and circumstances applying to the building or other structure or land for which such variance is sought. The application shall demonstrate that the existing conditions and circumstances are such that the strict application of the provisions of the UDC provisions would deprive the Applicant of reasonable use of said land, building, or structure, equivalent to the use made of lands, buildings, or structures in the same district and permitted under the terms of this provision and that the peculiar conditions and circumstances are not the result of the actions of the Applicant.

### 2.16.4 Decision

The Planning Director shall submit a report to the Zoning and Adjustment Board (ZAB) who shall evaluate the application based on the criteria required by this section. The ZAB shall submit a recommendation to deny, approve, or approve with conditions the variance after considering the evidence presented at this hearing or agreed on by the parties. Any approved variance must be entered into the minutes of the ZAB along with the reasons and justifications set forth.

#### 2.16.5 Approval Criteria – General Conditions

A. Variances shall only be issued when there is:

1. A showing of good and sufficient cause; and
2. A determination that failure to grant the variance would result in exceptional hardship;
3. **The applicant must demonstrate a hardship.**
4. **Hardship the exceptional hardship that would result from a failure to grant the requested variance. The variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship.**

#### 2.16.6 Approval Criteria – Flood Hazards: See Appendix A.

(Ord. No. 2020-06, § II, 2-18-20)

#### 2.16.7 Approval Criteria - Historic Structures

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance deviates from the historic standard the minimum necessary so as to preserve the historic character and design of the structure.

### 2.17 ADMINISTRATIVE APPEALS

#### 2.17.1 Applicability

Should anyone be aggrieved by the decision of the Planning Director, they shall have the right to appeal such decision within ten (10) days thereafter to the Zoning and Adjustment Board upon fifteen (15) days' notice of such written grievance directed to the Zoning and Adjustment Board with appropriate copies to the employee, department or Planning Commission, as the case may be.

Should any person be aggrieved by any decision of the Board of Aldermen, they shall have the right to appeal same to the Circuit Court of Jackson County, Mississippi, in the manner prescribed by law.

#### 2.17.2 Initiation

- A. Appeal may be made from any decision of the building inspector or City planner by presenting the case to the secretary of the Zoning and Adjustment Board.
- B. Any decision of the zoning board may be appealed to the Board of Aldermen at the next scheduled Board of Alderman meeting by giving written notice to the secretary.

### 2.17.3 Appeal Process Summary

*Table 2.5: Administrative Appeals Process*

| Administrative Appeals                                                                                       |
|--------------------------------------------------------------------------------------------------------------|
| Purpose: a mechanism to appeal decisions of the Building Official or City Planner                            |
| Aggrieved person files a written appeal to the Zoning and Adjustment Board                                   |
| ZAB gives public notice of the appeal and evaluates the impact on public health, safety, and general welfare |
| ZAB issues a written ruling on the appeal                                                                    |

### 2.17.4 Stay of Proceedings

When an appeal is filed, all proceedings in furtherance of the action affected by the decision being appealed shall be stayed, unless:

- A. The Planning Director certifies to the Zoning and Adjustment Board, after the notice of appeal has been filed with the Planning Director, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property; or
- B. The appellant is not diligently pursuing the appeal.

### 2.17.5 Criteria

In considering all appeals from rulings made under these regulations, the Board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion in 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 Ocean Springs, Mississippi. Every ruling made upon any appeal to the zoning and adjustment board shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the board and shall specify the reason for granting or denying the appeal.

### 2.17.6 Decision

- A. The Zoning and Adjustment Board shall give public notice of the hearing as provided in this chapter, shall hold the hearing, and shall decide the appeal within a reasonable time after such hearing.
- B. Any party may appear before the Zoning and Adjustment Board at any hearing, in person, or by agent or attorney.
- C. The Zoning and Adjustment Board may:
  - 1. Reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed;

2. Make such order, requirement, decision, or determination as ought to be made; and
3. Exercise all the powers of the officer or hearing body from whom the appeal is taken.

#### 2.17.7 Exemptions

##### A. Generally

1. The Zoning and Adjustment Board may approve an exemption from any of the requirements of this chapter, to the extent necessary to comply with or conform to federal or state law, or to avoid or resolve any alleged violation of the freedom of religion-based rights afforded to any person under federal or state law caused by the enforcement of any regulation imposed by this chapter.
2. Any person desiring such an exemption shall file a written petition with the Planning Director, who shall forward the petition to the Zoning and Adjustment Board for purposes of conducting a public hearing on the petition and issuing a final determination. The petition shall include separate statements that:
  - i. Advise to which particular regulation of the City of Ocean Springs the requested exemption relates;
  - ii. Explain how the regulation is not in conformance with federal or state law, or how it allegedly violates the person's freedom of religion-based rights afforded under federal or state law, the Telecommunications Act of 1996, the Fair Housing Act, or other rights;
  - iii. Describe how granting the exemption would be in the public interest and not be contrary to health, safety, and welfare considerations; and
  - iv. Describe the intended use of land or activity for which the exemption is being sought.
3. The petitioner shall submit any additional information requested by the Zoning and Adjustment Board and shall appear before the Zoning and Adjustment Board at the public hearing to explain the request and to answer any questions relative to the petition.
4. In considering an exemption from the requirements of this chapter, the Zoning and Adjustment Board may approve the exemption, provided that it makes findings, based on the evidence presented, regarding at least one of the following criteria:
  - i. The exemption is in the public interest and is not contrary to health, safety, and welfare considerations;
  - ii. The exemption is necessary for the petitioner or the City of Ocean Springs to comply with or conform to federal or state law; or
  - iii. The exemption is necessary to avoid or resolve any alleged violation of rights afforded to any person under federal or state law caused by the enforcement of any regulation of the UDC;
5. The Zoning and Adjustment Board shall either grant or deny the exemption within thirty (30) days of the conclusion of the public hearing at which it considered the exemption. The Zoning and Adjustment Board may request additional information from the petitioner, may continue the hearing from time to time in order to fully consider the petition and all pertinent information, and may grant the exemption in full or in part by waiving compliance with certain aspects of this chapter. The Zoning and Adjustment Board may grant the exemption in full or in part, subject to conditions that are related to the public health, safety, and welfare. If the Zoning and Adjustment Board grants the exemption in full or in part, it shall prepare a written order that approves the

exemption. If appropriate, the order may contain conditions relating to the exemption. If the Zoning and Adjustment Board denies the exemption, it shall issue a written decision that identifies the reasons for the denial and shall provide a copy of the decision to the petitioner.

- B. Temporary Certificate of Compliance. The petitioner may file a written request with the Zoning and Adjustment Board for a temporary certificate of compliance to allow the use or activity during the pendency of the exemption petition process pursuant to this chapter.
- C. City of Ocean Springs Policy or Practice. In regard to an exemption from any City of Ocean Springs policy or practice, the same procedures and criteria this UDC shall apply, except that there shall be no public hearing before the Zoning and Adjustment Board. The Planning Director shall forward the petition to the Zoning and Adjustment Board who shall consider the exemption petition at an open public meeting, which shall be attended by the petitioner. The public meeting shall be scheduled within thirty (30) days of receipt of the petition and the Zoning and Adjustment Board may request additional information from the petitioner. The Zoning and Adjustment Board shall grant or deny the exemption within (thirty) 30 days of the conclusion of the last public meeting at which it considers the information relative to the exemption. The Zoning and Adjustment Board may grant the exemption in full or in part, subject to conditions that are related to the public health, safety, and welfare. If the Zoning and Adjustment Board grants the exemption in full or in part, it shall prepare a written order that approves the exemption. If appropriate, the order may contain conditions relating to the exemption. If the Zoning and Adjustment Board denies the exemption, it shall issue a written decision that identifies the reasons for the denial and shall provide a copy of the decision to the petitioner.

## **2.18      CONDITIONAL USE PERMITS**

### **2.18.1    Purpose**

This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth in the UDC, be approved. These uses shall be permitted through the issuance of a CUP within a site plan adopted by the Planning Commission after ensuring that the use can be appropriately accommodated on the specific property; that it will conform to the comprehensive plan; that it can be constructed and operated in a manner that is compatible with the surrounding land uses and overall character of the community; and that the public interest, health, safety, and general welfare will be promoted. No inherent right exists to receive a CUP. Such authorization must be approved under a specific set of circumstances and conditions. Each application and situation is unique. Every CUP amendment or application shall at a minimum be required to comply with every requirement contained in each chapter of the UDC. Mere compliance with the generally applicable requirements however may not be sufficient, and additional measures and conditions may be necessary to mitigate the impact of the proposed development.

### **2.18.2    Conditional Applicability**

The provisions of this section apply to any application for approval of a CUP. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design, and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the zoning regulations, shall be authorized by the Planning Commission. A CUP is not required for a use permitted by right in a given zoning district.

### 2.18.3 Initiation

An owner of real property, or that owner's authorized representative, may apply for a CUP for that property by filing an application with the Planning Director.

### 2.18.4 Approval Process Summary

*Table 2.6: Approval Process for Conditional Use Permit*

| Conditional Use Permit                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Special uses that may be allowed subject to a specific site plan                                                                                      |
| Intended for uses that are generally compatible with the uses permitted by right but require individual review of location, design, and configuration |
| Quasi-judicial public hearing by planning commission and board of aldermen                                                                            |
| Special conditions on buffering, phasing, etc. may be imposed                                                                                         |
| The CUP may be amended by the same process                                                                                                            |

### 2.18.5 Approval

When the Planning Director has certified that the application is complete, it shall be deemed received and shall be referred to the Planning Commission for its review and decision. The Planning Commission, after public notice in accordance with applicable state laws, shall hold at least one public hearing on the application. The Planning Commission may concurrently process and review a rezoning site plan, subdivision approval, and CUP.

- A. Type of Hearing. The public hearing before the Planning Commission and Board of Aldermen shall be conducted as a quasi-judicial hearing.
- B. Conditions. In approving any CUP, the Planning Commission may:
  - 1. Impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in the UDC, as it may deem necessary to protect the public interest and welfare. Such additional standards may include, but need not be limited to:
    - i. Financing and availability of adequate public facilities or services;
    - ii. Dedication of land;
    - iii. Reservation of land;
    - iv. Payment of exactions;
    - v. Creation of special assessment districts;
    - vi. Creation of restrictive covenants or easements;
    - vii. Special setbacks;
    - viii. Height requirements;
    - ix. Yard requirements;
    - x. Increased screening or landscaping requirements;
    - xi. Area requirements;
    - xii. Development phasing; and

- xiii. Standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar characteristics;
  - xiv. Provision of sustainable features, solar or other renewable energy source, rain water capture, storage and treatment or other sustainability requirement;
2. Require that a performance guarantee—acceptable in form, content, and amount to the City of Ocean Springs attorney—be posted by the Applicant to ensure continued compliance with all conditions and requirements as may be specified; and

#### 2.18.6 Approval Criteria

A conditional use is permitted only if the Applicant demonstrates that:

- A. The proposed conditional use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations.
- B. The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety, or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to:
  - 1. The location, type, and height of buildings or structures;
  - 2. The type and extent of landscaping and screening on the site; and
  - 3. Whether the proposed use is consistent with any policy of the comprehensive plan that encourages mixed uses and/or densities.
- C. Adequate utilities shall be provided as set forth herein.
- D. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
- E. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
- F. The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.
- G. The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- H. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- I. The public interest and welfare supporting the proposed use shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.
- J. The proposed uses and structures comply with the sustainability requirements of the UDC.



#### 2.18.7 Subsequent Applications

An application for a CUP may be withdrawn at any time. If the application has been advertised in compliance with state law, an application requesting substantially the same use on all or part of the same described land shall not be reconsidered within one year of withdrawal. No application for a CUP for any lot or parcel that requests the same use and same conditions shall be considered within one year of a final decision denying the application.

#### 2.18.8 Amendments

- A. **Minor Amendments.** An amendment is a request for any enlargement, expansion, increase in intensity, relocation, or modification of any condition of a previously approved and currently valid CUP. Amendments shall be processed as follows: shifts in on-site location and changes in size, shape, intensity, or configuration of less than 5%, or a 5% or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Planning Director, provided that such minor changes comply with the following criteria:
  - 1. No previous minor modification has been granted pursuant to this section;
  - 2. There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;
  - 3. Nothing in the currently valid CUP precludes or otherwise limits such expansion or enlargement; and
  - 4. The proposal conforms to the UDC and is in keeping with the spirit and intent of any adopted comprehensive plan.
- B. **Major Amendments.** Any proposed amendment other than those considered minor amendments as described in this chapter are considered a major amendment and shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original development approval.
- C. **Nonconforming Uses.** For an existing and currently valid conditional use that is no longer allowed as a conditional use in the zoning district in which it is located, the City of Ocean Springs, upon receipt of an application, may review and approve an amendment to said development approval, provided that such amendment does not allow the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any limitation specified in the existing use development approval or established in this UDC.

#### 2.18.9 Scope of Approval

Once a CUP is granted, such use may be enlarged, extended, increased in intensity, or relocated only in accordance with this section unless the City of Ocean Springs, in approving the initial development approval, has specifically established alternative procedures for consideration of future expansion or enlargement. The provisions of this UDC relative to expansion of nonconforming uses, do not supersede this requirement unless the conditionally permitted use for which the development approval was initially granted is no longer a use permitted as of right or as a conditional use in the zoning district in which it is located.

## **2.19 SUBDIVISION APPLICATIONS, GENERALLY**

### **2.19.1 Subdivisions Subject to This Section**

- A. The owner or proprietor of any tract of land who desires to subdivide land (i.e., to create a “subdivision”) shall submit a plat of such subdivision to the Planning Director. No person shall subdivide land without making and recording a plat and complying fully with this chapter. No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the register of deeds, unless such subdivision was created prior to the adoption of this chapter. No development approval or certificate of occupancy shall be issued for any plat, map, or plan that was created prior to subdivision approval under the UDC, or for any parcel or plat of land that was created by subdivision after the effective date of the UDC, and no excavation of land or construction of any public or private improvements shall be commenced, except in conformity with the requirements of the UDC.
- B. A final subdivision plat shall be approved by the Planning Commission before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Planning Commission in accordance with these regulations.
- C. The Planning Commission may review and approve, conditionally approve, or disapprove the development of lands subdivided prior to or following the effective date of these regulations where:
  - 1. The Applicant proposes to combine or to recombine previously subdivided and recorded lots, and the total number of lots will increase or does not meet the standards of the UDC; or
  - 2. The original Applicant or their successor failed to complete subdivision improvement requirements pursuant to a subdivision improvement guarantee entered into when the plat for the subdivided land was approved. This subsection applies whether the lots are owned by the original Applicant or an immediate or remote grantee from the original Applicant. This subsection does not apply if City of Ocean Springs has obtained possession of sufficient funds from security provided by the Applicant with which to complete construction of improvements in the subdivision.

### **2.19.2 Exemptions**

A subdivision plat is not required for any of the following:

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the City of Ocean Springs
- B. The public acquisition by purchase of strips of land for the widening or opening of streets; and
- C. If a court orders the partition of land by dividing the same among the owners, provided that the City of Ocean Springs is made a party defendant to said action and gives its consent.

### **2.19.3 Recordation of Unapproved Plat Prohibited**

The county clerk or register of deeds shall not file or record any subdivision plat required by the UDC until the plat is approved in accordance with the regulations set forth in this chapter.

#### 2.19.4 Sale or Lease

No land described in this section shall be subdivided, sold, leased, transferred, or developed until each of the following conditions has occurred in accordance with these regulations:

- A. The Applicant or their agent has obtained approval of the preliminary plat (when required) and a final plat as provided in this chapter; and
- B. The Applicant or their agent files the approved plats with the county clerk or register of deeds.

#### 2.19.5 Development Approval

No development approval, including land-use alteration, building permit, certificate of zoning compliance, or certificate of occupancy shall be issued for any parcel or plat of land created by subdivision unless the approvals conform to a previously approved and lawful subdivision plat or site plan.

#### 2.19.6 Subdivision Classification

Major and minor subdivisions are subject to the criteria for approval of subdivision plats, unless a specific provision indicates that it does not apply to minor subdivisions. Different time limits are prescribed for the review and processing of major and minor subdivisions in order to reflect the level of complexity involved in review of the applications. Subdivisions shall be classified as set forth, below, which summarizes the procedures for the plat classifications.

Table 2.7: Subdivision Procedures

| Classification    | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Procedures Required |                  |            |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------|------------|
|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Sketch Plat         | Preliminary Plat | Final Plat |
| Minor Subdivision | Any subdivision:<br>F. Involving four or fewer lots;<br>G. Fronting on an existing improved street;<br>H. Not involving the creation of a new street;<br>I. Not involving the extension of municipal utilities;<br>J. Not involving the creation of public improvements;<br>K. Not adversely affecting the remainder of the parcel or adjoining the property; and<br>L. Not in conflict with the comprehensive plan, official map, or zoning regulations. A series of related minor subdivisions or contiguous land cumulatively totaling five or more lots shall be construed to create a major subdivision. | ✓                   | ---              | ✓          |
| Major Subdivision | Any subdivision not exempted by the Unified Development Code or state law, other than a minor subdivision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | ✓                   | ✓                | ✓          |

O = optional process and ✓ = mandatory process.

#### 2.19.7 Plat Procedures (Generally)

- A. For each stage of plat approval two copies of the subdivision application form shall be submitted with the proposed subdivision plat to the Planning Director. Application forms may be secured from the Planning Director.
- B. A plat of all subdivisions within the force and effect of these regulations shall be drawn and submitted to the Planning Commission and Board of Aldermen for their approval or disapproval as provided herein.
- C. Each plat submitted for sketch, preliminary, or final approval shall be placed on the agenda of the Planning Commission, through the Planning Director, upon submission of the appropriate application in accordance with the requirements of these regulations. The approval of the sketch or preliminary plat shall not be deemed final acceptance of, but rather an expression of approval of the layout as submitted on the sketch or preliminary plat; such approval shall be noted on the sketch or preliminary plat.
- D. One copy of the sketch and preliminary plats shall be retained by the Planning Director, one copy by the City Engineer, and one copy by the City Clerk.
- E. No plat or description of land subdivision shall be filed in the office of the Chancery Clerk of Jackson County, MS, until same shall have final review by the Planning Commission. Final approval by the Board of Aldermen as required by law.

#### 2.19.8 Submittal

- A. All applications are due by 12:00 p.m. noon on the seventh day of the month or the following Monday if the seventh falls on a weekend.
- B. The previously described plat filing fees shall be paid to the City Clerk upon submission of the appropriate plat for City review and consideration for approval. Filing fees are non-refundable.
- C. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of remaining area may be submitted at any time within two years of the preliminary plat without payment of any additional plat filing fee by the Applicant, providing the final plat for the additional area conforms substantially with the approved preliminary plat. The developer will still be required to pay the appropriate fee for the construction surveillance and final engineering inspection.

#### 2.19.9 Approval Process Summary

*Table 2.8: Subdivision Approval Process Summary*

| Major Subdivision Process                                    |
|--------------------------------------------------------------|
| Pre-application Conference (recommended)                     |
| Neighborhood Meeting (only if required by Planning Director) |
| Sketch Plat                                                  |
| Preliminary Plat                                             |
| Construction Plan                                            |
| Improvement Guarantees                                       |
| Final Plat                                                   |

- A. Construction Observation and Final Engineering Inspection
  1. The construction observation and final engineering inspection fee will be assessed as described in the Table of Fees and Rates, as approved by the Mayor and Board of Aldermen. This fee will be paid to the City Clerk after preliminary plat approval or when a construction contract is entered into, and must be paid before any previously described improvements are begun. Once all improvements are complete, the developer/owner will schedule the final engineering inspection with the City Engineer. If the subdivision fails to pass the final engineering inspection, the fee for each subsequent inspection necessary for final plat approval shall be paid by the developer/owner according to aforementioned Table of Fees and Rates.
  2. Re-inspections that require less than one staff hour including travel time will not be charged additional fees as outlined herein.
  3. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of the remaining area may be submitted at any time within two years of the preliminary plat without payment of additional plat filing fees by the Applicant, providing the final plat for the additional area conforms substantially with the approved preliminary plat. The developer/owner will still be required to pay the appropriate fee for construction observation and final engineering inspection.

## 2.20 SKETCH PLAT

### 2.20.1 Purpose

The purpose of the Sketch Plat is to ensure that improvements are well coordinated within and among individually platted parcels, sections, or phases of a development prior to approval of a Preliminary Plat. Approval of a Sketch Plat shall constitute approval of the type(s) and intensity of development and approval of a project phasing plan. A Sketch Plat may be processed concurrently with a Preliminary Plat.

### 2.20.2 Applicability

A Sketch Plat shall be required when an applicant is applying for the subdivision of less than the entire, contiguous land area held in common ownership. The Sketch Plat shall identify all contiguous land holdings of the applicant and establish a phasing plan for any subdivision involving multiple phases of development and any subdivision for which only a portion of the parent tract or a portion of contiguous holdings under common ownership are proposed to be platted. Where a Sketch Plat is required, no further development applications shall be approved until a Sketch Plat has been submitted and approved.

### 2.20.3 Approval Process Summary

*Table 2.9: Subdivision Sketch Plat Approval Process*

| Subdivision Sketch Plat                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------|
| Sketch Plat is required when a subdivision of less than the entire, contiguous land area held in common ownership is proposed |
| A neighborhood meeting is recommended                                                                                         |
| The sketch plat is reviewed for consistency with the comprehensive plan the UDC and other applicable documents                |
| Sketch Plat establishes the type, density, and intensity of land use                                                          |

### 2.20.4 Application

- A. Neighborhood Meeting Summary, including a copy of sign-in sheet, if a meeting was recommended.
- B. A Sketch Plat shall be printed on 24" x 36" paper or equivalent at a scale of 1 inch = 100 feet with all dimensions measured accurately to the nearest foot; provided, however, that a different scale may be used if approved in writing by the Director prior to submittal. The Sketch Plat shall contain or have attached thereto:
  1. Name and addresses of the developer, record owner, land planner, and engineer.
  2. Proposed name of the subdivision, date revised and/or prepared, north indicator, scale.
  3. Location map drawn at a scale of 2,000 feet per inch showing the area within a one-mile radius of the proposed subdivision. Use of the latest USGS 7.4-minute quadrangle map is recommended.
  4. A layout of the entire tract and its relationship to adjacent property, existing development and recorded plats.

5. Topographic contours based on USGS or NAVD Datum at two-foot (2') intervals based on USGS or NAVD Datum unless otherwise approved by the Director.
  6. Proposed and existing arterial and collector streets to serve the general area.
  7. Significant drainage features and structures including any 100-year floodplains.
  8. Significant man-made features such as railroads, buildings, utilities and drainage structures.
  9. Approximate boundaries and timing of proposed phases of development.
  10. Identification of known exceptional topographical, cultural, historical, archaeological, hydrological or any other physical conditions of the property to be developed or within 100 feet on adjacent tracts.
- C. The Planning Director shall review the Sketch Plat for consistency with City codes, policies and plans, and prepare a report analyzing the subdivision submittal as well as any comments received concerning the plan, and recommending the approval, conditional approval or disapproval of the plan.

#### 2.20.5 Review Criteria

The Planning Commission shall approve the Sketch Plat if it finds that the following criteria are satisfied:

- A. The Sketch Plat conforms to all applicable provisions of this UDC;
- B. The Sketch Plat represents an overall development pattern that is consistent with the goals and policies of the Comprehensive Plan, Official Zoning Map, Capital Improvements Program, and any other applicable planning documents adopted by the City; and
- C. The proposed development is located in an area of the City that is appropriate for current and future development activity and which will not contribute to sprawl and leapfrog development patterns nor to the need for inefficient extensions and expansions of public facilities, utilities and services.

#### 2.20.6 Effect of Approval and Validity

- A. Approval of a Sketch Plat constitutes acceptance of the type, density and intensity of land use indicated on the plan as being consistent with the Comprehensive Plan; the classification and arrangement of streets indicated; the proposed phasing plan; and the nature of utility service proposed.
- B. The approval of the Sketch Plat shall not expire as long as the development proceeds in accordance with the phasing plan. At such time as the development lags one year behind the approved phasing plan, or a period of one-year elapses without approval of a Preliminary Plat, Sketch Plat approval shall expire. Upon receipt of a written request, the Zoning and Adjustment Board and Planning Commission may approve extensions upon finding that changing conditions in the City do not necessitate changes to the approved Sketch Plat.
- C. Sketch Plat approval does not ensure approval of a Preliminary Plat involving a substantially different concept or failing to meet specific requirements of these regulations, and approval does not comprise any vesting of development rights or any assurance that permits of any kind will be issued.

### 2.20.7 Denial and Appeal

If the Planning Commission finds that the Sketch Plat fails to meet the criteria established in the section, it shall deny the Sketch Plat application. The applicant may appeal such denial to the Board of Aldermen. Applicants whose plans are conditionally approved or are disapproved by the Planning Commission may appeal the commission's action to the Board of Aldermen at a regular meeting of the board not more than 45 days after the date of the planning commission's action. The board of aldermen, after hearing all parties who desire to be heard, shall approve, approve with conditions, or disapprove the application by a written statement setting forth its reasons for its action.

## 2.21 PRELIMINARY PLAT

### 2.21.1 Purpose

- A. The preliminary plat serves as a guide to the density, intensity, land uses, pedestrian and bicycle ways, bus stops, trails, parks, open space, and future lot, street, and drainage patterns established for a site in the platting process. It is the intent of the preliminary plat requirement to ensure that a landowner investigates the broad effects that development of property will have on the site itself as well as on adjacent properties and public infrastructure systems. Approval of a preliminary plat shall constitute acceptance of the land-use mix, development intensity, general street patterns, drainage patterns, lot patterns, parks and open space lands, and the general layout of pedestrian and bicycle trails and school bus stops, provided that these may be modified in conjunction with subsequent approvals if additional information reveals development constraints that are not evident during preliminary plat review.
- B. The purpose of the preliminary plat, together with the attendant items required herein, is to provide plans for the construction of the subdivision and its improvements as well as a draft of the final plat of the subdivision. To this end, during preparation of the preliminary plat, the Applicant should consult with the Planning Commission's technical staff, with the City Engineer, and with other officials and agencies concerned with the subdivision and the improvements. The preliminary plat and construction plans shall be based upon the general design shown on the Concept Plan, together with the recommended changes.

### 2.21.2 Applicability

Approval of a preliminary plat is required for any site where the eventual platting of the property involves a major subdivision. No final plat shall be approved until a preliminary plat for the property has been approved, unless the application is for a minor subdivision.

### 2.21.3 Initiation

A preliminary plat shall be filed with the Planning Director and shall contain the information required herein.

### 2.21.4 Approval Process Summary

*Table 2.10: Subdivision Preliminary Plat Approval Process*

| Subdivision Preliminary Plat                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose is to provide plans for the construction of the subdivision and its improvements plus a draft of the final plat of the subdivision |



| Subdivision Preliminary Plat                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Planning Commission reviews the plat for conformance to standards of the UDC, the comprehensive plan, transportation and infrastructure plans, and other plans; |
| The planning commission may require modifications and impose conditions as necessary to insure compliance                                                       |
| Amendments are approved in same manner as the original plat                                                                                                     |

#### 2.21.5 Submittal

- A. Three (3) full size blue-line copies of the preliminary plat and two (2) blue-line copies of the complete construction plans and specifications, two (2) copies of the developer's engineer's basis of design and complete design calculations, and two (2) copies of the preliminary plat application forms as adopted by the Planning Commission shall be submitted to the Planning Commission office no later than the seventh day of the preceding month prior to the regular monthly meeting of the Planning Commission at which the preliminary plat is to be considered.
- B. The proposed plat shall be at a scale that is legible and functional on sheets of 24 by 36 inches in size. The proposed preliminary plat shall give the following information:
  1. The name of the subdivision; the name and address of the owner; and the name of the professionally qualified engineer, land surveyor or planner registered to practice in the State of Mississippi.
  2. The names and addresses of owners of all properties abutting the property being subdivided as they appear on the tax records.
  3. The scale, north point and date.
  4. Proposed street names, type of street system (public or private), location, right-of-way widths, pavement widths, approximate grades and vertical curves of proposed streets, alleys, easements, parkways, and other open spaces, reservations, lot lines and dimensions, setback lines, lot numbers and block numbers.
  5. The locations of proposed property lines and existing property lines, date of survey, natural watercourses, railroads, sewers, bridges, culverts (indicate size), drain pipes, streets, alleys or other easements on the proposed plat and on adjoining land.
  6. The plat shall have a grid on even 500-foot intervals of the state plane coordinates (transverse Mercator projection) as well as any township section, and range boundaries for the area which the plat encompasses.
  7. A legal description and a boundary survey, class B surveying accuracy (minimum closure error, 1:5,000), with bearings and distances referenced to section or fractional section corners or other base lines shown on the plat and readily reproducible.

8. Calculations sheet containing the following data: the length and radii of all curbed street and lot lines and the bearings and the length of all straight street lot lines and the area in square feet of each lot; bearings and distances referenced to sectional or fractional section lines or other base lines shown on the plat and readily reproducible on the ground; street centerline bearing and distance with centerline curve data (deflection angle, radii, degree of curvature, chord distance and bearing and length of curve); profiles of all proposed streets showing the natural and finished grades drawn to a scale of not less than one inch equals 100 feet horizontal and one inch equals 20 feet vertical. Also, to be included are design calculations for pavements, utilities and any other improvements to be dedicated to the City.
9. Sites to be reserved or dedicated for public or private parks, playgrounds or other open spaces and the purpose, condition and/or limitations of such dedications.
10. Proposed sites (if any) for shopping centers, churches, industry, group housing units or other nonpublic use exclusive of single-family, duplex or four-plex dwellings.
11. Street pavements adjacent to the proposed plat, right-of-way width and location.
12. The location of the proposed utility lines (sewer, gas, water, telephone, cable television and electric) indicating the size of pipes, location of manholes, valves, hydrants, transformers, junction boxes, streetlights and proposed connections to the existing utility system.
13. The exact location of any part of the proposed subdivision which is subject to inundation by storm drains, ponding or local surface water, clearly indicated. Areas subject to ponding or inundation as well as flood zones as currently determined by the appropriate federal authorities must be indicated on the proposed plat. Inasmuch as state and federal laws, regulations, and procedures allow provisions must be made to eliminate the ponding before the Planning Commission will approve the plat.
14. The dimensions in feet and decimals of lot area and lot frontage along any public street.
15. Neither the subdivision developer, the homeowner, contractor, nor anyone else shall have the authority to place numerical street address designation upon any house or lot in any subdivision; but same shall be designated by the 911 Commission prior to final plat approval.
16. Preliminary approval of the proposed water and sewer systems in the subdivision must be given by the appropriate authorities.
17. Contours at vertical intervals of one foot on plats containing five or more lots are required. Elevation shall be based on Ocean Springs' datum or United States Geographical Survey datum, whichever is required by the City Engineer or his designated authority.
18. Zoning ordinance lines and zones must be indicated.
19. The location of all planned landscaping and trees protected by the current City ordinances within the limits of proposed rights-of-way, easements, alleys or any other properties to be dedicated to the City.
20. The proposed subdivision and street names must be reviewed by the Planning Commission and approved by the Board of Aldermen in conjunction with preliminary plat approval. The proposed name of the subdivision and the names of the streets therein shall not duplicate or closely resemble phonetically or any other way the name of any other subdivision or street in the City of Ocean Springs, Mississippi.
21. Preliminary plat shall show compliance with the requirements of all applicable ordinances of the City of Ocean Springs.

22. A vicinity map drawn to a scale of one-inch equals 5,280 feet showing the location of streets, landmarks, waterways and other rights-of-way sufficient for the Planning Commission, Board of Aldermen, and City planner to determine the location of the proposed subdivision.
  23. When a proposed subdivision includes temporary cul-de-sacs or unopened rights-of-way to adjacent property, the Applicant shall be required to provide a general layout of future development or phases of the adjacent property to assist in planning and providing desirable growth in compliance with the comprehensive plan.
  24. A draft of the deed restrictions or protective covenants whereby the Applicant intends to regulate the land use other than through zoning ordinance in the subdivision, or otherwise protect the proposed development, shall be attached to the preliminary plat application.
  25. Where one or more entrances or street structures or medians or other common areas such as monuments, pillars, fences, walls, plantings, statuary, or other decorative features are to be installed in a permanent fashion, the location, size and design shall be included with the preliminary plat submitted to the Planning Commission for review and approval by the Board of Aldermen. This submission shall also include a copy of the bylaws or other documentation of the association which will have a permanent responsibility for maintenance. Such bylaws or other documentation shall contain language which will, in the opinion of the City assure proper maintenance of such structures by such association.
  26. When a proposed subdivision abuts a thoroughfare, or is bounded by a line that will, in the future, lie in a park, thoroughfare, a combination playground and elementary school site, a combination play field and junior high school site, or combination athletic field and senior high school site, as shown in the comprehensive City plan, then the owner of that subdivision shall dedicate, without charge, any land within such subdivision that is necessary to provide conformity with the comprehensive City plan or the standards of the subdivision regulations, such dedication to be shown on the preliminary and final plats.
- C. Withdrawal of Application. Once filed with the hearing body, a plat may be withdrawn, provided that a written notice of withdrawal stating the reasons for the request is submitted to the Planning Director. The 60-day time limitation shall cease on the date that the notice is received by the Planning Director; however, the Planning Director shall present a withdrawal request to the Planning Commission for consideration.

#### 2.21.6 Approval Criteria

- A. Conformance. The Planning Commission shall not approve a plat unless it complies with the standards of the UDC. The decision-making entity shall not approve a plat if it fails to conform to:
  1. The comprehensive plan and future streets, alleys, parks, playgrounds, and public utility facilities;
  2. The transportation plan and major thoroughfare plan (or official map) for the extension of major thoroughfares, streets, and public highways, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- B. Any applicable watershed drainage plan adopted by the City. It is the intent of the UDC that land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace; furthers environmentally sensitive area protection and sustainability; and that land shall not be subdivided until adequate public facilities and improvements exist or proper provision has been made for drainage, water, sewerage, and capital improvements, such as schools, parks, recreational facilities, transportation facilities, and

improvements. Accordingly, the Planning Director or Planning Commission shall not approve a subdivision plat unless all of the following findings with respect to the proposed development are made:

1. The proposed land uses are in accord with the adopted comprehensive plan, specific plan, and the official zoning map, or that the means for reconciling any differences have been addressed. A preliminary plat may be processed concurrently with a rezoning request.
2. The proposed subdivision conforms to all relevant requirements of the UDC and variances have been granted to permit any nonconformance.
3. The proposed development, including its lot sizes, density, access, and circulation, is compatible with the existing and/or permissible future use of adjacent property.
4. The proposed public facilities are adequate to serve the normal and emergency demands of the proposed development, and to provide for the efficient and timely extension to serve future development.
5. The proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties.
6. The soils, topography, and water tables have been adequately studied to ensure that all lots are developable for their designated purposes.
7. Any land located within Zone A on the adopted flood boundary and floodway maps of the flood insurance study, is determined to be suitable for its intended use, and the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, or any other floodplain-related risks to the health, safety, or welfare of the future residents of the proposed subdivision in a manner consistent with the UDC.

#### 2.21.7 Subdivision Name

The proposed name of a subdivision shall not use a word that is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Ocean Springs except for the words “court,” “addition,” “place,” “heights,” “hills,” and similar words, unless the land platted is contiguous to and platted by the same Applicant who platted the existing subdivision bearing the name, or the Applicant has obtained the written consent of the party who platted the subdivision bearing that name, or the Planning Director requires the use of the same name for purposes of clear identification.

#### 2.21.8 Conditions on Approvals

In considering an application for a subdivision plat, the Planning Commission shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to insure compliance with the criteria herein.

#### 2.21.9 Subsequent Applications

There is no restriction on reapplication for subdivision approval.

#### 2.21.10 Amendments

Amendments to a subdivision plat shall be approved in the same manner as the original plat, except as otherwise provided for amending plats or replats herein. Amendments to preliminary plats may be initiated by the owner of property within the preliminary plat area subject to the following:

- A. Minor amendments may be approved by the Planning Director without filing a new preliminary plat.

Minor amendments include the following:

1. Changes in the internal alignment of streets that do not affect external properties or the connectivity index;
2. Changes in internal parcel boundaries that do not abut external property lines;
3. Changes in setbacks along internal property lines;
4. Changes in the routing of trails and pedestrian ways; or
5. Changes in the orientation of buildings on internal parcels.

- B. No minor change authorized by this section may cause any of the following:

1. Change in the permitted uses;
2. Increased intensity of use as measured by the number of dwelling units or square feet of nonresidential building area;
3. Increased trip generation or demand for public utilities;
4. Decreased public or private open space area; or
5. Increased volume or velocity of stormwater runoff from the development.

#### 2.21.11 Major Amendments

All other changes to an approved preliminary plat require the filing and approval of a new preliminary plat.

#### 2.21.12 Scope of Approval

- A. The preliminary plat governs the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this chapter.
- B. The approval is valid so long as the Applicant receives and maintains a valid subsequent development approval or initiates construction within two years of the preliminary plat approval. If development has not been initiated within two years of preliminary plat approval, any changes in development standards shall apply to the development proposed by the preliminary plat.
- C. If a final plat is not submitted within 24 months after approval of the preliminary plat, or within such extended period as may be allowed, the preliminary plat approval shall be void. The Planning Commission may approve a phasing plan extending the effective period of the preliminary plat approval up to five years where it is the intent of the landowners to proceed to final plats covering only a portion of the site at any one time. Beyond two years or, in the case of phased development, five years, the Applicant shall resubmit a preliminary plat to the Planning Director for review by staff

and the referral agencies to ensure that the application is still in compliance with the UDC and any requirements of other agencies.

- D. After the expiration of two years following approval of a preliminary plat, changes to the final plat may be required where a change in the comprehensive plan or the UDC has occurred that affects compliance of the application with the ordinance. The Applicant may make the necessary changes and then proceed to a final plat, or they may choose to resubmit the preliminary plat for review through the normal development approval review process.
- E. If the proposed land to be subdivided does not lie within the force and effect of the existing zoning ordinance of the City of Ocean Springs, Mississippi, the Planning Commission shall transmit the plat to the City Engineer, water board, sanitary department, or any other interested City or county department for review and recommendation in relation to specific service.
- F. Recommendation for approval of the preliminary plat by the Planning Commission shall not be deemed final approval of the overall plan. This recommendation for preliminary approval shall not be noted on the preliminary plat. One copy of this preliminary plat shall be retained in the files of the Planning Commission.

#### 2.21.13 Denial and Appeal

If the Planning Commission finds that the Preliminary Plat fails to meet the criteria established in the section, it shall deny the Preliminary Plat application. The applicant may appeal such denial to the Board of Aldermen. Applicants whose plans are conditionally approved or are disapproved by the Planning Commission may appeal the commission's action to the Mayor and Board of Aldermen at a regular meeting of the board not more than 45 days after the date of the commission's action. The Mayor and Board of Aldermen, after hearing all parties who desire to be heard, shall approve, approve with conditions, or disapprove the application.

## 2.22 FINAL PLAT

### 2.22.1 Applicability

There shall be a final plat for each subdivision that received preliminary plat approval. No final subdivision plat shall be recorded until a final plat has been approved as provided in this section.

### 2.22.2 Initiation

The materials required herein shall be submitted to the Planning Director for a determination as to whether it complies with the approved preliminary plat. The Applicant may submit final plat copies for only that portion of the approved preliminary plat that they propose to record and develop at that time, if such portion conforms to all requirements of this chapter. The final plat shall conform to the approved preliminary plat. Any deviation from the approved preliminary plat that does not constitute a minor amendment requires additional review and approval by the Planning Commission.

### 2.22.3 Approval Process Summary

*Table 2.11: Final Subdivision Plat Approval Process*

| <b>Final Subdivision Plat</b>                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose is to verify that all improvements comply with the preliminary plat and the construction plans                                           |
| Required prior to recording the final plat                                                                                                       |
| Registered engineer/surveyor submits for staff review drawings of all improvements shown on the construction plans and preliminary plat;         |
| Final engineering inspection scheduled min. of 15 days prior to PC meeting. Must be completed min. of 7 days before meeting;                     |
| Developer warrants all public improvements for 3 years or 85% of lots have dwellings;                                                            |
| PC gives the Subdivision final approval if it has passed final engineering inspection and water and sewage systems have approval from the State; |
| As built (contractor record drawing) copy of plans submitted to the City                                                                         |
| Board of Aldermen gives final approval to the subdivision                                                                                        |
| Developer has 12 months after final approval to file the plat with the Jackson County land records office.                                       |

### 2.22.4 Performance

- A. Upon completion of the improvements in the subdivision and before scheduling the final engineering inspection, the developer will have a registered engineer or surveyor check the final as-built elevations and locations of all improvements shown on the originally approved construction plans and preliminary plat; and this information will be recorded on an as built (contractor record drawing) copy of the plans which will be provided to the City. Any variations from the original plans will be reviewed by the City. Should the City reject such variation, the developer shall immediately take the necessary corrective measures to ensure the subdivision complies with the original plans. Both the lot numbers and the numerical address designation will be shown on the site layout plans of the as-built (contractor record) consultation drawings. Lot numbers shall be clearly indicated (painted, stamped, cut, etc.) onto the curb or edge of pavement abutting the lot prior to scheduling the final engineering inspection. The location of water and sewer services shall be indicated with a "w" and "s" respectively, and shall be permanently stamped, cut or otherwise indicated into the curb abutting each lot or other location approved by City Engineer.
- B. The developer shall have all subdivision requirements completed and scheduled the final engineering inspection so that it will be accomplished at least 15 working days prior to the regular monthly meeting of the Planning Commission. All administrative and construction requirements identified by the final inspection will be complete and all submittals made to the City at least seven working days prior to the regular monthly meeting of the Planning Commission. Otherwise, the City Engineer will recommend that the plat not be given final approval by the Planning Commission. A subdivision may not be recommended for final plat approval if there are any contingent or outstanding requirements which are not met.
- C. Two working days prior to the scheduled final engineering inspection, submit to the City:
  1. One blue-line copy of the construction drawings to include all items as they were constructed.

2. One blueline print of the proposed plat to be recorded.
3. Developer's warranty:
  - i. Developer shall warrant proper engineering, installation, materials and construction of all improvements on all property to be owned by the City for a period of three years or until such time that 85% of the number of lots in the subdivision have received a certificate of occupancy for the dwelling unit(s) constructed thereon. In no case may the warranty be for a period of time less than two years after the date of final plat approval. Excluded from this warranty shall be all misuse or improper use of property for the improvement thereon by any party except the developer, his agents, subcontractors or any party acting on his behalf, or otherwise for his behalf or direction.
  - ii. The developer will be required to post a security instrument per lot according to a fee schedule approved by the Board of Aldermen and administered by the Planning Department for a period of three years. Upon issuance of a certificate of occupancies for 85% of the number of lots, the security instrument may be released by the City.
  - iii. The developer shall have the option of:
    - Maintenance bond.
    - Irrevocable letter of credit from local financial institution; or
    - Certificate of deposit from local financial institution.

- D. The developer seeking plat approval shall, under any and all circumstances, be liable for any defects, malfunctions, deterioration, repairs, or any other expenditure occasioned by the failure of any improvements set forth herein to function in a reasonable manner and/or, in instance of required vegetation, for death or destruction of such vegetation and that the developer will be fully responsible for all such items, without limitation as to the amount of bond or security required.
- E. Prior to the consideration of final plat approval by the Planning Commission the subdivision must satisfactorily pass the final engineering inspection. The City Engineer will recommend approval of the final plat based upon all improvements which will be dedicated to the City conforming to these regulations, established engineering standards and the construction plans and specifications approved in conjunction with the preliminary plat.
- F. If determined necessary by the Planning Commission, the developer will have an engineering and traffic investigation report as required by current Mississippi State Code as a basis for establishment of the appropriate speed limits on each street or segment thereof in the subdivision. The developer must have deposited sufficient funds with the City to cover the costs of material, labor and equipment associated with the City's installation of all signs required in the subdivision, including street markers and stop signs at all street intersections as well as any other signs required by the current Manual of Uniform Traffic Control Devices.
- G. The subdivision's water and sewage systems must have final approval of the appropriate Mississippi state and regional authorities immediately after construction of these systems and before recommendation for final plat approval may be made.

#### 2.22.5 Submittal

- A. The final plat shall be at a scale that is legible and functional and on sheets of 24 by 36 inches in size.



- B. From and after the effective date of the adoption of this Ordinance, all subdivisions developed in the City of Ocean Springs shall have the plats thereof certified by the developer's engineer for the subdivision, who is a registered, professional engineer in the State of Mississippi, which said certification will specify, without limitations or reservations that:

*The plans of said subdivision and the construction of all improvements therein, which are or may become the property of the City of Ocean Springs, have been designed and constructed in accordance with the subdivision regulations of the City of Ocean Springs and all other laws, rules, ordinances, regulations, and that they meet or exceed all accepted engineering standards.*

- C. Said engineer certificate shall be placed on the face of the final plat of said subdivision and properly certified to by said engineer at or prior to its submission to the Planning Commission for approval. The failure to place such a certificate thereon shall cause said plat to be unacceptable to the City of Ocean Springs, Mississippi. In the event any such approval is granted by the City without said engineer's certificate, such approval shall be void.
- D. The final plat shall include all information required on the preliminary plat, plus it shall show or include the following:
1. Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line and building setback line whether curved or straight.
  2. The names and lines of all proposed streets, alley lines, lot lines and building setback lines lots numbered in numerical order, reservations, easements, and areas to be dedicated to public use with notes stating their purpose and any limitation.
  3. Tract boundary lines, right-of-way lines of streets, easements other rights-of-way and property lines of residential lots and other sites.
  4. All dimensions shall be accurate to the nearest one-tenth of a foot and all angles accurate to the nearest minute.
  5. Location, dimensions and purpose of any easements and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and limitations.
  6. Accurate location, material and description of monuments and markers with a complete description of all benchmarks including location, type of mark, elevation, and state plan coordinates.
  7. Finish floor elevations for each lot shall be indicated on the final plat.
  8. The following certificates and/or dedications:
    - i. A certificate showing that the Applicant is the landowner and certification that all prior easement rights to any person, utility or corporation have been absolved on the parcels to be dedicated to public use. The person, utility or corporation shall retain whatever rights they would have as if located on a public street. Recording data for all prior easement shall be included. Those prior easements shall be included and not subordinated.
    - ii. The certificate of accuracy by the developer's engineer, registered to practice in the State of Mississippi, as required herein.

- iii. A certificate of dedication of all public streets, highways, water sanitary sewer, stormwater sewer, any other public utilities, and other rights-of-way, easements or parcels for public parks or other public use to the City of Ocean Springs, Mississippi, executed by the owners and all other parties who have a mortgage or lien interest in the property.
  - iv. A certificate by a registered land surveyor of the State of Mississippi to the effect that the plat represents an accurate survey made by him or someone under his direct supervision and that all dimensional and other data are correct.
  - v. Certificates of approval by the Planning Commission and Board of Aldermen and a certificate of recording by the Chancery Clerk of Jackson County, Mississippi.
  - vi. Each private development shall contain the following wording:
  - vii. The infrastructure and streets have not been dedicated to the public for public use nor have they been accepted by the City of Ocean Springs as public improvements, and the infrastructure and streets shall be maintained by the required property owners' association within the subdivision, and the streets shall always be open to emergency vehicles, public and private utility maintenance and service personnel, the U.S. Postal Service and governmental employees in pursuit of their official duties.
  - viii. The following note - Any detention or retention pond, common area, landscaped area or erosion control measures shall not be owned nor maintained by the City of Ocean Springs but shall be owned and maintained by the homeowners' association or, if there is no homeowners' association, by the aggregate lot owners.
- E. After satisfactorily passing the final engineering inspection, the developer shall provide the final construction contractor record as-built drawings to the City at least two working days prior to the regular monthly meeting of the Planning Commission at which final plat will be considered. The copies of the final contractor record as-built drawings shall be as follows: one Mylar diazo film and three sets of revised, if necessary, blueline copies.
- i. Upon approval of the final plat by the Board of Aldermen, five copies of the plat shall be submitted to the Planning Commission's office. The five copies of the plat will be exact duplicates of the original and shall be on the following media: two canvas linen prints or acceptable equal; two Mylar diazo films; and one computer disc which contains all of the graphical information of these drawings as well as the final plat itself in a format compatible with the City Engineer's computer system.
  - ii. Final plat shall show compliance with the requirements of all applicable ordinances of the City of Ocean Springs.

#### 2.22.6 Subsequent Applications

There is no restriction on reapplication for subdivision approval.

#### 2.22.7 Amendments

Amendments to a subdivision plat shall be approved in the same manner as the original plat, except as otherwise provided for amending plats or replats herein.

#### 2.22.8 Scope of Approval

- A. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of the remaining area may be submitted at any time within two years of the preliminary plat without payment of any additional filing fee by the Applicant providing the final plat for the additional areas conform substantially with the approved preliminary plat.
- B. The final plat shall be submitted for approval within the required two years. Applicants failing to complete construction and obtain final approval from the Board of Aldermen within the specified time may submit a request for an extension of six months. If an extension is granted, the final plat must be submitted within a total of 30 months from the original date of approval of the preliminary plat by the Board of Aldermen.
- C. If the final plat is not submitted within the required two years or within an approved extension period as prescribed above, the approval of the preliminary plat shall be rescinded. The developer will be required to resubmit the application for preliminary plat and be subject to all fees related to the application. The preliminary plat shall comply with all current regulation in place at the time it is resubmitted.
- D. Upon approval of the final plat by the Board of Aldermen, the plat shall be submitted for recording within 60 days; otherwise final plat approval will be null and void.

#### 2.22.9 Recording Procedures

Within 12 months after final plat approval, the Applicant shall file the plat with the Jackson County land records office as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Board of Aldermen has granted an extension. Once all copies of the final plat show written approval of the Planning Commission and the Board of Aldermen, one canvas linen and one Mylar copy to be recorded will be returned to the developer. Once all copies have been recorded by the developer with Jackson County, and one canvas copy of the plat filed with the Chancery Clerk, the developer shall ensure the following: one Mylar copy filed with the City Engineer; one canvas (linen print) copy filed with the City Clerk. The City Engineer will then provide blueline copies to the public works department, the building department and the Planning Commission office.

#### 2.22.10 Dedication (Acceptance)

The approval of a plat shall not be considered an acceptance of any proposed dedication and does not impose on the City of Ocean Springs any duty regarding the maintenance or improvement of any dedicated parts until the appropriate City of Ocean Springs authorities make an actual appropriation of the dedicated parts by entry, use, or improvement. The disapproval of a plat shall be considered a refusal by the City of Ocean Springs of the offered dedication indicated on the plat.

(Ord. No. 2024-02, 04-02-2024)

### 2.23 PLAT AMENDMENT

This section provides a streamlined and efficient process for the combination of parcels or the replat of parcels. The City of Ocean Springs does not require extensive platting for every division of land otherwise within the scope of the state subdivision enabling legislation.

### 2.23.1 Applicability

A plat may be amended, and the Planning Director may issue an amending plat, if the amending plat is signed by the Applicants only and is solely for one or more of the following purposes:

- A. To correct an error in a course or distance shown on the preceding plat;
- B. To add a course or distance that was omitted on the preceding plat;
- C. To correct an error in a real property description shown on the preceding plat;
- D. To indicate monuments set after the death, disability, or retirement from practice of the professional engineer or surveyor responsible for setting monuments;
- E. To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- F. To correct any other type of clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- G. To correct an error in courses and distances of lot lines between two adjacent lots if:
  - 1. Both lot owners join in the application for amending the plat;
  - 2. Neither lot is abolished;
  - 3. The amendment does not attempt to remove recorded covenants or restrictions; and
  - 4. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- H. To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

### 2.23.2 Initiation

An Applicant wishing to amend an approved plat shall file with the Planning Director the amending plat, together with a copy of the plat being amended and a statement detailing the amendments being proposed. The Planning Director will determine the extent to which the amending plat will require review by the various departments and agencies of the City. If the plat being amended has been recorded, the additional recordation fee shall be deposited with the City of Ocean Springs at the time of plat filing.

### 2.23.3 Approval Process Summary

*Table 2.12: Plat Amendment Approval Process*

| Plat Amendment                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------|
| Purpose: to correct minor clerical errors on a plat and to relocate lot lines to eliminate inadvertent encroachments or similar issues |
| Administrative review by Planning Director and City staff required                                                                     |

#### 2.23.4 Decision

Notice, a hearing, and the approval of all lot owners within the plat are required for the approval and issuance of an amended plat. The amending plat shall be processed by the Planning Director in the same manner as a minor plat. If the plat being amended has been recorded, the amending plat shall be clearly marked as follows:

*Amending plat of (\_\_\_\_[PLAT NUMBER] and \_\_\_\_[NAME]). This plat amends the plat previously recorded in the plat and deed records of Jackson, Volume\_\_\_\_\_, Page\_\_\_\_. The amending plat shall then be recorded if all requirements have been met. If the plat being amended has not been recorded, the amending plat may be approved by the Planning Director. Upon approval by the Planning Director, the amending plat shall be annotated with the following statement: This plat includes amendments approved by the Planning Director.*

#### 2.23.5 Approval Criteria

The amending plat shall be approved unless it is inconsistent with any of the criteria set forth herein. The amending plat shall not be approved if it does not comply with any of the criteria set forth herein.

#### 2.23.6 Recording Procedures

The amending plat may be recorded as provided in this chapter. Once recorded, the amending plat is controlling over the preceding plat without vacation of that plat.

### 2.24 PLANNED UNIT DEVELOPMENTS

#### 2.24.1 Purpose

- A. Development in the city that has typically taken place under requirements of uniform regulations within each zoning district may on occasion prevent or discourage innovative site design and development that can respond to new market demands or unusual property conditions. The use of improved techniques for land development is often difficult under traditional zoning regulations that are designed to address single buildings on individual lots. Modern private development requires a flexible approach to be available both to the city and to the landowner. The Comprehensive Plan recommends including in the UDC “standards for alternative development patterns, including planned development, conservation subdivision and traditional neighborhood development”. Deviations from the uniformity characteristic of earlier zoning regulations and the use of new and innovative techniques are encouraged. However, the planned unit development regulations are not intended to allow the development of incompatible land uses, increased densities or the use of sub-standard infrastructure. The standards contained in the following provisions must be strictly adhered to by the applicant;
- B. The city may, upon proper application, approve a planned development (PD) to facilitate the use of flexible techniques of land development and site design, by providing relief from zone requirements designed for conventional developments in order to obtain one or more of the following objectives:
  - 1. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.

2. Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.
3. Functional and beneficial uses of open space areas.
4. Preservation of natural features of a development site.
5. Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.
6. Rational and economic development in relation to public services.
7. Efficient and effective traffic circulation, both within and adjacent to the development site.

#### 2.24.2 Relation Between Planned Development And Zoning Districts.

- A. Planned development districts. Planned Development districts shall be permitted in all districts. No PD shall be permitted in any district for a use which is not permitted within the existing zoning classification of that particular lot, tract or parcel of land at the time of the filing of an application for planned development approval.
- B. Modification of district regulations. Planned developments may be constructed in any zoning district as outlined in subsection (a) of this section, subject to the standards and procedures set forth as follows:
  1. Except as modified by the approved outline plan, a planned development shall be governed by the regulations of the district or districts in which the planned development is located.
  2. The approval of the outline plan for the planned development may provide for such exceptions from the zoning district regulations governing area, bulk (minimum lot size, minimum lot width, building setback distances, and maximum building height), parking and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed planned development, provided that such exceptions are consistent with the standards and criteria contained in this section and have been specifically requested in the application for a planned development; and further provided that no modification of the zoning district requirements or subdivision regulations may be allowed when such proposed modification would result in:
    - i. Inadequate or unsafe access to the planned development.
    - ii. Traffic volumes exceeding the anticipated capacity of the proposed major street network in the vicinity.
    - iii. An undue burden on public parks, recreation areas, schools, fire and police protection and other public facilities which serve or are proposed to serve the planned development.
    - iv. A development which will be incompatible with the purposes of this division.
    - v. Detrimental impact on surrounding area including, but not limited to, visual pollution.
  3. The burden of proof that the criteria of subsection B Modification of district regulations) of this section are not being violated shall rest with the developer and not the City staff or the planning commission. Such modifications shall supersede the regulations of the zoning district in which the planned development is located.

### 2.24.3 General Standards and Criteria

- A. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the plans of the city.
- B. An approved water supply, community wastewater treatment and disposal, and stormwater drainage facilities that are adequate to serve the proposed development have been or shall be provided.
- C. The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or accessways shall be landscaped or otherwise improved, except where natural features are such as to justify preservation.
- D. Any modification of the zoning or other regulations that would otherwise be applicable to the proposed development and warranted by the design of the outline plan may be permitted. However, such modifications shall not be inconsistent with the public interest.
- E. Homeowner's associations or some other responsible party shall be required to maintain any and all common open space and/or common element of the proposed development.

### 2.24.4 Specific Standards and Criteria for Residential Planned Unit Developments

In addition to the standards and criteria set forth in section 2.24.3 above, planned residential developments shall comply with the standards and criteria set forth in this section:

- A. Design and preservation of common open space. Common open space may be required as a condition to the approval of a residential planned development. No open area may be delineated or accepted as common open space under the provisions of this section unless it meets the following standards:
  - 1. Common open space must be usable for recreational purposes or must provide visual, aesthetic and environmental amenities. The uses authorized for the common open space must be appropriate to the scale and character of the planned residential development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided
  - 2. Common open space must be suitably improved for its intended use, but open area containing natural features worthy of preservation may be left unimproved. Any buildings, structures and improvements to be located in the common open space must be appropriate to the uses which are authorized therefore and must conserve and enhance the amenities of the common open space having regard to its topography and the intended function of the common open space. Parking lots shall not be considered open area. Marsh area may be counted as open area up to a maximum of 10% of the total area of the development.
  - 3. The development phasing sequence which is part of the outline plan must coordinate the improvement of the common open space; the construction of the building, structures and improvements in the common open space; and the construction of public improvements and the construction of residential dwellings in a planned residential development, but in no event shall occupancy permits for any phase of the final development plan be issued unless and until the open area which is part of that phase has been dedicated or conveyed and improved.
  - 4. No common open space of a planned residential development shall be conveyed or dedicated by the developer or any other person to any public body, homeowners' association or other party unless the planning commission has determined that the character and quality of the tract to be

conveyed makes it suitable for the purpose for which it is intended. The planning commission may give consideration to the size and character of the dwellings to be constructed within the planned residential development, the topography and existing trees, the ground cover, and other natural features, the manner in which the common open space is to be improved and maintained for recreational or amenity purposes, and the existence of public parks or other public recreational facilities in the vicinity.

5. All land shown on the outline plan as common open space must be either:
  - i. Conveyed to a public body, if the public body agrees to accept conveyance and to maintain the common open space and any buildings, structures or improvements which have been placed on it; or
  - ii. Conveyed to a homeowners' association or some party responsible for maintaining common buildings, areas and land within the planned residential development. The common open space must be conveyed subject to covenants. The planning commission shall approve only those provisions of the covenants which restrict the common open space to the uses specified on the outline plan and which provide for the maintenance of the common open space in a manner which ensures its maintenance for its intended purpose.
- B. Accessibility of site. All proposed streets, private drives, alleys and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the planned residential development, and should be consistent with the major road plan of the city. All forms of transportation including, but not limited to, bikeways and mass transit shall be considered in developing the plan for development.
- C. Off-street parking. Off-street parking shall be conveniently accessible to all dwelling units and other units. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through use of trees, shrubs and/or hedges and screening walls.
- D. Pedestrian circulation. The pedestrian circulation system and its related walkways shall be separated, unless it is unfeasible, from the vehicular street system in order to provide an appropriate degree of separation of pedestrian and vehicular movement.
- E. Privacy. The planned residential development shall provide reasonable visual and acoustical privacy for dwelling units within and adjacent to the planned residential development. Protection and enhancement of the property and the privacy of its occupants may be provided by the screening of objectionable views or uses and reduction of noise through the use of fences, insulation, natural foliage, berms and landscaped barriers. Buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining buildings.
- F. Density. The density of planned residential districts shall adhere to the allowable density of the underlying zoning district. For purposes of calculating the density of a planned residential development, the area of the site shall exclude the area within pavement of all dedicated and private streets internal to the site.

#### 2.24.5 Specific Standards and Criteria for Commercial Planned Unit Developments

The board of mayor and aldermen may approve a planned commercial development for buildings or premises to be used for the retail sale of merchandise, services, parking areas, office buildings, hotels and similar facilities ordinarily accepted as commercial center uses. In addition to the applicable standards and



criteria set forth in section 2.24.3, planned commercial developments shall also comply with the following standards:

- A. Residential use. Except for hotels, no buildings shall be designed, constructed, structurally altered or used for dwelling purposes, except to provide, within permitted buildings, facilities for a custodian, caretaker or watchman employed on the premises.
- B. Screening. When structures or uses in a planned commercial development abut a residential district or permitted residential buildings in the same development, screening may be required.
- C. Display of merchandise. All business shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way; provided, however, that when an automobile service station or gasoline sales are permitted in a planned commercial development, motor fuels may be sold from dispensers outside of a structure.
- D. Accessibility. The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development. All forms of transportation including, but not limited to, bikeways and mass transit shall be considered in developing the plan for development.
- E. Landscaping. Landscaping shall be required to provide screening of objectionable views or uses and the reduction of noise.

#### 2.24.6 Specific Standards and Criteria For Mixed Use Planned Developments

Planned developments which do not qualify as a planned residential development and which are not exclusively for commercial uses shall be subject to all applicable standards contained in sections 2.24.4 and 2.24.5.

### 2.25 PROCEDURE

#### 2.25.1 Procedures for Planning Development Approval

- A. Preapplication procedure. Not more than six months prior to filing any application for planned development approval, the prospective applicant shall request a preapplication conference with the city's planning staff. Such request shall include a brief and general narrative description of the nature, location and extent of the proposed planned development; and a list of any professional consultants advising the prospective applicant with respect to the proposed planned development. Upon receipt of such request, the city planning staff shall promptly schedule such a conference.
- B. Application and post application procedure. The procedure for initiation and processing of an application for a planned development is set forth in this section.

#### 2.25.2 Outline Plan

An outline plan shall be submitted to the planning department with the application for a planned development. A final plan, including all the requirements of an outline plan, may be submitted as a single application when the development will be constructed in one phase. The outline plan shall contain at a

minimum:

For all planned residential developments:

- A. A map on a scale of one inch equals 100 feet or larger showing available utilities, easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property.
  - B. A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural topographical and physical features of the subject property; location and extent of tree cover; location and extent of watercourses, marshes and floodplains on or within 100 feet of the subject property; existing drainage patterns and soil conditions.
  - C. A drawing defining the general location and maximum number of lots, parcels or sites to be developed or occupied by buildings in the planned development; the general location and maximum amount of area to be developed for parking; the general location and maximum amount of area to be devoted to open area and to be conveyed, dedicated or served for parks, playgrounds, school sites, public buildings and other common use areas; the approximate location of points of ingress and egress and access streets, where required; the approximate location of pedestrian and vehicular ways or the restrictions pertaining thereto and the extent of landscaping, planting or fencing and other treatment for adjustment to surrounding property.
  - D. A tabulation of the maximum number of dwelling units proposed, including the number of units with two or less bedrooms and more than two bedrooms.
  - E. A tabulation of the maximum floor area to be constructed, except for single-family detached dwellings and their accessory buildings, and the proposed maximum height of any building or structure.
  - F. A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the city and how the proposed planned development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with applicable regulations. The statement shall include a description of the applicant's planning objectives, the approaches to be followed in achieving those objectives and the rationale governing the applicant's choices of objectives and approaches. In addition, a specific list of the exceptions to applicable regulations requested shall be required.
  - G. If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating:
    - i. The approximate date when construction of the project can be expected to begin;
    - ii. The order in which the phases of the project will be built; and
    - iii. The minimum area and the approximate location of common open space and public improvements that will be required at each stage.
- 1. Proposed means of ensuring the continued maintenance of common open space or other common elements and governing the use and continued protection of the planned development.
  - 2. A statement setting forth in detail the bulk, use, and/or other regulations under which the planned development is proposed.

3. If any stage or unit as proposed contains a share of open space or other public or private recreation or service facility less than that which its size, number of units or density would otherwise require. A statement shall be submitted setting forth what bond, credit, escrow or other assurance the applicant proposes in order to ensure that the difference between that which would otherwise be required and that which the applicant proposes to provide in the instant stage or unit is ultimately provided.
- A. For all planned commercial developments:
1. A map on a scale of one inch equals 100 feet or larger showing available utilities, and easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property.
  2. A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural, topographical and physical features of the subject property; general location and extent of tree cover; location and extent of watercourses, marshes and floodplains on or within 100 feet of the subject property; existing drainage patterns; and soil conditions.
  3. A drawing defining the general location and maximum amount of area to be developed for buildings and parking; standards for pedestrian and vehicular circulation and the points of ingress and egress, including access streets, where required, and the provision of spaces for loading; the standards for the location, size and number of signs; adjustments to be made in relation to abutting land uses and zoning districts; and the extent of landscaping, planting and other treatment for adjustment to surrounding property.
  4. A circulation diagram indicating the proposed principal movement of vehicles, goods and pedestrians within the development to and from existing thoroughfares.
  5. A development schedule indicating the stages in which the project will be built and when construction of the project can be expected to begin.
  6. A written statement generally describing the relationship of the planned development to the current policies and plans of the city; and how the proposed planned development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this division. The statement shall include a description of the applicant's planning objectives, the approaches to be followed in achieving those objectives and the rationale governing the applicant's choices of objectives and approaches.
  7. A statement setting forth in detail the manner in which the proposed planned development deviates from the zoning and subdivision regulations which would otherwise be applicable to the subject property, including:
    - i. Maximum total square feet of building floor area proposed for commercial uses, by general type of use.
    - ii. Maximum total land area, expressed in acres and as a percent of the total development area, proposed to be devoted to commercial uses; minimum public and private open space; streets; and off-street parking and loading areas.

### 2.25.3 Outline Plan Approval Process and Effect of Approval

- A. Not more than 35 days after a complete application and outline plan is filed, the planning commission shall hold a public hearing on the application and the outline plan. The planning commission shall recommend to the board of mayor and aldermen approval, approval with conditions or disapproval of the proposed planned development. The planning commission may, prior to the close of the meeting, take the matter under advisement or defer decision until the next regular meeting of the planning commission.
- B. Any applicant or owner of property may appeal to the board of mayor and aldermen from any recommendation of the planning commission or from any conditions the planning commission imposes or fails to impose in its recommendations.
- C. An applicant shall submit an outline plan to the board of mayor and aldermen incorporating any and all conditions imposed by the planning commission or, if the applicant chooses to appeal, an outline plan incorporating any and all conditions not appealed, within 90 days after the date of the close of the planning commission meeting, or the application shall be deemed withdrawn.
- D. The recommendations of the planning commission and any notices of appeal shall be forwarded to the board of mayor and aldermen.
- E. The board of mayor and aldermen shall hold a public hearing on the application for the planned development and the outline plan after receipt of recommendations from the planning commission and any notice of appeal. At least 15 days' notice of the time and place of the public hearing shall be published in a newspaper of general circulation. The board of mayor and aldermen shall render a decision on any appeal and may approve or disapprove the proposed planned development and outline plan subject to conditions and, if approved, shall authorize the planned development, which approval shall set forth the conditions imposed. Additionally, the board of mayor and alderman may impose its own conditions and is not bound to accept recommended conditions proposed by the planning commission.
- F. The approved outline plan shall bind the applicant, owner and mortgagee, if any, with respect to the contents of such plan. The approved outline plan shall be recorded by the city at the expense of the applicant. After the plan is recorded, no development shall occur unless such development is in accordance with the approved outline plan.
- G. The planning commission may amend or waive a development schedule upon submission of written justification by the applicant.

### 2.25.4 Final plan approval process

- A. An application for approval of a final plan of the entire planned development if it is to be completed in one phase, or of a portion of the planned development if it consists of more than one phase, shall be submitted by the applicant in sufficient time so that the applicant may develop the planned development in accordance with the phasing schedule, if any, of the approved outline plan.
- B. The application for final plan approval shall include, but not be limited to, the following:
  - iii. A plan suitable for recording with the county register's office.
  - iv. The plan shall be an original ink on linen or 0.004 mil mylar or a photo mylar reproduction and be at a scale of one inch equals 100 feet.

- v. Proof referred to on the plan and satisfactory to the respective city attorney as to the provision and maintenance of common open space.
  - vi. All certificates, seals and signatures required for the dedication of land and recordation of documents.
  - vii. Designation of the location and dimensions of all buildings to be constructed, and a designation of the uses for which each building is designed.
  - viii. Tabulations of each separate use area, including land area and number of dwelling units per gross acre and the gross floor area for commercial uses.
  - ix. Location and type of landscaping.
  - x. Location and dimensions of utility and drainage facilities.
- C. The final plan shall conform to the approved outline plan. If the final plan is not, in the judgment of the planning department, consistent with the approved outline plan, an amendment to the outline plan must be filed along with the final plan. The procedure for amendment to the outline plan shall conform to the requirements set forth in section 23-574.
- D. The final plan is subject to review and recommendation by the planning commission and subsequent approval by the board of mayor and aldermen. If the final plan is disapproved by the planning commission, the applicant may appeal to the board of mayor and aldermen, may file a final plan which conforms to the approved outline plan, or the applicant may file an amendment to the approved outline plan.
- E. After a final plan is approved by the board of mayor and aldermen, the approved final plan shall be recorded in the Jackson County Land Records office by the applicant after receipt of any necessary bonds, fees and contracts to provide improvements required in the subdivision regulations and the required signatures for recordation have been secured.

## **2.26 OUTLINE OR FINAL PLAN REPEAL PROCESS**

An application for repeal of approval of all or a portion of an outline or final plan may be filed with the planning department at any time. The planning commission shall meet and forward a recommendation to the board of mayor and aldermen concerning the repeal of approval of the outline and/or final plan of development. The board of mayor and aldermen shall schedule a public hearing on the request and make a decision regarding the request for repeal based on the following criteria:

- A. Prior to commencement of any construction based on an approved final plan, plan approvals may be repealed and contracts voided if the applicant proposes no development or development consistent with existing zoning.
- B. After commencement of construction based on an approved final plan, plan approvals may be repealed and contracts voided only if, in the opinion of the board of mayor and aldermen, the public health, safety and welfare will not be jeopardized. Specifically, public facilities must be provided to future owners of property within the development and adequate traffic circulation maintained. Development of property constituting a portion of an approved final plan in accordance with the existing zoning may not be approved if such development would be incompatible with the remainder of the property included in the approved final plan.

## 2.27 ZONING ADMINISTRATION

### 2.27.1 Permits

The building official may issue building permits for the area of the planned development covered by the approved final plan for work in conformity with the approved final plan and with all other applicable ordinances and regulations. However, the building official shall not issue an occupancy permit for any building or structure shown on the development plan of any stage of the planned development unless the common open space and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or homeowners' association or a responsible party. The building official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final plan if the completed building or structure conforms to the requirements of the approved final plan and all other applicable regulations and ordinances.

### 2.27.2 Reapplication if Denied

If an application for a planned unit development is denied by the board of mayor and aldermen, a reapplication pertaining to the same property and requesting the same planned unit development may not be filed within 12 months of the date final action was taken on the previous application.

### 2.27.3 Procedure for Amendment

An outline plan and/or a final plan may be amended in accordance with the procedure which governed its approval as set forth in this division.

(Ord. No. 2023-05, 5/05-2023)

## 2.28 TREE PRESERVATION PLAN

### 2.28.1 Approval Process Summary

*Table 2.17: Tree Preservation Plan Approval Process*

| Tree Preservation Plan                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------|
| Purpose: to enable the Tree Protection Department to review an overall tree survey of a large-scale development            |
| Tree Protection Department reviews the overall plan for tree removal and limb removal with regard to their review criteria |
| Recommendation of the Tree Protection Department is forwarded for approval by the Board of Aldermen                        |

### 2.28.2—2.28.4 - Reserved

Editor's note— Ord. No. 2019-12, § I, adopted June 18, 2019, repealed §§ 2.28.2—2.28.4, which pertained to contents of permit application, review, and decision. Ord. No. 2020-10, § III, adopted May 19, 2020 modified Table 2.17.

## 2.29 LANDMARK OR HISTORIC DISTRICT DESIGNATION

### 2.29.1 Purpose

It is hereby declared as a matter of public policy that the protection, enhancement, and perpetuation of properties of cultural, architectural, archaeological, or historical merit is a public necessity and is required in the interest of the health, prosperity, and welfare of the people. Therefore, pursuant to the Mississippi Local Government Historic Preservation Act of 1978 (Chapter 472, Laws of Mississippi, 1978), this article intends to:

- A. Effect and accomplish the 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; and the continuation of research.
- B. Safeguard the City's historic, aesthetic, and cultural heritage, as embodied and reflected in such landmarks, landmark sites, and historic districts.
- C. Foster City-wide civic pride in the accomplishments of the past.
- D. The intention of this article is to prevent subversion and destruction of these valuable assets while at the same time recognizing the rights of the property owners to utilize the premises as their homes and further recognizing the private ownership thereof and the debt owed by the citizens of Ocean Springs to these property owners for the preservation and pride demonstrated by their current condition.
- E. Ensure the harmonious, orderly, and efficient growth and development of the City as it relates to historic preservation.
- F. Promote the preservation of landmarks, landmark sites, and historic districts for the education, pleasure, and welfare of the people of the City of Ocean Springs.

### 2.29.2 Approval Process Summary

*Table 2.18: Landmark or Historic District Designation Approval Process*

| Landmark or Historic District Designation                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose: protect and enhance the landmark structures and districts that represent the cultural, social and architectural history                                                                   |
| The Historic Preservation Commission (HPC) initiates an investigation of the historic, architectural, archaeological, and cultural significance of proposed buildings, structures, features, sites |
| Results of the investigation are made available in a printed format                                                                                                                                |
| HPC holds public hearing and may recommend historic district designation                                                                                                                           |
| Mississippi Department of Archives and History reviews the recommendation                                                                                                                          |
| Proposed designation is sent to Board of Aldermen for approval                                                                                                                                     |

### 2.29.3 Title to Property Acquired

All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by the City shall be acquired in the name of the City unless otherwise provided by the City. So long as owned by the City, historic properties may be maintained by or under the supervision and control of the City. However, all lands, buildings, or structures acquired from funds other than those appropriated by the City, in whole or in part, may be acquired and held in the name of the City, subject to the approval of the board.

- A. Nonrestrictive Clause
- B. Nothing in this UDC shall be construed to prevent the regulation or acquisition of historic buildings, structures, sites, areas, or objects owned by the State of Mississippi or any of its political subdivisions, agencies or instrumentalities.
- C. Furthermore, the Law of Mississippi Antiquities (Section 39-7-1 et seq. of the Mississippi Code of 1972, as amended in 1983) provides for the sensitive treatment of publicly owned buildings shown to possess certain architectural, historical, or archaeological significance, and so designated by the board of trustees of the Mississippi Department of Archives and History as Mississippi Landmarks.
- D. Whenever a Mississippi Landmark is proposed for rehabilitation, alteration, enlargement, etc., the local governing board shall submit their plans to the Mississippi Department of Archives and History (the “department”) for review and compliance. If the department perceives the plans to be detrimental to the Mississippi Landmark, the governing board will work with the department to bring the project into agreement with the Secretary’s Standards. In this manner, local governing boards that have designated publicly owned properties as landmarks or within an historic district may be assured that these Mississippi Landmarks will be maintained in a manner compatible with the Secretary’s Standards, which is used as a rehabilitative guideline for all designated historic districts and landmarks.

### 2.29.4 Requirements for Designation of Landmarks, Landmark Sites and Historic Districts

The City may establish by ordinance landmarks, landmark sites, and historic districts within the area of its jurisdiction. Such landmarks, landmark sites, or historic districts shall be designated following the criteria as defined herein, and no landmarks, landmark sites, or historic districts shall be designated until the following requirements have been met:

- A. The Historic Preservation Commission (HPC) shall initiate a thorough investigation of the historic, architectural, archaeological, and cultural significance of the buildings, structures, features, sites, and the findings shall be collected in a cohesive printed format, made a matter of public record, and made available for public inspection.
- B. After investigation, if the HPC shall decide to recommend the designation of an historic district, or landmark, or landmark site, it shall prepare or cause to be prepared a proposed ordinance to make such designation.
- C. The HPC's recommendations to the City for designation of an historic district shall be accompanied by complete documentation, including, but not limited to:
  - 1. A concise description of the existing historic resources in the district, offering a description of building types and architectural styles represented;



2. A concise statement of the district's historical architectural, archaeological, or cultural significance;
  3. Boundary description and justification;
  4. An inventory of all the buildings, with each building evaluated for its significance to the district;
  5. A map showing all historic resources in the district; and
  6. Photographs of typical streetscapes in the districts as well as of major types of contributing and noncontributing buildings.
- D. Any person, group of persons, or association may request the designation of a landmark or a landmark site by submitting to the Secretary of the HPC an application for such designation on a form furnished by the HPC.
- E. No historic district or districts shall be designated until the Mississippi Department of Archives and History, acting through such agent or employee as may be designated by its Director, shall have made an analysis of and recommendations concerning, the proposed district boundaries. Failure of the department to submit its analysis and recommendations to the City within forty-five (45) days after a written request for such analysis has been mailed to it shall relieve the City of any responsibility for awaiting such analysis; and the City may at any time thereafter take any necessary action to adopt or amend its ordinance.
- F. If a proposed ordinance is to designate a landmark or landmark site, it may be presented to the City with a recommendation that it be adopted without submission to the Mississippi Department of Archives and History.
- G. The HPC will conduct a public hearing, after notice, specifying the boundaries of any proposed historic district and the location of proposed landmarks and landmark sites. Said notice shall be published once a week for at least three (3) consecutive weeks in at least one newspaper published in the City. If a newspaper is not published in the City then the notice shall be published in a paper published in the county. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date. Furthermore, a copy of said notice shall be mailed by the City Clerk via first class, postage prepaid mail to every property owner as shown on the City tax assessment rolls whose property is proposed to be included within an historic district or to be designated a landmark or landmark site. This notice shall be mailed to the addresses shown for said property owners on said City tax assessment rolls and shall be mailed at least fifteen (15) days before said hearing. A failure to receive a mailed notice shall not invalidate the actions of the City taken as a result of said hearing.
- H. Within sixty (60) calendar days after the public hearing held in connection herewith, the City shall adopt the ordinance as proposed, reject it entirely or adopt the ordinance with modifications wherein any modifications shall only be to reduce the scope of the ordinance as published.
- I. Furthermore, the HPC shall notify, as soon as is reasonably possible, appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and historic districts. An updated list and map shall be maintained by such agencies and made available to the public.

## 2.29.5 Certificate of Appropriateness

In order to promote the general welfare through the preservation and protection of historic resources, no exterior feature of any landmark, landmark site, or building, or structure within an historic district (including, but not limited to, walls, fences, light fixtures, steps, pavement, trees, or other appurtenant features) or any above ground utility structure, or any type of outdoor advertising sign, shall be erected, altered, reconstructed, restored or rehabilitated, moved, cut or demolished within any such historic district or on any such landmark site or any landmark until after an application for a certificate of appropriateness of such work has been submitted to and reviewed by the Historic Preservation Commission and approved by the City.

### A. Procedures:

Anyone desiring to take action requiring a certificate of appropriateness concerning a landmark, landmark site or resource within an historic district for which a permit, variance or other authorization from either the Building Official or the City is required, shall make application therefore in the form and manner required by the applicable code section or ordinance. Any such application shall also be considered an application for a certification of appropriateness and shall include such additional information as may be required by the HPC and an application fee in accordance with the currently adopted fee schedule. After receipt of any such application, the Building Official shall be assured that the application is proper and complete. No building permit shall be issued by the Building Official which affects an historic resource in an historic district or a landmark or a landmark site without a certificate of appropriateness. Thereafter, such application shall be reviewed in accordance with the following procedure:

1. When any such application is filed, the Planning Director shall immediately notify the chairman, or vice-chairman if the chairman is unavailable, of the HPC, that the application was filed.
2. The Application shall be heard at the regularly scheduled meeting of the HPC. If no such meeting is scheduled, the chairman or vice-chairman shall set a time and date, which shall be not later than ten (10) working days after the filing of the application, for a hearing by the Commission, and the Building Official shall be so informed. If no action is taken by the Commission prior to the ten (10) working day deadline, the application is automatically approved.
3. The Applicant shall, upon request, have the right to a preliminary conference with a member of the HPC or of the HPC staff for the purpose of making any changes or adjustments to the application which might be more consistent with the HPC's standards.
4. Not later than ten (10) days before the date set for the said hearing, the Building Official shall mail notice thereof to the Applicant at the address in the application and to all members of the HPC which shall serve as a call for a special meeting unless the hearing is set for a regularly scheduled meeting.
5. Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the City at least fifteen (15) days before such hearing and by posting such notice by a sign on the property.
6. At such hearing, the Applicant for a certificate of appropriateness shall have the right to present any relevant evidence in support of the application.
7. The HPC shall have the right to make such recommendations for changes and modifications as it may deem necessary in order to enable the Applicant to meet the requirements of the HPC.

8. Within not more than twenty-one (21) days after the hearing on an application, the HPC shall act upon it, making a written recommendation for approval or denial or deferring action until the next meeting of the HPC, giving consideration to the factors set forth in §2.34.4. Evidence of approval of the application shall be by certificate of appropriateness issued by the HPC, and whatever its decision, notice in writing shall be given to the Applicant and the Building Official. The HPC shall keep a written record of its actions under this article.
9. After the hearing the HPC shall submit the minutes of the meeting, which shall contain the HPC's recommendation as to whether a certificate of appropriateness should be granted or not, to the Board of Aldermen.
10. If the Applicant objects to the HPC's decision, and desires a hearing before the City, a written request shall be filed with the City Clerk not more than ten (10) days after the HPC decides upon its recommendation.
11. If a request for a hearing before the City is timely filed, the City Clerk shall, not later than the day after such request is filed, mail a notice to the Applicant of a hearing date, time and place which shall be the first meeting of the City to be held thereafter at which the application should be considered. Prior to taking any action on an appeal, the City may seek an opinion from the department of archives and history on the matter.
12. If the Applicant does not request a hearing by the City, the City shall, without unreasonable delay, make its decision based upon the recommendation of the HPC including any exhibits filed with said HPC. At their own expense, an Applicant may make a verbatim record of the hearing before the HPC. If a verbatim record is made of the hearing before the HPC and no request for a hearing before the City is filed, the City shall make its decision from the minutes of the HPC.
13. Upon approval thereof by the City, the Planning Director shall issue a certificate of appropriateness. The issuance of a certificate of appropriateness shall not relieve an Applicant for a building permit, special use permit, variance or other authorization from compliance with any other requirement or provision of the laws of the City concerning zoning, construction, building, rebuilding, repair or demolition unless such is in conflict with this article or action taken hereunder. In the event of a conflict with this article and any ordinance, law, code or regulation, the more restrictive or more stringent interpretation or regulation shall control; provided, however, an exception to other codes and regulations may be granted by the Building Official in favor of this article when such buildings are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts. The Applicant must submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect when such exception is requested.
14. If Applicant is aggrieved by the decision of the City, the Applicant may appeal same to the Circuit Court of Jackson County in the manner provided by law.
15. If no permit, variance, or other authorization from either the Building Official or the City is otherwise required and a certificate of appropriateness is required by this article, then the Applicant therefore shall file an application with the Planning Department. Thereafter, the application shall be processed in the manner provided above. The application shall describe what the Applicant proposes to do, how it is to be done, and such other information as the HPC or Planning Director may require.
16. Construction shall be initiated within one year of issuance and completed within two (2) years unless an extension not to exceed one year has been properly approved by the HPC.

B. Decision

1. The HPC shall serve as a review body with the power to make recommendations on applications for certificates of appropriateness, and if granted, what conditions, if any, should be provided in such certificate.
2. In making determinations, evaluations, and decisions under this article, the HPC shall seek to accomplish the purposes of this article; in particular, to preserve and protect the architectural and historic integrity and character of any landmark site, landmark, or historic district.
3. All decisions of the HPC shall be in writing and shall state the findings of the HPC and the reasons thereof.
4. The HPC shall not disapprove of any plans without giving its recommendations for changes to be made before such plans can be reconsidered. These recommendations may be in general terms, and compliance therewith shall not by itself qualify such plans for approval--only for reconsideration by the HPC.

C. Exceptions

1. A certificate of appropriateness shall not be required for ordinary maintenance or repair of any landmark, or building, or structure upon a landmark site or within an historic district which does not involve a change in design, material, color, or the appearance thereof.
2. A certificate of appropriateness shall not be required for emergency temporary repairs after hurricanes or other natural disasters.
3. A certificate of appropriateness shall not be required for a color change except on the following categories of property: Mississippi landmarks, pivotal and contributing properties on the National Register of Historic Places.

D. Criteria

Pursuant to the secretary of the interior's Standards for Rehabilitation, the HPC and the City shall use the following criteria in granting or denying certificates of appropriateness:

1. General Factors
  - i. The HPC should be sensitive to the individual building and its owner/occupant and his needs.
  - ii. General appearance of the land, building, or improvement under consideration;
  - iii. Structural condition of existing building or structure;
  - iv. Structural composition of existing building, or structure, or improvement, and proposed alteration;
  - v. Architectural design of existing building, or structure, or improvement, and proposed alteration;
  - vi. Size of existing land parcel, building, structure or improvement and proposed alteration;
  - vii. Historical significance of existing land, building, structure, or improvement;
  - viii. Economic use of existing land, building, structure, or improvement;
  - ix. Relative cost of proposed project and alternatives;
  - x. The owner's legitimate right to earn a reasonable return from his investment in the site, building,

or structure; and

- The relationship of the above factors to, and their effect upon the immediate surrounding and, if within an historic district, upon the district as a whole and its architectural historical character and integrity.
2. New construction (additions to existing resources and infill construction on vacant properties)
    - The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, and materials used in the facade, the texture inherent in the facade, the colors, pattern, and trim used in the facade, and the design of the roof.
    - Existing rhythm created by existing building masses and spaces between them should be preserved.
    - The site plan should be sensitive to the individual building and its occupant, and needs, and should be visually compatible with the buildings with which it is visually related.
    - A new street facade should blend directionally with other buildings with which it is visually related--which is to say, when adjacent buildings have a dominant horizontal or vertical expression, that expression should be carried over in the new facade.
    - New construction must be compatible with the original construction of the historic resources and should be distinguishable from the original construction and should enhance the architectural characteristic of the historic district.
    - No single architectural style shall be imposed.
    - The quality and excellence in design should be major determinants.
  3. Exterior Alteration
    - i. All exterior alterations to a building or structure should be compatible with the building itself and other buildings with which it is related, as is provided in subsection (b)(1) above, and in applying these standards, the original design of the building or structure must also be considered.
    - ii. Exterior alterations shall not affect the architectural character or historic quality of the building.
    - iii. Demolition. In considering an application for the demolition of a landmark or a resource within an historic district, the following shall be considered:
    - iv. The individual historical or architectural significance of the resource.
    - v. The importance or contribution of the resource to the aesthetics of the district.
    - vi. The difficulty or impossibility of reproducing such a resource because of its texture, design, material or detail.
    - vii. The proposed replacement structure and the future utilization of the site.
  4. Reconstruction. The reconstruction of a building destroyed by fire, storm or other act of God shall be governed by the provisions of the zoning ordinance except that the HPC shall regulate the exterior design of such buildings in accordance with the criteria set forth in subsection (c) of this section.
  5. Denial of application. An application for a certificate of appropriateness shall only be denied upon a determination that the proposed changes or project would:

- i. Result in such disharmony of scale, materials, massing, spacing and/or style between the proposed project and its immediate surroundings and the historic district, landmark or landmark site as a whole so as to undermine the architectural integrity and character of the historic district, or landmark site or landmark and inhibit the accomplishment of the purposes of this article; or
  - ii. Result in such a change in the architectural design or character of an existing building or improvement so as to undermine the architectural integrity or character of an historic district as a whole and inhibit the accomplishment of the purposes of this article; or
  - iii. Result in the loss of or irreparable harm to an existing building or improvement of architectural or historical significance. A certificate of appropriateness should not be denied if that denial would jeopardize the owner's legitimate right to earn a reasonable return from his investment in the landmark, landmark site or resource located within the historic district, all factors being considered.
6. Stay of demolition. If an application for a certificate of appropriateness is for the demolition of a resource within an historic district or a landmark or landmark site, action upon such application shall be stayed for a period of one hundred eighty (180) days, during which time the HPC and the Applicant shall undertake meetings and continuing discussions for the purpose of finding a method to save such property. During such period, the Applicant and the HPC shall cooperate in attempting to avoid demolition of the property. At the end of said one hundred eighty-(180) day period, the HPC shall meet again to discuss the application and if no mutually agreeable method of saving the property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the property is pending, the HPC shall notify the City.

E. Demolition by Neglect Procedures

- A. Preservation Required. Any building or structure which is a landmark and all buildings or structures within an historic district shall be preserved by the owner or such other person or persons who may have the legal custody or control thereof against decay and deterioration and be kept free from unreasonable structural defects. The Historic Preservation Commission (HPC) should be sensitive to the individual building and its owner/occupant and his needs and capabilities. The owner or other person having legal custody and control thereof shall repair such building or structure if it is found to have one or more of the following defects:
  - 1. The deterioration of a building(s) to the extent that it creates or permits a hazardous or unsafe condition as determined by the Building Official;
  - 2. The deterioration, as determined by the Building Official, of a building(s) characterized by one or more of the following:
    - i. Those buildings which have parts thereof which are so attached that they may fall and injure persons or property;
    - ii. Deteriorated or inadequate foundation;
    - iii. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety;
    - iv. Members of walls or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
    - v. Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;

- vi. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split or buckle due to defective material or deterioration;
  - vii. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;
  - viii. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration;
  - ix. Any fault, defect or condition in the building which renders the same structurally unsafe or not properly watertight.
- B. Notice. If the HPC makes a preliminary determination that a building or structure which is a landmark or is located within an historic district is being demolished by neglect, it shall request the Building Official to notify the owner or owners of the resource of this preliminary determination, stating the reasons therefore, and shall give the record owner or owners thirty (30) days from the date of mailing such notice or the posting thereof on the property whichever comes later, to commence work to correct the specific defects as determined by the HPC. Said notice shall be given as follows:
- 1. By certified mail, restricted delivery, mailed to the last known address of the record owner or owners as listed on the county or City tax rolls; or
  - 2. If the above mailing procedure is not successful, notice shall be posted in a conspicuous, protected place on the resource involved and published in a local newspaper.
- C. Failure to Commence Work. If the owner or owners fail to commence work within the time allotted as evidenced by a building permit, the HPC shall notify the owner or owners in the manner provided above to appear at a public hearing before the HPC at a date, time and place to be specified in said notice, which shall be mailed or posted at least thirty (30) days before said hearing. For the purpose of ensuring lawful notice, a hearing may be continued to a new date and time. The HPC shall receive evidence on the issue of whether the subject resource should be repaired and the owner or owners may present evidence in rebuttal thereto. If, after such hearing, the HPC shall determine that the resource is being demolished by neglect, it may recommend to the board that misdemeanor charges be filed against the owner or owners if the necessary repairs are not completed within sixty (60) days of the determination by the HPC that the subject building or structure is being demolished by neglect.
- D. Demolition of Structures--Additional Provisions
- 1. Any building that has been previously nominated by the Ocean Springs Historic Preservation Commission or the Mississippi Department of Archives and History as an individual site, property or landmark is subject to review by the Ocean Springs Historic Preservation Commission prior to the issuance of any demolition permits.
  - 2. Prior to the approval of a demolition permit for any primary structure that is not included in the above statement, and is in excess of fifty (50) years in age the permit shall be reviewed by the Planning Director and the Building Official. Demolition Permits for principal structures 1) built prior to 1955, or 2) incorporating a significant number of the following characteristics as determined by the Planning Director and the Building Official, shall be forwarded to the Board of Aldermen for final decision: "Ishee" houses, "Mississippi/Katrina" cottages, deep front porch, elevated foundation.
- E. Public Safety Exclusion. None of the provisions of this article shall be construed to prevent any measure of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, other feature or part thereof, where such condition has been

declared unsafe or dangerous by the Building Official or the fire department and where the proposed measures have been declared necessary, by such authorities, to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire or other calamity, or by act of God or by the public enemy, to such an extent that in the opinion of the aforesaid authorities it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

- F. Minimum Maintenance Requirements. In order to ensure the protective maintenance of landmarks, landmark sites and resources in the historic district, each building, whether a landmark or within the historic district shall be maintained to meet the requirements of the minimum housing, the building, electrical and plumbing codes.

(Ord. No. 2022-15, 11/01/2022)

## 2.30 LOT SPLITS

| Lot Split Process                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose: Divide a lot or parcel into two parcels, without the technical requirements of a subdivision.                                                                                                      |
| The lot split is intended to provide for a development that will be compatible with the existing platting and development in the general neighborhood of the proposed lot split.                            |
| The Planning Commission and the Mayor and Board of Aldermen reviews the proposed parcels with regards to the minimum requirements of the zoning district and any need for additional public infrastructure. |

### 2.30.1 Standards

- A. Upon request of the property owner, a previously established or platted lot may be divided into only two parcels of land as a lot split by either metes and bounds description or by replat when, in the opinion of Planning Commission, such a lot split is in keeping with the intent of these rules and regulations, and when approval of the lot split will provide for a development, the character of which will be compatible with the existing platting and development in the general neighborhood of the proposed lot split.
- B. A property being considered for a lot split can only be divided one time, can have only one new dividing line, cannot involve more than one new lot division, and the property cannot have been involved in a previous lot split allowed by these provisions.
- C. If such a division of land is approved, such lot split need not comply with procedures set forth in these subdivision regulations. The division of a parcel of land that does not meet the provisions for a lot split shall be considered a new subdivision and shall be subject to all procedures set forth in this ordinance.
- D. In all cases, the lots proposed to be so produced by a lot split shall be reviewed by the Planning Director and shall only be approved by the Planning Commission and Board of Aldermen upon their



finding that the divided property conforms to all minimum standards of these regulations, the zoning ordinance, the property's zoning district minimums and all applicable Codes of the City of Ocean Springs, Mississippi and will not result in any increased expense or liability exposure to the City.

## **2.31 ADMINISTRATIVE DEVELOPMENT ORDERS**

### **2.31.1 Generally**

- A. Administrative Development Orders are routine, UDC implementation matters carried out by the staff, including issuance of permits for permitted uses. In general, the Planning Director is a purely administrative agent following the literal provisions of this UDC.
- B. The Planning Director may engage in some fact finding, to determine objective facts that do not involve an element of discretion. In contrast to quasi-judicial and legislative hearings, administrative decisions are made without a hearing at all, with the staff member reviewing an application to determine if it is complete and compliant with objective standards set forth in this UDC.
- C. No notice shall be required for an administrative permit issued pursuant to this UDC unless otherwise provided by this Ordinance or by law.

### **2.31.2 Application for Permit**

Written application shall be made for all permits required by this UDC. Such application shall be made by the owner of the building or structure affected or by his authorized agent or representative. The owner shall authorize any work for which a permit is required.

### **2.31.3 Records**

The Planning Director shall maintain a record of all administrative Development Orders. Copies shall be furnished, upon request, to any person upon the payment of a fee established by the Planning Director.

### **2.31.4 Plans and Specifications**

Where plans and specifications are required, a permittee's copy of the same marked "approved" by the Planning Director shall be available at the work site for all inspections requested by the permittee and shall be made available for any inspection upon request by the Planning Director.

The Planning Director shall review all applications for completeness within five (5) working days of receipt of a complete application pursuant to this UDC.

### **2.31.5 Notice**

If the Planning Director determines that the development for which an Administrative Development Order is requested will have or may have substantial impact on surrounding properties, he shall, at least ten (10) days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within 100 feet of the lot that is the subject of the application, informing them that:

- A. An application has been filed for a permit authorizing identified property to be used in a specified way; and

- B. All persons wishing to comment on the application should contact the Planning Director by a certain date.

#### 2.31.6 Resubmittals Due to Incompleteness

If a permit application it is not complete, it shall be returned to the applicant with instructions for completion and resubmittal. The applicant shall have thirty (30) days from the date of notification to revise and resubmit the application. There is no charge for a resubmittal within this period. If the applicant fails to revise and resubmit the application within this period, the application shall be deemed withdrawn. Thereafter, a resubmittal of an application for the same site shall constitute a new application subject to the payment of fees and commencing a new timeline for action. Upon receipt of any resubmittal of the application, a new five (5) day completeness review period shall begin.

#### 2.31.7 Resubmittals Due to Non-Compliance

Upon determination that a permit application does not comply with standards and regulations set forth in this UDC, or requires extensive revision in order to comply with said standards and regulations, the Planning Director shall deny the application. Resubmittal of an application which was denied shall be considered a new application. [sixty (60) days or two (2) denials for the same cause]

#### 2.31.8 Limitations on Issuance of Permits

- A. No permit shall be issued for work on any new or existing dwelling unless the plans and specifications thereof contain information sufficient to indicate that the work proposed will conform to the provisions of this UDC.
- B. No permit shall be issued for new construction where City water or sewer mains are not available without written approval by the Jackson County Health Department of the required water supply or waste disposal systems.
- C. No permit shall be issued to any person who has failed after notice to remedy defective work, or has failed to pay a civil penalty assessed pursuant to this UDC which is due and for which no appeal is pending, or to otherwise comply with the Code of the City, the regulatory codes adopted therein, or the laws of the State of Mississippi.
- D. No licensed contractor shall secure a permit for any other person or persons not qualified in accordance with the provisions of the technical codes to do any work covered by the regulatory codes.
- E. No building or flood permit shall be issued during the pendency of an application for the revision of a flood prone area boundary of such property unless the proposed construction or filling is permitted under the existing flood prone area regulations and also under the revision proposed for the property.
- F. No permit authorized by this UDC shall allow construction to begin on a site until the boundaries of any natural resource buffer yard, any open space area, any riparian surface water buffers, and any tree protection adjacent to or encompassing a work site are clearly and accurately demarked by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.

- G. If the Historic Preservation Commission has voted to recommend designation of an area as an Historic Overlay District, or if the Mississippi Historic Commission has voted to recommend designation of a property as an historic landmark, the demolition or destruction of any building, site, or structure located in the proposed district or on the property of the proposed historic landmark may be delayed by the commission with jurisdiction for a period of up to one hundred eighty (180) days or until the City Council takes final action on the designation, whichever occurs first. Should the Council approve the designation prior to the expiration of the one hundred eighty (180) day delay period, an application for a certificate of appropriateness for demolition must then be requested.

#### 2.31.9 Authorizing Use or Occupancy Before Completion of Development

In cases when, because of weather conditions or other factors beyond the control of the Permittee (exclusive of financial hardship), it would be unreasonable to require the Permittee to comply with all of the requirements of this ordinance prior to commencing the intended use of the property or occupying any buildings, the Building Official may authorize the commencement of the intended use or the occupancy of buildings (in-so-far as the requirements of this ordinance are concerned) if the Permittee provides an adequately secured completion bond or other security satisfactory to the Building Official to ensure that all of the requirements of this ordinance will be fulfilled within a reasonable period (not to exceed twelve months) as determined by the Building Official. The bond and security shall be reviewed and approved by the City Attorney, however, prior to the Building Official authorizing the intended use or occupancy.

#### 2.31.10 Issuance of Development Order

The Planning Director shall review applications for conformance with this UDC, the appropriate regulatory and technical codes adopted herein, and the laws of the State. Within fifteen (15) working days of receipt of a complete application, the Planning Director shall approve, approve with conditions, or deny the application. Applications that are denied shall have the reasons for denial, in writing, attached to the application. The applicant and the City may agree to extend the response time contained in this UDC.

#### 2.31.11 Appeal

If the Planning Director finds that the Administrative Development Order application fails to meet the criteria established in the UDC, the Director shall deny the application. The Applicant may appeal such denial to the Board of Aldermen.

### 2.32 MINOR VARIANCE (EXCEPTION)

#### 2.32.1 Applicability

The City of Ocean Springs hereby finds and determines that some standards of the UDC may be impracticable in some situations due to exceptional circumstances, such as difficult terrain and unique topographical conditions. The City of Ocean Springs finds and determines that the granting of such exceptions is in the public interest, but that administrative review is needed in order to ensure that the spirit and intent of the UDC is preserved.

Accordingly, these procedures permit administrative exceptions to be granted as part of the subdivision plat approval process without the need for a variance. Applicants who are denied an administrative exception may then seek a variance in accordance with this chapter.

#### 2.32.2 Initiation

An exception shall be requested as part of the application for a subdivision plat approval. The exception shall be specifically labeled in the application with a specific reference to this section of the ordinance, along with any supporting documentation justifying the need for an exception.

#### 2.32.3 Completeness Review

The application for an exception shall be reviewed for completeness concurrent with the completeness review for the subdivision plat or development plat.

#### 2.32.4 Decision

The Planning Director shall approve, deny, or approve with conditions.

#### 2.32.5 Approval Criteria

The exception shall be granted if the reviewing hearing body finds and determines that:

- A. The exception will not be contrary to the spirit and intent of the UDC and the specific regulations from which an exception is requested;
- B. The Applicant has taken all practicable measures to minimize any adverse impacts on the public health, safety, and public welfare;
- C. Under the circumstances, the public interest underlying the proposed exception outweighs the public interest underlying the particular regulation for which the exception is granted; and
- D. The proposed exception complies with all other applicable standards of the UDC to the extent practicable.

### **2.33 CONSTRUCTION PLANS**

#### 2.33.1 Applicability

Following approval of the preliminary plat, the Applicant shall have prepared, by a professional engineer registered in the State of Mississippi, construction plans consisting of complete construction drawings and specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, stormwater facilities, water system facilities, sidewalks, and other improvements required by this chapter. Construction plans shall be submitted to the Planning Director for review and approval. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements herein and, where applicable, the requirements and authorization of the appropriate state agency, utility company, or local franchisee.

#### 2.33.2 Public Agency Reviews

The Planning Director shall review and act on all construction plan applications in consultation on a regular basis with the Fire, Police, Public Works, Parks and Recreation, Building and Code Enforcement departments, and the City Engineer; and with other City departments, City Attorney, Ocean Springs school district, public and private utilities, cities, state or federal agencies on an as-needed basis.

### 2.33.3 Timing of Improvements

Except upon the written approval of the Planning Director, no grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change, except for purposes of aiding in preparation of final engineering drawings or plans, shall commence on the subject property until the Applicant has:

- A. Received the approval of the construction plans and all necessary development approvals from the Building Official, or
- B. Entered into a subdivision improvement guarantee with the City of Ocean Springs or otherwise arranged for completion of all required improvements.

### 2.33.4 Modification of Construction Plans

All installations of improvements and all construction shall conform to the approved construction plans. If the Applicant chooses to make minor modifications in design and/or specifications during construction, such changes shall be made at the Applicant's own risk, but only with the written approval of the Building Official. It shall be the responsibility of the Applicant to notify the Building Official in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved construction plans, and such deviation was not approved in advance by the Building Official the Applicant may be required to correct the installed improvements to conform to the approved construction plans. In addition, the Building Official may take such other actions as may be deemed appropriate, including, but not limited to, revocation of development approvals already issued and/or withholding of future approvals and development approvals.

### 2.33.5 Infrastructure Engineering and Design Notes

- A. Preliminary Construction Plans must include and conform with the following notes and standard details.
  - 1. General
    - i. Ocean Springs Public Works Official must be notified a minimum of two (2) working days prior to all tie-ins to City utilities and a Public Works representative must be present during the tie-in.
    - ii. Owner/Developer is responsible for the construction of tie-ins to existing City water, sanitary sewer and storm drain lines or structures.
    - iii. The Owner/Developer is responsible for making any approved road cuts or borings required to connect new utilities to existing City utilities. The Developer will be responsible for maintaining road cuts during construction and the warranty period for the entire development.
    - iv. Owner/Developer is responsible for preparing and maintaining a traffic control plan which conforms with the current Manual of Uniform Traffic Control Devices (MUTCD).
    - v. Ocean Springs Public Works must be notified a minimum of seventy-two (72) hours prior to any approved road closures that are required.
    - vi. No storm drainage, water or sanitary sewer infrastructure will be laid parallel with and under any street unless approved by the Public Works Official.
    - vii. Any required wetlands permit must be obtained by the Owner/Developer and a copy of the permit furnished to the Public Works Official with the construction plan submittal.
    - viii. An MDOT permit must be obtained for proposed work on MDOT right-of-way and a copy of the permit must be furnished to the Public Works Official with the plan submittal.

- ix. All water meters, sewer service stub-outs and fire hydrants must be placed adjacent to the street side of the right-of-way line and in line with lot lines where possible.

## 2. Water

- i. A “W” is to be stamped into curbs at each water service.
- ii. Locate wire and plastic warning tape shall be installed above all water mains and services.
- iii. A “WV” is to be stamped into curb at each water valve that is not located in the street.
- iv. The Owner/Developer shall furnish and install all water meter boxes.
- v. The Owner/Developer shall purchase water meters to be installed on public right-of-way from the City.
- vi. All water mains shall be minimum of 6” diameter, C900, class 150 pipe.
- vii. All water mains shall be pressured tested in accordance with City requirements.
- viii. End of line blow-offs shall be Mueller 2 1/8” post type.
- ix. All water used for chlorination and flushing of water lines shall be metered and paid for by the Owner/Developer.
- x. Each lot shall be provided with two (2) 1” services (2” tap to 1 1/2” split to 1” split).
- xi. A water service shall be provided to all green areas and lift stations.
- xii. Curb stops shall be 1” ball valve.
- xiii. All fire hydrants shall be painted yellow or blue.
- xiv. The Owner/Developer is responsible for construction of any required meter vault.
- xv. The meter vault shall be constructed on City right-of-way.
- xvi. Master meters must be purchased from the City and paid for in advance of ordering the meter.
- xvii. The Owner/Developer must furnish a letter of design approval from the Mississippi Department of Health with the plan submittal.
- xviii. Size, type and location of existing and proposed water lines must be labeled on all applicable plan sheets.
- xix. Size of water meters and backflow preventers shall be shown on the plans.
- xx. No irrigation meters are to be installed in meter vaults.

## 3. Sewer

- i. A “S” is to be stamped into curbs at each sewer service.
- ii. A “MH” is to be stamped into curbs at all manhole locations.
- iii. The Owner/Developer shall be responsible for installing mechanical plugs in new sewer lines at all tie-in manholes. The plugs shall not be removed without approval of the Public Works Official.
- iv. Locate wire and warning tape shall be installed above all water and sewer mains and services.
- v. The Owner/Developer shall be responsible for constructing manhole tie-in and building inverts.
- vi. Sewer service stub-outs a minimum of three (3) feet above existing grade.
- vii. Each lot must have an individual, single tie-in to sewer mains.
- viii. The Owner/Developer must provide an approved rain tub for each manhole.
- ix. All sewer lines shall be air tested in accordance with City requirements.
- x. A post construction video of all sewer lines shall be provided to the Public Works Department.
- xi. A Public Works representative must be present when a manhole is being installed on City right-of-way.
- xii. The Owner/Developer must provide a letter of design approval from the Mississippi Department of Environmental Quality.
- xiii. Manhole number, size of sewer lines and manhole inverts shall be labeled on all applicable sheets.
- xiv. “Dog House” manholes are not permitted in the City of Ocean Springs.

#### 4. Lift Station

- i. Lift stations shall be constructed in accordance with the detailed City specifications.
- ii. A bypass connection and valve shall be provided on each lift station.
- iii. A control panel to be manufactured by current, approved City vendor.
- iv. Lift station check valve per City specification - Mueller swing type lever.
- v. Size of force main(s) labeled on all applicable sheets.
- vi. Six (6) foot tall wooden fence around lift station with 8' wide opening (2-4' wide gates).
- vii. Alarm light higher than top of fence.
- viii. Work light inside lift station fence.
- ix. Stainless steel bolts, fittings, stainless steel or aluminum rails throughout lift station.
- x. Flapper valve from valve box to well.
- xi. 1" gate valve downstream of check valve on all force mains with note: "City will install gauge."
- xii. Three (3) 2" Conduits from panel box to well & seal shown at all fittings.
- xiii. Four (4) floats hanging on stainless steel chain.
- xiv. 4" thick 3000 psi concrete slab inside fenced lift station area.
- xv. Ten foot (10') wide access route provided to front gate of lift stations, including adequate base material and all weather driving surface.
- xvi. Minimum 24" clearance in all directions (360°) around all valves, pipes and fittings inside valve pit.

#### 5. Streets and Drainage

- i. No French drains are permitted within City right of way.
- ii. A Storm Water Pollution Prevention Plan (SWPPP) shall be included in the plans. Submit copy of MDEQ approval with this check sheet if the parcel is over five acres and submit pre- and post-development and retention/detention pond calculations if the parcel is over two acres.
- iii. A minimum of 3500 psi concrete shall be used for construction of curbs and gutters.
- iv. Cul-de-sacs shall have a minimum right-of-way radius of fifty (50) feet and a minimum driving surface radius of forty (40) feet.
- v. Street gutter grades shall not be less than 0.3%.
- vi. Streets have a minimum vertical clearance of fourteen (14) feet.
- vii. All roadway construction, including but not limited to pavement, base and sub-base, shall be constructed in accordance with the current MS Standard Specifications for Road and Bridge Construction.
- viii. Proof roll test of base and sub-base must be performed in the presence of a Public Works representative. Owner/Developer must notify Public Works a minimum of 24 hours prior to test.
- ix. Lime-Fly Ash or Soil Cement stabilization design mix and application rates prepared by a licensed engineer and submitted with plans. MDOT recommendations and City example specifications available upon request.
- x. ADA compliant ramps for handicap access shall be provided on all sidewalks.
- xi. Location, size and slope of drainage pipes shall be labeled on all applicable sheets.
- xii. MDOT approval required for access to state highway rights-of-way.
- xiii. All drainage inlets must be numbered on the plans.

#### 6. Design Deviations or Plan Modifications

- i. Deviations from these guidelines must be submitted to the Public Works Department prior to Construction Plan approval.

- ii. Any requested changes or modifications to approved Construction Plans must be submitted five (5) working days prior to starting construction that involves requested changes or modifications.
- iii. All requested changes or modifications to approved Construction Plans must be approved in writing by the Public Works Department.
- iv. For final acceptance, the engineer of record must certify in writing to the City that the construction is in substantial accordance with the approved plans. Two consecutive satisfactory bacteriological test results of the water distribution system must be furnished to the City. One set of "Record Drawings" (contractor record) must be submitted five (5) days prior to requesting a Public Works final inspection.

#### 2.33.6 As-Built Drawings

- A. Submittal. Prior to final inspection of the required improvements, the Applicant shall submit to the Public Works Director one reproducible copy and two prints of as-built engineering drawings for each of the required improvements that have been completed. Each set of drawings shall be recertified by the Applicant's professional engineer, indicating the date when the as-built survey was made.
- B. Sewer and Storm Drainage. As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary and storm sewers, manholes, inlets, junction boxes, detention basins, and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision. The Applicant shall cause all grading, excavations, open cutting, and similar land surface disturbances to be mulched, seeded, sodded, or otherwise protected. No work shall be initiated relative to the preparation of land or the installation of general improvements until such time as all aspects of the Applicant's engineering plans and sedimentation control proposals have received approval.
- C. Water. As-built drawings shall depict water lines, valves, fire hydrants, and other appurtenances or elements of the water distribution system constructed to serve the project. Such information shall include the horizontal location and size of water lines and the location and description of valves with dimensional ties.
- D. Sidewalks. As-built drawings shall depict the location with respect to the street right-of-way, width, and vertical elevation.
- E. Control Points. As-built drawings shall show all control points and monumentation.

#### 2.33.7 Inspection and Acceptance of Improvements

- A. Inspection Required. During the preparation of land and the installation of general improvements, periodic inspections shall be made to ensure conformity with the approved plans, specifications, and standards. Appropriate agencies of the City of Ocean Springs may make inspections at any time during the progress of work. All improvements required by these regulations shall be inspected prior to acceptance by the City of Ocean Springs. Where inspections are made by individuals or agencies, other than the Planning Director, the Applicant shall provide the Planning Director with written reports of each final inspection.
- B. Inspection Schedule. The Applicant shall notify the Public Works Director of the commencement of construction of improvements 24 hours prior thereto. Inspections are required at each of the



following stages of construction or as otherwise determined through an owner contract or development improvement agreement:

1. Site grading/erosion control completion;
  2. Underground utility installation;
  3. Subgrade preparation prior to aggregate base installation;
  4. Aggregate base compaction;
  5. Concrete curb and gutter installation;
  6. Bituminous binder placing; and
  7. Final surfacing prior to seal coat.
- C. Compliance with Standards. The Applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.
- D. Acceptance. Approval of the installation and construction of improvements by the Public Works Director shall not constitute acceptance by the City of Ocean Springs of the improvement for dedication purposes. The installation of improvements in any subdivision shall in no case serve to bind the City of Ocean Springs to accept such improvements for maintenance, repair, or operation thereof. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.
1. The City of Ocean Springs shall not have any responsibility with respect to any street or other improvement, notwithstanding the use of same by the public, unless the street or other improvements have been accepted.
  2. When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this chapter, and the Applicant has submitted as-built reproducibles to the Public Works Director, the Public Works Director shall accept the improvements for maintenance by the City of Ocean Springs, except that this shall not apply to improvements maintained by another entity.
  3. The provisions shall not relieve the Applicant or the Applicant's agent or contractor of any responsibility in notifying any agency for the City of Ocean Springs of completed work and formal request for inspection of same. The approving authorities having jurisdiction shall inspect and approve all completed work prior to the release of any applied performance sureties.
- E. Site Cleanup. During and post-construction, the Applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public way, or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property, or onto other land in the City of Ocean Springs is prohibited.
- F. Failure to Complete Improvements. If a subdivision improvement guarantee has been executed, and security has been posted and required public improvements are not installed pursuant to the terms of the agreement, the Board of Aldermen may:
1. Declare the agreement to be in default and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

2. Obtain funds pursuant to the surety and complete the public improvements by themselves or through a third party;
3. Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's agreement to complete the required public improvements; and/or
4. Exercise any other rights available under the law.

## **2.34 NON-RESIDENTIAL AND MULTI-FAMILY DESIGN REVIEW**

### **2.34.1 Purpose and Intent**

The City of Ocean Springs recognizes the vital linkage between the maintenance of high-quality community design and the realization of the City's land use and fiscal objectives in the Comprehensive Plan. The intent of the City's design review process is to promote a more pro-active growth and development strategy, for the purpose of maintaining the long-term economic viability of the community, as well as its quality of life. The purpose of the Design Review Ordinance is to preserve and promote good quality design within the City of Ocean Springs. Although this Ordinance does not require strict adherence to a particular design style, it does encourage respect for general qualities and characteristics.

### **2.34.2 Applicability**

- A. Compliance with this UDC is required in order to secure a building permit for new commercial or multiple-family residential buildings within the City.
- B. Additions and alterations to buildings of at least 50% of existing footprint or value of building. This applies to land, buildings, or buildings and land in combination for all categories of commercial and multiple-family residential construction. The cost of development and / or alterations shall be determined by a Mississippi state licensed contractor's bid accepted by the Applicant or calculated using a professional construction estimator. The value of the existing development shall be determined by the Jackson County Tax Assessor or a licensed appraiser.
- C. No Building Permit shall be issued for the construction until the development plan has earned 300 or more points and been approved by the Planning Director.

### **2.34.3 Exemptions**

- A. An individual single-family residence.
- B. All permits for plumbing, heating, air conditioning, elevators, fire alarms, and extinguishing equipment when such work is entirely within the interior of the building, or when located outside of the building, but buried beneath the surface of the earth.
- C. Any permit necessary for the compliance with a lawful order of the Community Development and Planning Department, Building Department, Fire Department, Police Department, or Public Works Department related to the immediate public health or safety.
- D. All permits for interior alterations, repairs, or renovations.
- E. All permits for demolition or wrecking.

- F. Industrial uses and buildings.

(Ord. No. 2020-04, § I, 1-07-20)

2.34.4 Development Plan – Application and Requirements:

- A. For all applications for building or certificate of occupancy permits for the purpose of construction, reconstruction, alteration, rehabilitation, repair, moving or demolition, or change in use for either land, building, or buildings and land within the City of Ocean Springs, as well as for such other forms of development as is regulated in this Ordinance an overall development plan and text, containing the information required by this ordinance, must be submitted to the Community Development and Planning Department, for review and approval, prior to the issuance of any permit. In no case shall any site improvement or construction be conducted prior to the review and approval of these plans, as provided herein.
- B. Intent. The development plan must demonstrate the character and objectives of the proposed project to the Planning Director, or the Design Review Advisory Committee, as applicable, in adequate detail for evaluation of the effects the proposed project would have upon the District. The plan must provide sufficient and specific information to aid in the determination of what provisions, if any, should be included as part of the plan, and be binding on the use and development of the subject property. The filing of a Development Plan for approval constitutes an agreement by the owner and Applicant, their successors and assigns, that if the Development Plan is approved, any building, use or certificate of occupancy permits issued for the improvement of the property shall be in conformance with the approved Development Plan.
- C. Pre-Application Conference. Prior to filing an application for Development Plan approval, the prospective Applicant may request a pre-application conference with the Community Development and Planning Department staff. Two copies of all required submittals must be provided in order for this review to be performed.
- D. Filing. An application for Development Plan approval shall be in the offices of the City of Ocean Springs Community Development and Planning Department upon forms provided, and shall be submitted either in advance or concurrently with a request for Building Permit Plan Review or a Certificate of Occupancy Permit, where applicable. An application shall include a digital set of drawings in Adobe PDF format or consist of two (2) sets of printed drawings, with one set being 11" x 17". The drawings shall be drawn to a scale, as large as practical, and including the following information:
1. Required Drawings and Materials:
    - i. Scale, date, north arrow, title of project, and a vicinity map reflecting the location of the proposed project.
    - ii. The boundaries, dimensions, and total gross acreage of the subject property.
    - iii. The relationship of the project to the surrounding road system.
    - iv. The location and dimensions of watercourses, drains, utilities, water and sewer lines, and other important physical features.
    - v. The location, species and delineation of existing trees five and three-quarters (5.75) inches in diameter or larger, as measured four and one-half (4.5) feet above the ground. Plans may include non-protected trees of eight (8) inch DBH and larger if Applicant intends to acquire points for their preservation.
    - vi. Wetland permit if applicable to site.

- E. Additional Materials. Applicant is responsible for providing additional drawings, as necessary, that show compliance with design regulations herein. Examples of drawings that may be required include:
1. The “footprint” location, dimensions, and height of the proposed main and accessory buildings, their relation to one another and to any existing structures to remain on the site. The distance from all proposed buildings and structures to the adjacent property lines.
  2. The internal circulation pattern for both vehicular and pedestrian traffic, including the location and dimensions of all existing and proposed streets, driveways, traffic aisles, and sidewalks, as well as the location, size, and number of parking spaces within off-street parking areas, as well as the identification and dimensions of service islands, service parking, and loading zones.
  3. Total project density for residential projects or building floor area by the use intended for commercial projects.
  4. Percentage of landscaping / open space areas and percentage of impervious surface areas to the total area of site.
  5. Location and dimensions of all landscape areas, common open space areas, and buffer yard areas, including the location, number, type, and size of all landscaping materials, as well as any other proposed amenities.
  6. Size, location, materials, and orientation of all signs.
  7. Location, height, and type of all exterior lighting.
  8. Location, area, type, and dimensions of screening for all exterior trash collection and/or recyclables collection areas.
  9. Architectural Elevations:
    - i. Architectural drawings, drawn to scale showing all elevations of the proposed structures with dimensions including height and other improvements as they will appear on completion of construction.
    - ii. If the exterior of an existing structure is to be changed, both the proposed and existing elevations of the structures shall be shown.
    - iii. If an addition to an existing structure is proposed, the elevation of the existing structure shall be shown together with those of the addition.
    - iv. Exterior materials to be used shall be noted in terms of type, location, texture, and color, with samples of each to be provided with the submitted plans.
  10. The location, type, and dimensions of screening for all mechanical units, utility services, and so on.
  11. The names, addresses, telephone numbers, e-mail addresses, and fax numbers of the developer(s), the property-owner(s), and building and / or plan designer or design professional’s name and seal, when applicable.
  12. Proposal for sanitary sewer, storm sewer, water, natural gas, and electrical services.
  13. Tree Protection Plan.
  14. The proposed phasing of construction for the project, if applicable including:
    - i. The approximate date when construction of each phase of the project is anticipated.
    - ii. The order in which the phases of the project will be built.

- iii. The minimum area and the approximate location of common open space and public improvements that will be required at each stage.

- F. Application Fee: Applicant is responsible for providing an application fee at the time of submittal in accordance with the currently adopted fee schedule. Fees are based on the type and size of the development.

(Ord. No. 2020-22, § II, 12-15-20)

#### 2.34.5 Review

Upon submission of the formal application, Development Plan, and all other required materials to the Planning Director:

- A. If a project does not meet the design requirements set forth by this UDC, the Applicant shall, prior to the issuance of a Building Permit or a Certificate of Occupancy Permit, modify the submittals so as to achieve design approval.
- B. In the instance of those applications reviewed by the Design Review Advisory Committee, the application, development plan, and all other required materials shall be submitted to the Design Review Advisory Committee at their next available meeting. No Building Permit or Certificate of Occupancy Permit shall be issued for such applications until the submitted development plan has been approved by the Design Review Advisory Committee.

#### 2.34.6 Burden of Proof

In presenting any application for Development Plan approval, the burden of proof shall rest with the Applicant to provide the necessary evidence required by either the Planning Director or the Design Review Advisory Committee, as applicable, to clearly show that the proposed plans meet the minimum design standards listed in this UDC.

#### 2.34.7 Findings

- A. In addition to further such elements that may be required by other sections of this UDC, the Committee shall approve the development plan if it finds that:
  - 1. The exterior design features of the development will not be detrimental to the harmonious and orderly growth of the City.
  - 2. The plan for the proposed development indicates that it will reasonably protect against external and internal noise, vibrations, and other conditions which detract from the desirability of the surrounding environment. Loading and storage areas are located away from street views, and are screened by landscaping and screening walls consistent with the building design and materials.
  - 3. The exterior materials and design features do not reflect excessive similarity to or difference from existing development upon adjacent properties and within the neighborhood.
  - 4. The plan for the proposed development reflects that the architectural features are adequate and appropriate for the style of building. In those instances where the subject property adjoins residentially zoned land, the proposed development is designed to be compatible with the character of single-family residential structures within the community, reflecting a continuity of size, scale, design, materials, and roof form with residential structures.

5. The plan for the proposed development is of an appropriate and acceptable quality. The proposed development may be considered of an inferior quality in its design and appearance if the Committee finds that:
- i. The detailing and building materials do not convey a quality of craftsmanship and permanence, and do not include use of the highest quality materials available.
  - ii. Uninterrupted and unarticulated monochromatic expanses of wall plane are proposed.
  - iii. Texture of materials is not used to add interest to the building or articulate the design.
  - iv. Imitation materials are used rather than natural materials.
  - v. All sides of the building do not reflect the same level of detailing and/or quality of materials. The design elements of the building are not consistently applied throughout the project.
  - vi. On buildings with exposed, pitched roofs, the roof form does not periodically change height, orientation, or shape as part of the building's overall design. The slope of the pitched roof is 3:12 or less.
  - vii. On parapet roofs, long, uninterrupted horizontal lines of parapet are proposed, without being broken by vertical or horizontal off-sets or the changing of roof forms. The reverse side of the parapet is visible to the public.
  - viii. Mechanical and electrical equipment is not screened or incorporated into the building design.
  - ix. The plan for the proposed development includes:
    - x. Arresting and spectacular effects.
    - xi. Violent contrast of materials and/or colors.
    - xii. A multiplicity or incongruity of details resulting in a disturbing appearance.
    - xiii. The absence of unity or coherence in composition.
    - xiv. Lack of consonance with the present structure in the case remodeling or enlargement.

#### 2.34.8 Conditions of Approval

In approving a Development Plan application, the Planning Director or the Design Review Advisory Committee may impose reasonable conditions deemed necessary to meet the spirit and intent of this Ordinance. These conditions may include, but are not necessarily limited to:

- A. Performance Standards
- B. Height Limitations
- C. Minimum or Maximum Yard Requirements
- D. Off-Street Parking and Loading Requirements
- E. Sign Regulations
- F. Architectural Elevations of any Proposed Structures or Alterations to Existing Structures
- G. Landscaping Provisions

#### 2.34.9 Certificate of Approval

Following final approval by the Planning Director or the Design Review Advisory Committee, as applicable, two (2) sets of the submitted plans will be stamped with the Certificate of Approval and signed by the Planning Director. The plans will then be distributed as follows:

- A. One (1) set to the Applicant

- B. One (1) set to the City of Ocean Springs Building Department

#### 2.34.10 Approval and Concurrent Building Permit Plan Review

Following approval of the Development Plan, the Applicant may then make application for a Building Permit to the Building Department. The Applicant may request a concurrent Building Permit Plan Review and submit proposed building plans for the project along with the required Development Plan, provided that the Applicant recognizes the modifications to the Development Plan resulting from the calculation of construction and site design planning points by the Building Department Staff may require modifications to the submitted Building Permit Plan before a building permit on the proposed project may be issued.

#### 2.34.11 Maintenance of Approved Plans

Following approval of the Development Plan, issuance of the Building Permit, and the initiation of construction, the Applicant's copy of the approved plans shall be maintained by the Applicant at all times upon the site of construction for use and reference of the City's Inspectors. Failure by the Applicant or his contractor to maintain the approved plans upon the site shall be considered a violation of the UDC. Modifications to plans must be approved by the Planning Director. Modifications that may impact the design features required by the UDC must be submitted as an addendum to plans for approval by the Planning Director.

### 2.35 LAND DISTURBANCE PERMIT FOR STORMWATER MANAGEMENT

- A. Stormwater permits and Stormwater Pollution Prevention Plans (SWPPP) for land disturbance are required as follows:
  - 1. 0 < 0.9 Acre of land disturbed: No permit or SWPPP currently required unless the disturbance is part of a Larger Common Plan of Development or Sale. A SWPP may be requested or required if there are complaints or nuisance conditions.
  - 2. 1 < 5 Acres of land disturbed: Permit required from City of Ocean Springs Code Enforcement Office (See Appendix). A Small Construction Notice of Intent (NOI) and SWPPP must be submitted to the Planning Department (See Appendix B and C for examples).
  - 3. Above 5 Acres: Permit required from the City and MDEQ. A SWPPP must be submitted to the City and a Large Construction NOI and SWPP should also be submitted to MDEQ.
- B. No commercial or industrially zoned property, nor property used nor proposed to be used for commercial or industrial purposes within the City will be allowed to be filled, graded, cleared or contoured, nor shall any other action be taken thereon whereby the surface drainage from the property will be created, increased, redirected, rerouted, funneled, dispersed, or otherwise affected unless and until all requirements and provisions of this article are fully complied with. Provided, however, if the property in question is less than two thousand five hundred (2,500) square feet in size or the amount of fill or grading involved is in total less than five (5) cubic yards, the provisions of this article shall not apply unless such area will affect any natural drain.
- C. Checking as-built elevations. Upon completion of the land work and before granting a final inspection, the owner/builder will have a registered engineer or surveyor check the final "as-built" elevations for all elevations shown on the original site plan and those will be recorded on an as-built (contractor record drawings) copy of the plans provided to the building department. Any variations from the original plans will be reviewed by the City Engineer who will then make recommendations

to the building department as to whether or not to accept it. Should the City Engineer reject such variation, Applicant shall immediately take the necessary corrective measures to insure the work complies with the original plans. Failure to do so shall be a violation of this article.

- D. Conflicting provisions. It is hereby provided that the provisions of these regulations shall not be construed as being in conflict with the provisions of any other regulations of the City. In any case when the provisions of these regulations and the provisions of other regulations both apply, the provisions of greatest restriction shall govern.
- E. Permit Required. Prior to any work being done falling within the purview of this article, a written land work permit shall first be obtained from the building department of the City. Should the Building Official be unable to determine the impact of the requested work in the application, such application shall be referred to the City Engineer for a final determination. The application required hereunder shall contain such information as the City shall deem meet and proper so as to enable the City to evaluate the effect of the proposed work. Upon request, the Applicant shall submit such engineering work and/or certificates as the City may require in order to issue its permit.
- F. Contents of application. If requested by the City, the application for a land work permit will show the following information:
  - 1. Site plan showing the existing and proposed elevation of all property corners;
  - 2. The building finish floor elevations and invert elevations of the culvert pipe, curb inlet(s), catch basin(s), ditch or natural drainways the property is to drain its storm water into;
  - 3. The property's grading and its slope around the building;
  - 4. A cross-section of the existing ditch or natural drainway;
  - 5. If the property is to be improved with a storm drain system consisting of any ditches or culvert, the following will apply:
    - i. The proposed finish invert elevations will be shown at the inlets, outlets and at any changes in slopes.
    - ii. Catch basin or curb inlet elevations will be shown.
    - iii. Calculations will be provided for the amount of rainwater runoff based on the rational method, based on a twenty-five-year flood storm frequency, and required sizes, slopes and actual capacity for all culverts and ditches to handle this runoff.
    - iv. Any storm drain system installed within the City's right-of-way must consist of reinforced concrete pipe.
    - v. Proposed ditch cross-sections will be provided.
- M. Issuance; impact on drains.
  - 6. If proposed land work does not significantly impact drainage. Should the City Engineer determine that the proposed land work will not significantly impact drainage within the City, a land work permit shall be issued.



7. If proposed land work significantly impacts drainage; cost for enlarging drains or making drainage related improvements. Should the City Engineer determine that the proposed land work significantly impacts the drainage and requires the City drains be enlarged in any way, the City Engineer shall estimate the total cost of same including a cost for engineering and prorated by percentage of increased drainage used by Applicant. Should Applicant agree, upon payment of such cost to the City, the City Engineer shall issue a land work permit. Should Applicant disagree, these figures will be submitted to the Board of Aldermen for their decision as to:
  - i. If Applicant should be required to pay any fee;
  - ii. The amount of the fee that should be paid to the City to offset the impact of such City drainage;
  - iii. If additional drainage capacity is provided in enlarging the drainage system, that any other developers/builders in the area will also pay a percentage based on the increased drainage used by them.
8. Appeals to circuit court. Should Applicant be aggrieved by the decision of the Board of Aldermen, the Applicant may appeal such decision to the Circuit Court of the County in the time and manner provided by law.

## **2.36 FLOODPLAIN DEVELOPMENT PERMIT**

SEE APPENDIX A.

(Ord. No. 2020-06, § III, 2-18-20)

## **2.37 SIGN PERMIT**

### **2.37.1 Applicability**

Except as otherwise provided in this ordinance, it shall be unlawful for any person to erect a sign in the City, or cause the same to be done, without first obtaining a sign permit for each such sign from the Building Official as required in this ordinance. This shall not be construed to require a permit for change of copy on a sign, nor for the repairing, cleaning, and other normal maintenance of a lawful sign or sign structure so long as the sign or sign structure is not modified.

### **2.37.2 Submittal**

An application for a sign permit shall be filed with the Building Official on a form provided by him which shall contain the following information along with any other relevant information required by the Building Official:

- N. Name and address of the owner of the sign.
- O. Name and address of the owner of the site where the sign is to be located.
- P. A sketch showing the position of the sign in relation to other buildings, structures, and signs on the site.
- Q. A drawing of the sign showing dimensions, type of construction, attachment method to the ground or building, and any related information asked for.
- R. Name of the person erecting the sign.

- S. Such other information as the Building Official may require to ensure compliance of said sign with this ordinance and any other law of the City.
- T. If deemed necessary by the Building Official, the following signs may require certification by a registered engineer. The following signs shall be designed, signed and certified by a Mississippi registered structural engineer or architect, certifying to the structural integrity of the structure and foundation meeting all wind loads as set forth by the building code, and who shall submit sufficient data to enable the Building Official to determine whether the sign complies with this code:
  - 1. Signs over ten (10) feet high, including billboards on-site or off-site.
  - 2. Signs with unusual structural features.

#### 2.37.3 Approval

After review and approval of the sign application by the Planning Director, the Building Official shall issue a permit for the erection of a sign when the application is properly prepared and filed if the Applicant for the sign meets the requirements of this ordinance and any other applicable ordinance of the City, and when all required fees have been paid. If the application is for an electrical sign a separate electrical permit shall be required plus the fee therefore.

#### 2.37.4 Timing

The work under a sign permit must be begun within three (3) months of its issue date and must be completed no more than six (6) months after the permit issue date, otherwise the permit shall lapse.

#### 2.37.5 Revocation

The Building Official may, in writing, revoke a sign permit if it was issued on the basis of a misrepresentation of fact, fraud, or for failure to comply with the terms of the permit, or for a violation of this ordinance. If a sign permit is denied or revoked by the Building Official, written notice thereof shall be given to the Applicant or permittee, together with a brief written statement of the reasons for the denial or revocation. This action shall constitute a decision of the Building Official; written notice thereof shall be given to the Applicant or permittee, together with a brief written statement of the reasons for the denial or revocation. This action shall constitute a decision of the Building Official which may be appealed as other decisions.

#### 2.37.6 Inspection

All billboards and freestanding, on-site signs shall be subject to a footing inspection prior to erection of the sign. All signs shall be subject to a final inspection to ensure that they comply with the sign permit and this UDC. If the Building Official determines that the sign as erected does not comply with the terms of the permit and this ordinance, the permittee shall bring it into compliance within a time specified. On a failure to do so the permit shall be revoked and the sign removed.

### 2.38 DRIVEWAY/ACCESS PERMIT

#### 2.38.1 Required

Any person, firm or corporation, including utility companies, both private and public, desiring to use or cross any public right-of-way, street, alley, roadway, easement, or drainage way involving surface

disturbance within the City and under the jurisdiction of the City shall first obtain a special right-of-way permit from the Planning Department.

#### 2.38.2 Submittal

Every Applicant shall furnish the following information:

- A. A declaration of the intended purpose of such crossing or use.
- B. Date and time of the proposed crossing, and if related to vehicular traffic, plans for rerouting of such traffic if required.
- C. Two (2) sets of scale drawings related to such crossing or use. Drawing (or written plan) shall include the extent of disturbance of the right-of-way surface and the restoration of same. The drawing or plan must be approved by the office of the Mayor and be in compliance with the state aid road construction standards as set forth in the state aid manual on utility facilities within rights-of-way.

#### 2.38.3 Maintenance Bond Duration

A maintenance bond of sufficient monies, as the office of the Mayor shall determine, may be required for damages, such bond to guarantee to the City the reasonable estimated cost resulting from defective workmanship or material in repair of the right-of-way disturbance. Such bond shall be in full force and effect for a minimum period of two years and shall be cancelled only by the administrative authority.

#### 2.38.4 Revocation

All such permits issued hereunder shall be subject to being revoked at any time by the office of the Mayor in the event that the work being performed is not in compliance with the approved plan and, upon such revocation, all work shall immediately cease.

#### 2.38.5 Site Restoration

It is the responsibility of the Applicant (permit holder) to return the disturbed area to its original or better condition.

#### 2.38.6 Violation

The violation of this article shall constitute a misdemeanor and shall be punishable as such.

### **2.39 BUILDING PERMIT**

#### 2.39.1 Required

No building permit shall be issued by the City for the construction or renovation of, and no person shall construct or renovate, any structure or edifice until all codes and ordinances of the City of Ocean Springs have been complied with and verified by the authorized inspectors of the City of Ocean Springs.

### 2.39.2 Enforcement

These regulations shall be enforced by the Building Official appointed by the Board of Aldermen. 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 a building permit has been obtained under the following conditions.

### 2.39.3 Application

Whenever any structure or building is to be altered in an amount exceeding one hundred dollars (\$100.00) for residential structures and five hundred dollars (\$500) for non-residential structures, or erected, moved, or structurally altered, a building permit shall be obtained from the Building Official. The Building Official may require every applicant for a building permit to furnish the following information:

- A. A ~~site~~ 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, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
- B. 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 building accommodates and which each existing and proposed building is designed to accommodate.
- C. Additional information relating to the proposed improvement needed to determine compliance with these regulations.
- D. A survey prepared by an engineer or surveyor registered or approved in the State of Mississippi of the boundaries of the lot on which the improvement is proposed to be located.

## 2.40 CERTIFICATE OF OCCUPANCY

### 2.40.1 Required

No vacant land shall be occupied or used, except for agricultural uses, and no building hereafter erected, reconstructed, altered, or enlarged shall be occupied or used until a certificate of occupancy shall have been issued by the Building Official.

### 2.40.2 Certificate of Occupancy for a Building

- A. Certificate of occupancy for a new building or the alteration of an existing building shall be applied for coincident with the application for a building permit and said certificate shall be issued within three (3) days after the request for same shall have been in writing to the Building Official after the erection, reconstruction, alteration, or enlargement of such building or part thereof shall have been completed in conformity with provisions of these regulations.
- B. Pending the issuance of a regular certificate of occupancy, a temporary certificate of occupancy may be issued by the Building Official for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter

covered by this ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants.

- C. Request for certificate of occupancy for any change in the use of a building shall be made in writing at least ten (10) days in advance of such change and shall be issued within three (3) days after such request if the new use is in conformity with the provision of these regulations.

#### 2.40.3 Certificate of Occupancy for Land

Certificate of occupancy for use of vacant land or the change in the character of the use of land, as herein provided, shall be applied for before any such land shall be occupied or used and a certificate of occupancy shall be issued within three (3) days after the application has been made, provided such use is in conformity with the provisions of these regulations.

#### 2.40.4 Compliance

Certificate of occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

### 2.41 TEMPORARY USE PERMIT

#### 2.41.1 Applicability

Except as otherwise provided in this ordinance, it shall be unlawful for any person to conduct or operate a temporary use, as defined and regulated pursuant to this UDC, without first obtaining a temporary use permit.

#### 2.41.2 Submittal

An application for a temporary use permit shall be filed with the Planning Director on a form provided by him which shall contain the following information along with any other relevant information required by the Building Official: location, duration (starting and ending dates and hours of operation), description of use or activities to occur on site, number of attendees (total and per day), whether food, drink or alcohol will be served, whether there will be live entertainment and whether other applications, permits or approvals are required by the City or other jurisdictions or agencies (copies to be provided to Building Official).

### 2.42 HOME OCCUPATION / HOME INDUSTRY PERMIT

#### 2.42.1 Applicability

Except as otherwise provided in this ordinance, it shall be unlawful for any person to operate a home occupation, as defined and regulated pursuant to this UDC, without first obtaining a home occupation permit.

#### 2.42.2 Submittal

An application for a home occupation permit shall be filed with the Planning Director on a form provided by him which shall contain the following information along with any other relevant information required by the Building Official: description of business and related activities to occur on site, including services to be provided and/or goods to be sold, hours of operation, whether the activity will be within or outside of the structure, number of employees, description of equipment, goods and materials to be stored and used on site and an estimate of activity on site, measured by number of visitors, including but not limited to customers and deliveries.

### 2.43 PROPERTY CONSOLIDATION AND RECONFIGURATION

#### 2.43.1 Lot Consolidation or Lot Reconfiguration

Upon request of the property owner, previously established or platted lots may be consolidated into a single platted lot or reconfigured into multiple platted lots by re-plat in accordance with Section 2.23: Plat Amendment.

#### 2.43.2 Parcel Consolidation

Upon request of the property owner, previously established parcels may be consolidated into a single parcel of land either by metes and bounds description or by including multiple platted lots when, in the opinion of the Planning Director, such parcel consolidation conforms to these rules and regulations.

#### 2.43.3 Parcel Reconfiguration

Upon request of the property owner, up to three (3) previously established parcels may be reconfigured to produce an equal or fewer number of parcels when, in the opinion of the Planning Director, such lot reconfiguration conforms to these rules and regulations, when the parcel(s) being created is neither unbuildable or non-conforming, and when public access, utilities, or infrastructure will not be impeded. The property owner or applicant is responsible for providing an application fee in accordance with the currently adopted fee schedule.

(Ord. No. 2021-02, § II, 1-19-21)

### 2.44 VACATION OF STREET, EASEMENTS OR PLATS

#### 2.44.1 Applicability

The provisions of this section establish a process for approving the elimination of a plat, in whole or in part. The record owners of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for in the original plat. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

#### 2.44.2 Initiation

The owner or owners of lots in any approved subdivision, including the developer, shall initiate a plat vacation by filing a petition and declaration with the Planning Director to vacate the plat with respect to their properties. If the Applicant so desires, the vacating declaration and an application requesting re-subdivision of the plat may be filed and processed simultaneously. The filing fee shall not be required if the vacating declaration is filed and processed simultaneously with a re-subdivision plat.

#### 2.44.3 Completeness Review

The Planning Director shall review an application for a plat vacation for completeness. The appellate hearing body for purposes of completeness review is the Planning Commission.

#### 2.44.4 Decision

The petition may be approved, conditionally approved, or disapproved by the Planning Commission. The appellate hearing body for the decision is the Board of Aldermen.

#### 2.44.5 Approval Criteria

The Planning Director shall recommend to the planning Commission such terms and conditions as are reasonable to protect public health, safety, and welfare. The Planning Commission shall not approve a petition for vacation if:

- A. It will materially injure the rights of any non-consenting property owner or any public rights in public improvements, unless expressly agreed to by the agency with jurisdiction over the improvements; or
- B. The plat vacation would cause block lengths to exceed the maximum established herein.

#### 2.44.6 Scope of Approval

On the execution and recording of the vacating instrument, the vacated plat has no effect. A plat may be re-subdivided upon vacation of the original plat. The re-subdivision of the land covered by a plat that is vacated shall be platted in the same manner as is prescribed by this chapter for an original plat. In addition, a copy of the vacating declaration form shall be submitted with the re-subdivision plat.

#### 2.44.7 Recording Procedures

The recorder of deeds shall write legibly on the vacated plat the word “vacated,” and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.

### **2.45 HISTORICALLY PLATTED NON-CONFORMING LOTS**

#### 2.45.1 Applicability

In situations in which 1) a lot does not conform with the underlying zoning district regulations with regard to minimum lot area or width; or 2) the principal structure does not conform with the underlying zoning district regulations for building setbacks.

#### 2.45.2 Initiation

The property owner shall apply to the planning department and provide substantial documentation of the following:

- A. A site plan illustrating how a new dwelling will either meet existing front and side yard setbacks established for the current zoning district or that such setbacks are quantifiably consistent with buildings on both sides of the property; or, in the situation of a demolished dwelling, that the proposed setbacks and building height of the new dwelling are quantifiably and reasonably the same as those of the demolished dwelling; acceptable documents include a survey of the former dwelling, photos of the former dwelling or a survey of the slab, foundation or similar evidence;
- B. That sufficient off-street parking can be provided within the property boundaries; and
- C. That there is adequate lot frontage on a public right-of-way or private street for ingress and egress.

#### 2.46 RELOCATION OR PLACEMENT OF A STRUCTURE

- A. Buildings cannot be moved, relocated or placed in a location on a lot without final development plan approval.
- B. Relocation of a structure requires a Preliminary Development Plan including all the requirements of Section 2.25.3.
- C. Movement of a structure through any public streets requires a detailed plan of the route and how the structure will not damage any City owned property or utilities. This includes the height of the structure once located on the trailer.
- D. Any City staff assistance will need to be identified in the route plan prior to the move.
- E. Moving the structure will be limited times and dates that the City Staff is in full operation.
- F. The owner will be required to follow all the State regulations that govern movement of a structure.
- G. Any damage to City owner property or utilities will be the responsibility of the owner to repair and restore to its original condition.



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# Chapter 3. Zoning Districts, Building Types and Uses

## 3.1 PURPOSE AND FINDINGS

### 3.1.1 Purpose

Pursuant to Sections 17-1-37 and 17-1-5 et seq. of the Mississippi Code of 1972, as amended, the purpose of this section is to promote the public health, safety, morals, or general welfare, and to protect and preserve places and areas of historical, cultural, or architectural importance and significance. These regulations are adopted in accordance with the Comprehensive Plan and are designed to:

- A. Minimize congestion in the streets;
- B. Secure safety from fire, panic, and other dangers;
- C. Promote health and general welfare;
- D. Provide adequate light and air;
- E. Prevent the overcrowding of land;
- F. Avoid an undue concentration of population; and
- G. Facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

### 3.1.2 Districts

This article establishes zoning districts and describes the use and design regulations that apply to each district. Two types of zoning districts are established. Design guidelines that apply to specific districts or development types are provided in an Appendix to the UDC.

- A. Base Zoning Districts - establishes districts that divide the City into various residential, commercial, and industrial zones. Each district establishes building types and uses that are permitted “by right” or as “conditional”. A building type or use permitted by right is deemed compatible with the others within the district and therefore requires only administrative approval. Conditional uses require a public hearing to assess whether conditions are needed in order to make the use compatible with other uses in the district.
- B. Overlay Zoning Districts - establishes districts within which the standards of both the base and overlay zoning districts apply. These districts address special situations that require additional regulations to protect the public health, safety, and general welfare.

### 3.1.3 Consistency with Plan

Consistent with the goals and objectives listed in the Comprehensive Plan, these regulations are designed to foster the following purposes:

- A. Distribute land uses to meet the physical, social, cultural, economic, and energy needs of present and future populations;
- B. Ensure that new development is compatible with surrounding development in use, character, and size;
- C. Provide for land uses that serve important public needs, such as affordable housing and employment generators;
- D. Promote mixed-use buildings and mixed-use neighborhoods in designated mixed-use zoning districts;
- E. Promote infill housing and downtown retail and residential development;
- F. Integrate civic uses into neighborhoods;
- G. Protect natural resources;
- H. Encourage retail development in urban, neighborhood, and regional centers, including historic downtown Ocean Springs and;
- I. Promote stable residential neighborhoods.

#### 3.1.4 Regulations Established

- A. In accordance with the foregoing purposes, this section establishes regulations governing the following:
  - 1. The height, number of stories, and size of buildings and other structures;
  - 2. The size of yards, courts, and other open spaces;
  - 3. Population density; and
  - 4. Location and use of buildings, other structures, and land for business, industrial, residential purposes.

## 3.2 OVERVIEW AND APPLICABILITY

### 3.2.1 Applicability

No land shall be used or occupied, and no structures shall be designed, built, altered, used, or occupied except in conformity with all of the regulations, design standards, and conditions attached to any special variance, appeal, or master site plan approved pursuant to this chapter.

### 3.2.2 False Representation

No person, firm, or corporation and no officer or employee (either as owner or as participating principal, agent, servant, or employee of such owner) shall sell, rent, or lease, or offer or attempt to sell, rent, or lease, any land or structure upon the representation, falsely made and known to be false, that such land or structure may be used or occupied in a manner or for a use prohibited by this chapter.

### 3.2.3 Rules of Interpretation

No development approval shall be issued unless the proposed development conforms to the design regulations prescribed within the applicable zoning district. Rules for interpreting the design regulations are included in the lot layout, height, and density/intensity standards. Except as hereinafter provided:

- A. No building shall be built, reconstructed, altered or enlarged nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located.
- B. No building shall be built, reconstructed, altered or enlarged to exceed the height or bulk limit herein established for the district in which such building is located.
- C. No lot area shall be reduced or diminished so that the open spaces preserved are smaller than prescribed by this ordinance, nor shall the population density be increased in any manner except in conformity with the area regulations herein established.
- D. No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be considered as providing a yard or open space for any other building; provided further that no yard or open space on any adjoining property shall be considered as providing a yard or open space on a lot whereon a building is to be built.
- E. Every building hereafter built shall be located on a lot as herein defined. In no case shall there be more than one primary building on a single lot, except as permitted by the Zoning and Adjustment Board.

## 3.3 ZONING DISTRICTS ESTABLISHED

### 3.3.1 Base Zoning Districts

- A. In order to regulate the location of residences, trades, industries and the location of buildings built, reconstructed, altered or enlarged for specified uses, to regulate and limit the height and bulk of buildings hereafter built, reconstructed, altered, or enlarged; to regulate and determine the area of yards and other open spaces and to regulate and limit the density of population, the City of Ocean Springs is hereby divided into the base zoning districts listed in Table 3.1 below.
- B. The base zoning districts typically outline standards for building types that are compatible in scale land use, density and intensity with each other.

Table 3.1: Base Zoning Districts

| Residential                                    | Purpose                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| R-1 Low Density Single Family                  | Low density single-family detached dwellings. Allows 1-3 du/acre. Consistent with traditional suburban development patterns.                                                                                                                                                                                                                                                               |
| R -2 Low-Medium Density                        | Low to medium density single-family detached dwellings. Allows density of 2-4 du/acre. Consistent with traditional neighborhoods.                                                                                                                                                                                                                                                          |
| R-10 Medium Density                            | Medium density single-family detached dwellings. Allows 3 -4 du/acre. Consistent with traditional suburban development patterns.                                                                                                                                                                                                                                                           |
| R-3 Medium Density                             | Medium density single family dwellings. Allows for smaller lot sizes and infill development for a density of 4-6 du/acre.                                                                                                                                                                                                                                                                  |
| R-6 Residential                                | Medium density single family dwellings. Allows for smaller lot sizes and infill development for a density of 6 du/acre. Intended for water-front properties on the bay or bayou.                                                                                                                                                                                                           |
| R-D Two Family Residential                     | Medium density single family and two-family dwellings. Allows for smaller lot sizes and infill development for a density of 5-9 du/acre.                                                                                                                                                                                                                                                   |
| RMH Mobile Home Parks                          | Provides location for mobile and manufactured homes located in park settings.                                                                                                                                                                                                                                                                                                              |
| R-1A Special Apartment Use District            | This is the most restrictive apartment district to provide for luxury townhouse or apartment development in selected areas of Ocean Springs.                                                                                                                                                                                                                                               |
| RM-2 Multi-family Dwellings                    | Highest density residential district. Allows 12 or more du/acre. Includes a variety of attached dwelling types including townhomes, row houses and apartments Dwelling units may be included in a mixed-use structure.                                                                                                                                                                     |
| Non-Residential and Mixed-Use Zoning Districts | Purpose                                                                                                                                                                                                                                                                                                                                                                                    |
| CMX-1 Neighborhood Commercial/ Mixed Use       | Least-intense commercial mixed-use district. Maximum 2-story building height. Applies to neighborhood corridor areas with smaller scale commercial uses and a variety of surrounding residential uses. High traffic uses are not appropriate. Residential uses allowed by right, including detached, attached and live/work units, as long as scale, form and design requirements are met. |
| CMX-2 Community Commercial/ Mixed Use          | Medium-intensity commercial mixed-use district. Maximum 35' building height. Creates a corridor of compatible mixed uses that link more intensive Regional Commercial Centers (CH). Detached and attached residential, and mixed-use buildings allowed as of right when scale, form and design requirements are met.                                                                       |
| C-H Regional Commercial                        | Most intense commercial mixed-use district, allows up to 75' building heights. Includes most intense retail, office and residential development patterns with high traffic generation rates that serve a regional population.                                                                                                                                                              |
| M-1 Manufacturing, Warehousing &               | Light industrial uses that are incompatible with primary corridor activities and residential uses due to noise or traffic generation, outdoor storage requirements or other performance or design standards.                                                                                                                                                                               |
| P Public District (PUB)                        | Public district, largely mapped on Front Beach                                                                                                                                                                                                                                                                                                                                             |

|                                              |                                                                                                                                                                                                                                                   |
|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| C-P Commercial – Public and Civic Facilities | District providing for the location of arts and other community organizations that serve as a place of assembly and public service.                                                                                                               |
| C-M Commercial Marina                        | Yacht clubs, sale or service and supplies including beverages and food for boats and water craft using the small craft harbor. Specifically prohibited are: All types of commercial marine ways, repair shops or any type of industrial activity. |

(Ord. No. 2020-01, § I, 1-07-20) / (Ord. No. 2021-26) / (Ord. No.2023-06, §I, 5-005-23)

### 3.3.2 Dimensional Standards for Base Zoning Districts

Unless otherwise specified in this Ordinance, all principal and accessory use and structures are subject to the intensity and dimensional standards set forth in the following Table.

*Table 3.2A: Dimensional Standards for Residential Zoning Districts*

|                                                       | ZONING DISTRICTS |        |        |        |        |                     |                 |        |                        |                  |
|-------------------------------------------------------|------------------|--------|--------|--------|--------|---------------------|-----------------|--------|------------------------|------------------|
|                                                       |                  | R-1    | R-2    | R-10   | R-3    | R-6                 | R-D             | RMH    | R-1A                   | RM-2             |
| Min. Lot Area (ft²)                                   |                  | 13,500 | 11,250 | 10,000 | 7,500  | 2,000               | 7,500           | 4,000  | See Footnote 8 – Below | NA               |
| Min. Lot Width (ft.)                                  |                  | 100    | 80     | 80     | 50     | 20                  | 70              | 50     |                        | 15 <sup>6</sup>  |
| Max. Building Height                                  |                  | 35 ft. | 35 ft. | 35 ft. | 35 ft. | 35 ft. <sup>9</sup> | 35 ft.          | 25 ft. |                        | 4 stories        |
| Min. Building Height                                  |                  | NA     | NA     | NA     | NA     | NA                  | NA              | NA     |                        | NA               |
| Max. Gross Dwelling Unit Density (dwellings per acre) |                  | NA     | NA     | NA     | NA     | 6 <sup>7</sup>      | NA              | NA     |                        | 21 <sup>7</sup>  |
| BUILDING SETBACK                                      | DISTANCES        |        |        |        |        |                     |                 |        |                        |                  |
| FRONT                                                 | MIN (ft.)        | 25     | 25     | 20     | 20     | 5                   | 20              | 20     | See Footnote 8– Below  | 5 <sup>1,2</sup> |
|                                                       | MAX (ft.)        | NA     | NA     | NA     | NA     | NA                  | NA              | NA     |                        | NA               |
| SIDE                                                  | MIN (ft.)        | 10     | 10     | 10     | 10     | 5                   | 10 <sup>3</sup> | 10     |                        | 5 <sup>3</sup>   |
|                                                       | MAX (ft.)        | NA     | NA     | NA     | NA     | NA                  | NA              | NA     |                        | NA               |
| STREET SIDE                                           | MIN (ft.)        | 10     | 10     | 10     | 10     | 5                   | 10              | 10     |                        | 10               |
|                                                       | MAX (ft.)        | NA     | NA     | NA     | NA     | NA                  | NA              | NA     |                        | NA               |
| REAR                                                  | MIN (ft.)        | 25     | 25     | 20     | 20     | 5                   | 15              | 10     |                        | 5                |
|                                                       | MAX (ft.)        | NA     | NA     | NA     | NA     | NA                  | NA              | NA     |                        | NA               |

#### Footnotes

1. There shall be a buffer yard with a depth of a minimum of 25 feet around the perimeter of a multi-family development, where the perimeter consists of abutting single-family zoning districts and public streets. This front yard shall be an open area without encroachments of parking areas or vehicle circulation drives, with the exception of entrance drives whose length does not exceed the depth of the perimeter front yard. At least 80% of the building façade shall be located at the interior front setback line.
2. For buildings located on corner lots, at least the first 30' of the building façade, as measured from the front building corner, shall be located at the setback line.
3. Townhomes are permitted to adjoin at the lot line, as long as adequate room is preserved for circulation to all units.
4. The minimum lot size for each single family detached dwelling.
5. Any multifamily building above thirty-five (35) feet in height shall have a minimum side yard on each side equal to fifty (50) percent of the building height.
6. The minimum lot area and minimum lot width requirements apply only to single family detached, single family attached and duplex/two-family dwellings located on individual lots within a subdivision. The maximum permitted number of Townhouses and multi-family dwelling units is determined by applying the Maximum Gross Dwelling Unit Density figure.
7. The maximum permitted number of dwelling units shall be determined by multiplying the Maximum Gross Dwelling Unit Density figure by the total horizontal land area in acres, excluding all area within wetland or tidal marsh areas.

8. R-1A: Area, Height, and Setback Regulations:

In the R-1-A special apartment use district, the height of buildings, the minimum dimension of lots and yards, and the minimum lot area per family shall be as follows:

Front yard: Same as R-1.

Side yard: Same as R-1; however, any multifamily building above thirty-five (35) feet in height shall have a minimum side yard on each side equal to fifty (50) per cent of the building height.

Rear yard: Same as R-1.

Height: No building hereafter erected, reconstructed, altered or enlarged shall exceed four (4) stories nor shall it exceed fifty (50) feet with the exception of buildings located in a floodplain whereas such buildings may be measured from the elevation requirements of the adopted floodplain management maps. Additional provisions are located in Section 3.7.18 – Height.

Width of lot: The minimum width of a lot at the building line shall be one hundred (100) feet, provided that where a lot of record and in separate ownership at the time of the passage of this ordinance has less width than herein required, this regulation shall not prohibit the erection of a single-family dwelling. Lots fronting on cul-de-sac shall be at least thirty-five (35) feet in width at street frontage and shall have a width of at least fifty (50) feet at the front building line. There shall not be more than six (6) lots facing on one cul-de-sac.

Lot area per family: In the R-1-A special apartment use district every building hereafter erected, reconstructed, altered or enlarged shall provide a lot area of not less than thirteen thousand five hundred (13,500) square feet for single-family dwellings; and every multifamily dwelling or apartment complex hereafter erected, reconstructed, altered or enlarged shall provide minimum lot areas exclusive of wetlands or tidal marsh based on the following schedule:



- i. Thirteen thousand five hundred (13,500) square feet for the first unit;
  - ii. Sixteen thousand (16,000) square feet for the first two (2) units;
  - iii. Eighteen thousand five hundred (18,500) square feet for the first three (3) units;
  - iv. Twenty-one thousand (21,000) square feet for the first four (4) units;
  - v. Plus an additional two thousand (2,000) square feet per unit for all units thereafter in a single building.
  - vi. A maximum of twelve (12) units shall be allowed in each structure. When an end unit of a structure does not side on a street, an open space or court at least twenty (20) feet in width shall be provided between it and the adjacent structure and this open space shall be divided between the two (2) immediately adjacent structures as to property or lot lines.
  - vii. Where apartment units are designed to face upon an open space or common access court rather than upon a street, this open court shall be a minimum of forty (40) feet in width and said court shall not include vehicular drives or parking areas.
  - viii. Every multifamily dwelling or apartment complex hereafter erected, reconstructed, altered or enlarged, having a total of twenty-four (24) family units or less, shall provide the required lot area in the above schedule.
  - ix. Every multifamily dwelling or apartment complex hereafter erected, reconstructed, altered or enlarged, having a total in excess of twenty-four (24) family units, shall provide minimum lot areas for each building in accordance with the minimum lot areas in the above schedule. In addition each apartment project shall provide a minimum of five (5) per cent open space. Private streets, drives, or parking areas will not count as this unobstructed open space requirement.
9. The maximum building height is measured from ~~design flood elevation (DFE)~~ **Base Flood Elevation BFE** ~~or grade plane~~, whichever is higher, to the midpoint of the gable.

(Ord. No. 2021-26) / (Ord. No. 2023-06)

Table 3.2B: Dimensional Standards for Mixed Use and Non-residential Zoning Districts

|                                                 |           | ZONING DISTRICT |                 |                     |                                                 |     |            |                                                                                     |
|-------------------------------------------------|-----------|-----------------|-----------------|---------------------|-------------------------------------------------|-----|------------|-------------------------------------------------------------------------------------|
|                                                 |           | CMX-1           | CMX-2           | C-H                 | M-1                                             | C-P | <u>PUB</u> | C-M                                                                                 |
| Min. Lot Area (ft <sup>2</sup> )                |           | NA              | NA              | NA                  | NA                                              | NA  | NA         | NA                                                                                  |
| Min. Lot Width (ft.)                            |           | 25              | 25              | 25                  | 100                                             | NA  | NA         | NA                                                                                  |
| Min. Building Height                            |           | NA              | NA              | NA                  | NA                                              | NA  | NA         | NA                                                                                  |
| Max. Building Height                            |           | 2 stories       | 4 stories       | 75 ft. or 6 stories | Two stories, not to exceed 50 feet <sup>1</sup> | NA  | NA         | 3 stories or 45 ft.                                                                 |
| Max. Dwelling Unit Density (dwellings per acre) |           | 21              | 42              | 42                  | NA                                              | NA  | NA         | Principal building – 60% of lot area max.; Accessory building – max.10% of lot area |
| BUILDING SETBACK                                |           | DISTANCES       |                 |                     |                                                 |     |            |                                                                                     |
| FRONT                                           | MIN (ft.) | 5 <sup>2</sup>  | 5 <sup>2</sup>  | 5 <sup>2</sup>      | 5 <sup>2,5</sup>                                | NA  | NA         | NA                                                                                  |
|                                                 | MAX(ft.)  | NA              | NA              | NA                  | NA                                              | NA  | NA         | NA                                                                                  |
| SIDE                                            | MIN (ft.) | 5               | 5               | 5                   | 5 <sup>5</sup>                                  | NA  | NA         | NA                                                                                  |
|                                                 | MAX (ft.) | NA              | NA              | NA                  | NA                                              | NA  | NA         | NA                                                                                  |
| STREET SIDE                                     | MIN (ft.) | 10              | 10              | 10                  | 10 <sup>5</sup>                                 | NA  | NA         | NA                                                                                  |
|                                                 | MAX (ft.) | NA              | NA              | NA                  | NA                                              | NA  | NA         | NA                                                                                  |
| REAR                                            | MIN (ft.) | 10 <sup>3</sup> | 10 <sup>3</sup> | 10 <sup>4</sup>     | 10 <sup>5</sup>                                 | NA  | NA         | NA                                                                                  |
|                                                 | MAX (ft.) | NA              | NA              | NA                  | NA                                              | NA  | NA         | NA                                                                                  |

(Ord. No. 2020-04, § I, 2-04-20)

- 
- 1 Mechanical services, including heating and cooling equipment, smokestacks and other services critical to the function of the building may exceed the height limit if they occupy less than 20% of the roof area. Applications for taller buildings and/ or where mechanical services occupy more than 20% of the roof area will be referred to the Zoning Adjustment Board for a variance.
  - 2 Deleted (Ord. No. 2024-02)
  - 3 In transitional zones, where single family, two-family (duplex), attached or townhouse dwellings are adjacent to the commercial district, the minimum rear setback shall be 20 feet.
  - 4 In transitional zones, where single family, two-family (duplex), attached or townhouse dwellings are adjacent to the commercial district, the minimum rear setback shall be 25 feet.
  5. In situations where abutting property is zoned or used for residential dwellings, the following building setback distances are required: front - 20 feet; side - 50 feet; street side - 50 feet; rear - 50 feet

### 3.3.3 Overlay Zoning Districts

- A. The City of Ocean Springs establishes the following overlay zoning districts:
  - 1. Waterview Preservation
  - 2. Downtown
  - 3. Porter Avenue
  - 4. Conservation Subdivisions
- B. Overlay zoning districts impose additional requirements on certain properties within one or more underlying base zoning districts, and address special siting, use, and compatibility issues that require use and development regulations in addition to those found in the underlying zoning districts.
- C. If any regulation in an overlay zoning district requires lower densities, greater setbacks, or otherwise imposes stricter standards than those required by the base zoning district, the more restrictive standard applies.
- D. The zoning designation of property located within an overlay zoning district shall consist of the base zone acronym and the overlay zoning district symbol as a suffix. For example, if a parcel is zoned “C-H Highway Commercial and is also located within an “WP” Waterview Preservation overlay zoning district, the zoning designation of the property is “C-H(WP).” The designation of property as within the “WP” district places such property in a new zoning district classification and all procedures and requirements for zoning and rezoning must be followed.

## 3.4 OFFICIAL ZONING MAP

The maps delineating the boundaries of the various zoning districts, together with all things shown on such maps are adopted and approved, and collectively constitute the “official zoning map.” The official zoning map is incorporated by reference and made a part of the UDC. These maps are on file in the office of the Planning Director and in the office of the Clerk of the City of Ocean Springs.

### 3.4.1 Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
- D. Where the boundary of a district follows a railroad right-of-way, such boundary shall be deemed to be located on the center line of the main line.
- E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline;

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.

- F. Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- G. 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 by subsections (A) through (F) above, the Planning Director shall interpret the district boundaries with appeal to the Zoning and Adjustment Board.
- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Zoning and Adjustment Board may permit, as a special exception, 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.
- I. Whenever any street, alley, or other public way not subject to zoning regulations is vacated by official action of the City of Ocean Springs, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the center of such vacation, and all areas so involved shall then be subject to all regulations of the extended districts.

#### 3.4.2 Maintenance

As amendments to the official zoning map are approved by ordinance, the Planning Director will attach a copy of the amendment and a reference to the amendment in writing on to the Official Zoning Map, which is on file in the Planning Director and City Clerk's offices. In addition, all amendments to the official zoning map shall be listed in the order adopted in a separate register maintained and kept current by the Planning Director and available for public review.

### 3.5 NEWLY ANNEXED TERRITORY

All annexation of land to the City shall be the zoning of the County or City that it was annexed from ~~in an R-1 residential zone~~, unless otherwise classified by the Board of Aldermen, for a period of time not to exceed one year from the effective date of the ordinance annexing said property. Within this one-year period of time, the Board of Aldermen shall instruct the Planning Commission to study and make recommendations concerning the use of land within said annexed area to promote the general welfare. Upon receipt of such recommendations the Board of Aldermen shall establish the district classification of said property; provided, however, that this shall not be construed as preventing said Board from establishing the district classification at the time of annexation.

### 3.6 LOTS AND BLOCKS

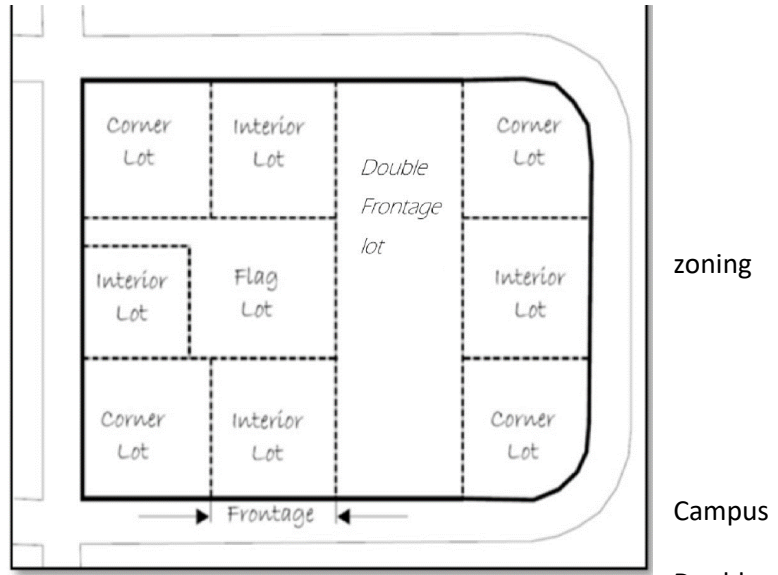
This section establishes base zoning district regulations relating to the definition, location, dimension and utility of lots and blocks and serves as the basic design for the subdivision of real estate. Lot dimensions are calibrated to achieve the desired intensity of development for each zoning district.

### 3.6.1 Lot Types

Figure 3.1 Lot Configurations

Lot types are illustrated in **the Lot Types** illustration.

- A. Double frontage lots are discouraged, except in the following situations:
1. Commercial or industrial districts
  2. When used for parks, shared midblock parking lots, pedestrian ways or other amenity;
  3. As part of an approved Development Pattern (see Appendix: Design Guidelines).
- frontage lots between parallel streets shall only be allowed in the case of one frontage being along an existing street. Where double-frontage lots are permitted, access to those lots shall be permitted from one street only.
- B. Flag Lots are discouraged, but can be approved subject to the following provisions:
1. Flag lots may be approved, allowing for the more efficient use of irregularly shaped parcels of land, sites with physical limitations, or where the integrated nature of multiple buildings on a site dictates the need for such lots. Flag lots are not permitted where they will increase the number of lots accessing major collector or arterial streets.
  2. The minimum driveway width for a flag lot is 9 feet.
  3. A flag lot shall abut no more than one other flag lot on the same street.
  4. The minimum frontage at the right-of-way line for any flag lot shall be equal to the minimum required driveway width plus 4 feet. The flagpole portion of the lot shall not be considered in determining the area of the lot.
- C. ~~Corner Lots - Corner lots shall be sufficiently larger than interior lots so as to allow houses to conform to front yard building setback lines on both streets except where, in the opinion of the Planning Commission, a waiver should be granted.~~ Corner lots shall have one front setback along one street frontage, one rear setback, and two side setbacks. For corner lots, the side having the shortest street frontage is considered the front for setback purposes. The Planning Director may waive this requirement and determine the front yard to be on the street front that is in line with the prevailing pattern of front yards on the street in order to be consistent with the established pattern of the street.



### 3.6.2 Block Dimensions

- A. Blocks shall have a minimum length of 200 feet and a maximum length of 1,200 feet, except as otherwise specifically approved by the Planning Commission. Blocks shall be wide enough to allow two tiers of lots of appropriate depth.

- B. Pedestrian easements of not less than ten feet can be required in any block by the Planning Commission where it is deemed essential for circulation or access to schools, churches, playgrounds, shopping centers, transportation or other community facilities.

### 3.6.3 Lot Dimensions

- A. Newly created lots shall conform to the standards set forth in the Lot Size Requirements table and consider the following when being created by plat.
- B. Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use, protected areas and the surrounding properties.
- C. Side lot lines shall be at right angles to the street line wherever practical.
- D. Lots shall not be platted in any area known to be subject to inundation, or in areas which, for other reasons, such as topography, are unsuitable for residential occupancy, nor for such other uses as may increase danger to health, life or property or flood hazard.
- E. Unique and fragile elements of the landscape, including, but not limited to, wetlands, significant stands of trees, and heritage trees, shall be preserved where practicable, with development reserved for environmentally stable areas

*Table 3.3: Lot Size Requirements*

| District | Condition                        | Lot Width Along Primary Frontage |
|----------|----------------------------------|----------------------------------|
| C-H      | All structures                   | 25' minimum                      |
| CMX-2    | All structures                   | 25' minimum                      |
| CMX-1    | All structures                   | 25' minimum                      |
| RM-2     | New developments                 | 15' minimum                      |
| R-1A     | <i>See Section 3.3.2.A Above</i> |                                  |
| RMH      | New Developments                 | 50' minimum                      |
| R-6      | New Developments                 | 20' minimum                      |
| R-3      | New Developments                 | 50' minimum                      |
| R-2      | New developments                 | 80' minimum                      |
| R-1      | New developments                 | 100' minimum                     |
| R-10     | New Developments                 | 80' minimum                      |
| R-D      | New Developments                 | 50' minimum                      |

(Ord. No. 2021-26) / (Ord. No. 2023-06)

- F. Reduction of Lot Size by Governmental Action - Where the owner of a legally platted lot or successor in title has a lot reduced in size as a result of governmental action, and does not own sufficient land to enable the lot to conform to the dimensional requirements of this chapter, such lot may be used as a building site for a single-family residence or other nonresidential use permitted in the district in which the lot is located, provided that:
  - 1. Where the lot area or mean lot width is reduced by governmental action by less than 20% of the minimum specified in this chapter, the Planning Director shall issue a development approval or certificate of occupancy; and

2. In those cases where the lot area or mean lot width is reduced by governmental action by more than 20%, the Planning Director may approve as a building site a dimension that conforms as closely as possible to the required dimensions of this chapter, provided that the combined area of the principal building and accessory buildings shall not cover more than 40% of the lot area remaining after governmental action.

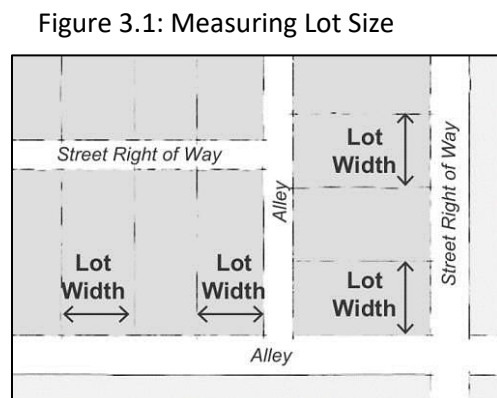
G. Historically Platted Non-Conforming Lots.

1. In the event a property owner wishes to repair or replace an existing residential structure on a lot where either the principal structure or lot does not conform with the underlying zoning district regulations for lot size and/or setbacks, that structure may be repaired or replaced as long as the repair or new construction is contained within the footprint of the existing structure.
2. In the event a property owner wishes to construct a residential dwelling on a lot that does not conform with the underlying zoning district regulations with regard to lot area or width, the property owner shall apply to the planning department and provide substantial documentation that the following conditions can be met:
  - That a new dwelling will meet existing front and side yard setbacks established for the current zoning district;
  - That sufficient off-street parking can be provided within the property boundaries;
  - That there is adequate lot frontage on a public right-of-way or private street for ingress and egress.
3. In the event a property owner wishes to rebuild a demolished residential dwelling on a lot that does not conform with the underlying zoning district regulations with regard to lot area or width, the property owner shall apply to the Building Department and provide substantial documentation that the following conditions can be met:
  - That the new dwelling will either meet existing front, rear and side yard setbacks distances established for the current zoning district or that the proposed setbacks and building height are quantifiably and reasonably the same as those of the demolished dwelling;
  - That sufficient off-street parking can be provided within the property boundaries;
  - That there is adequate lot frontage on a public right-of-way or private street for ingress and egress.

(Ord. No. 2024-02, 04-02-2024)

### 3.6.4 Lot Measurements

Lot width, depth, frontage and area shall be measured and calculated as illustrated in the Lot Measurements Illustration at right.



### 3.6.5 Frontage & Access

- A. All lots shall front on a public or private street and shall have a minimum frontage width as indicated in the zoning district regulations.
- B. On irregularly shaped lots, a minimum street frontage of 15 feet is required. An “irregularly shaped lot” includes any lot located on a cul-de-sac or abutting a curved section of a roadway with a centerline radius of less than 200 feet.
- C. Single-family Residential lots (R-1, R-10, R-2, or R-3 District) that front on a major collector street, arterial street, or parkway shall have a minimum frontage of 80 feet and shall be constructed with a driveway designed so as to allow vehicles to exit the lot in a forward motion.
- D. Every lot must abut a public improved dedicated street or private street for a minimum of 80% of the lot width unless the lot is located on a cul-de-sac or abutting a curved section of roadway with a centerline radius of less than 200 feet.

### 3.6.6 Yard Requirements

- A. No open space or lot area required for a building or structure shall be occupied by or counted as open space for any other building or structure.
- B. Where lots comprising forty (40) per cent or more of the frontage on one side of a street between intersecting streets are developed with buildings having an average front yard setback with a variation of not more than ten (10) feet, the front yard shall be the average front yard as established by such existing buildings. No building hereafter built or altered shall project beyond the front yard line so established.
- C. Where the dedicated street right-of-way is less than fifty (50) feet, the depth of the front yard shall be measured starting at a point twenty-five (25) feet from the center line of the street easement. Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the width of a yard shall be measured from such official line to the nearest line of the building.
- D. For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one building, occupying one lot. Semidetached two-family and four-family dwellings and row houses, provided that each dwelling unit shall front on a street.

### 3.6.7 Monuments

Lot and block corners shall be marked with iron pipes or rods at least one-half inch in diameter and 24 inches long.

- A. The outer boundary corners of the subdivision and intermediate points as required by the City shall be marked with either concrete blocks six inches square and 30 inches long, or with iron pipes two inches in diameter and four feet long; markers shall be provided with center points.
- B. The developer will provide permanent concrete monument benchmarks with elevation in accordance with Ocean Springs datum and/or U.S. Geographical survey datum and state plans coordinates (transverse Mercator projections).



1. Minimum of one per every 1,500 feet of pavement for developments containing more than four lots.
2. Exact benchmark location and information to be shown on all plats and construction plans.
3. The concrete monument benchmark shall be six inches by six inches square and four feet long with an iron rod encased in it and a flat-head survey marker cast in the top of the benchmark as a central point. The noncorrosive marker must have at least a two-inch shank and a head diameter of two inches or more.

## 3.7 ZONING DISTRICTS

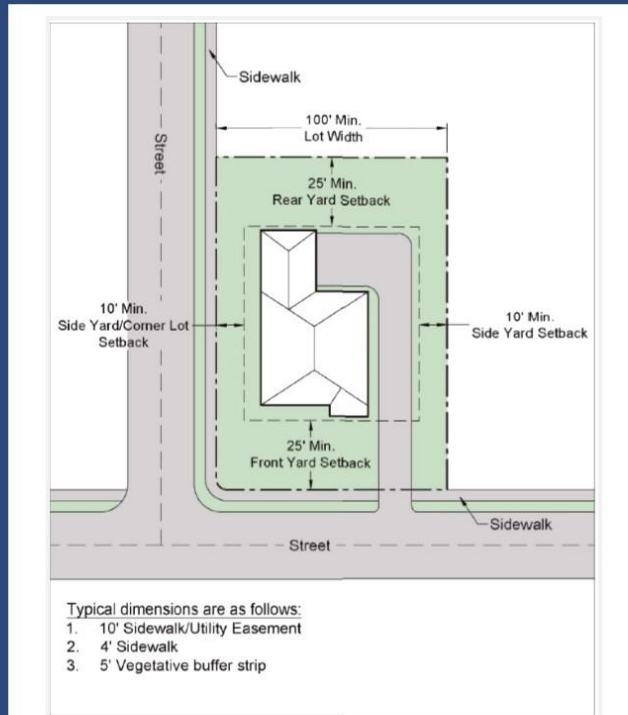
### 3.7.1 R-1 - Low Density Single Family Zoning District

#### R-1 ZONING DISTRICT PROFILE

Lowest density single-family detached dwelling district. Consistent with traditional suburban development patterns. The R-1 District is primarily mapped in established, built-out areas of Ocean Springs, and serves to protect the character of the areas as new development occurs. The district also permits accessory dwelling units and non-residential uses such as parks and places of worship.

##### Lot Dimensions

|                 | Min.      | Max.  |
|-----------------|-----------|-------|
| Lot Size        | 13,500 sf | N/A   |
| Lot Width       | 100 ft    | N/A   |
| Front Set-      | 25 ft     | N/A   |
| Side Setback    | 10 ft     | N/A   |
| Rear Setback    | 25 ft     | N/A   |
| Building Height | N/A       | 35 ft |



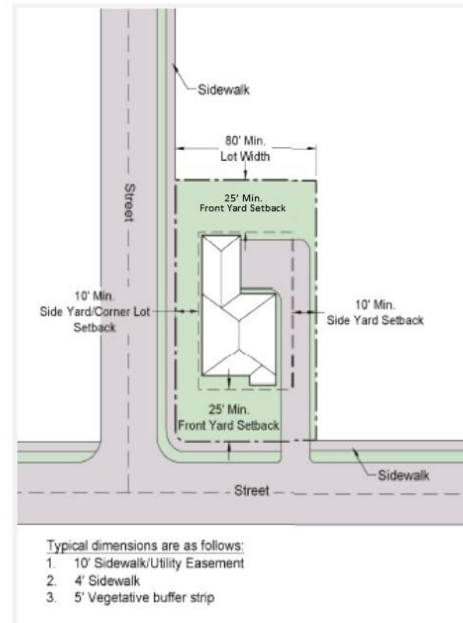
### 3.7.1 R-2 – Low - Medium Density Residential Zoning District

#### R-2 ZONING DISTRICT PROFILE

Low to medium density residential district with detached dwelling units. Consistent with traditional neighborhoods. Principal use of land is for single-family dwellings. The district also permits accessory dwelling units and non-residential uses such as parks and places of worship. Bed and Breakfasts, educational, and cultural uses may be allowed under a Conditional Use Permit.

##### Lot Dimensions

|                 | Min.      | Max.  |
|-----------------|-----------|-------|
| Lot Size        | 11,250 sf | N/A   |
| Lot Width       | 80 ft     | N/A   |
| Front Set-back  | 25 ft     | N/A   |
| Side Setback    | 10 ft     | N/A   |
| Rear Setback    | 25 ft     | N/A   |
| Building Height | N/A       | 35 ft |

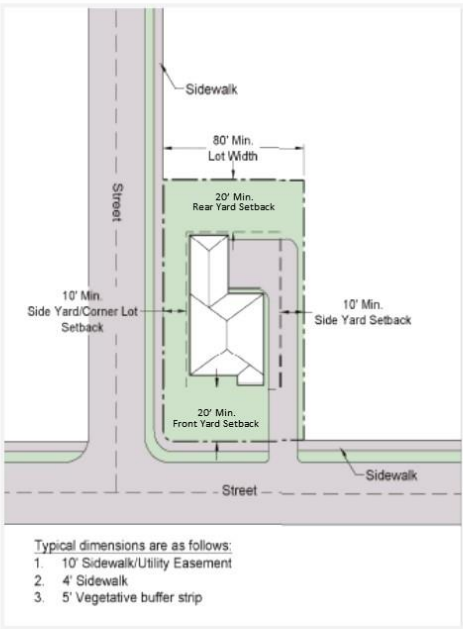


3.7.2 R-10 - Medium Density Single-family Zoning District (NEW)

**R-10 ZONING DISTRICT  
PROFILE**

Medium density single-family detached dwellings. Allows 3 -4 dwelling units per acre. Consistent with traditional suburban development patterns.

| Lot Dimensions  |           |       |
|-----------------|-----------|-------|
|                 | Min.      | Max.  |
| Lot Size        | 10,000 sf | N/A   |
| Lot Width       | 80 ft     | N/A   |
| Front Set-back  | 20 ft     | N/A   |
| Side Setback    | 10 ft     | N/A   |
| Rear Setback    | 20 ft     | N/A   |
| Building Height | N/A       | 35 ft |

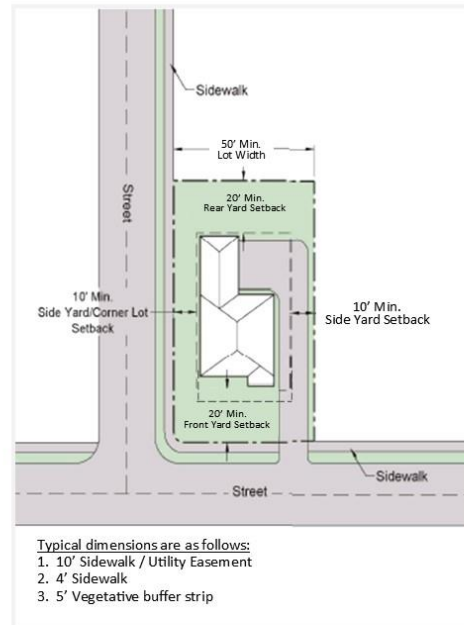


### 3.7.3 R-3 - Medium Density Single Family Zoning District

#### R-3 ZONING DISTRICT PROFILE

Medium density residential district. Consistent with existing development pattern. The principal use of this land is single-family homes.

| Lot Dimensions  |          |       |
|-----------------|----------|-------|
|                 | Min.     | Max.  |
| Lot Size        | 7,500 sf | N/A   |
| Lot Width       | 50 ft    | N/A   |
| Front Set-back  | 20 ft    | N/A   |
| Side Setback    | 10 ft    | N/A   |
| Rear Setback    | 20 ft    | N/A   |
| Building Height | N/A      | 35 ft |



3.7.4 R-6 – **Residential** Zoning District (NEW) – NO ILLUSTRATIONS AVAILABLE

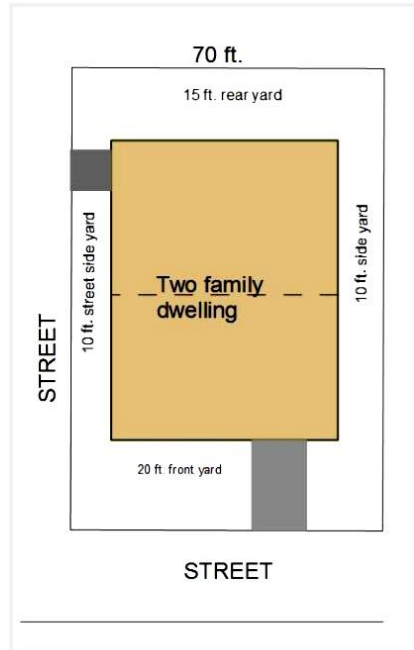


### 3.7.5 R-D – Two-Family Family Residential District (NEW)

#### R-D ZONING DISTRICT PROFILE

Medium density single family detached, single family attached, and two-family dwelling district. Allows for urban lot sizes and infill development for a net density of 6-10 dwelling units/acre.

| Lot Dimensions  |          |       |
|-----------------|----------|-------|
|                 | Min.     | Max.  |
| Lot Size        | 7,500 sf | N/A   |
| Lot Width       | 70 ft    | N/A   |
| Front Set-back  | 20 ft    | N/A   |
| Side Setback    | 10 ft    | N/A   |
| Rear Setback    | 15 ft    | N/A   |
| Building Height | N/A      | 35 ft |

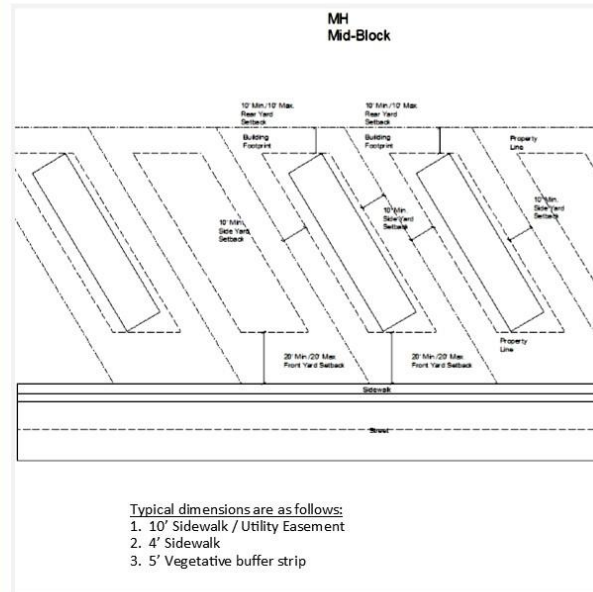


### 3.7.6 RMH – Mobile Home Park Zoning District

#### RMH ZONING DISTRICT PROFILE

Low density single-family detached district that provides location for mobile home and manufactured homes located in park settings.

| Lot Dimensions  |          |       |
|-----------------|----------|-------|
|                 | Min.     | Max.  |
| Lot Size        | 4,000 sf | N/A   |
| Lot Width       | 50 ft    | N/A   |
| Front Set-back  | 20 ft    | N/A   |
| Side Setback    | 10 ft    | N/A   |
| Rear Setback    | 10 ft    | N/A   |
| Building Height | N/A      | 25 ft |





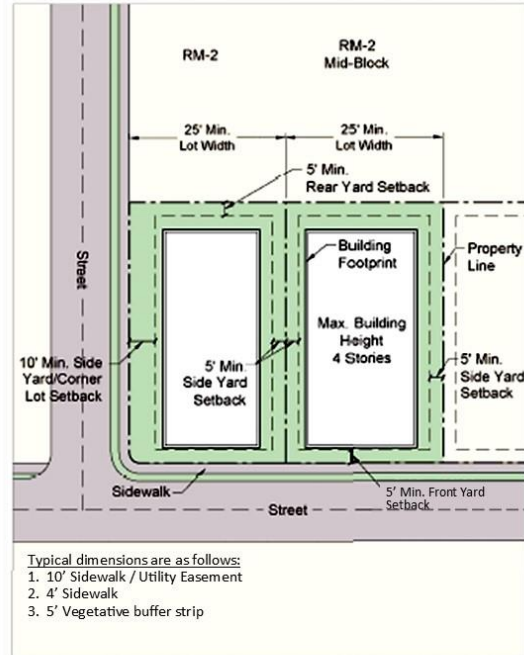
3.7.7 R1-A - **Special Apartment Use** Zoning District – NO ILLUSTRATIONS AVAILABLE

### 3.7.8 RM-2 – Neighborhood Commercial/ Mixed Use Zoning District

#### RM-2 ZONING DISTRICT PROFILE

High density residential district, allowing 12 or more dwelling units per acres. Includes a variety of attached housing types, townhomes, apartment buildings, and structures with integrated commercial use. Generally located in areas bordering higher intensity mixed uses.

| Lot Dimensions  |                                          |           |
|-----------------|------------------------------------------|-----------|
|                 | Min.                                     | Max.      |
| Lot Size        | N/A                                      | N/A       |
| Lot Width       | 15 ft                                    | N/A       |
| Front Setback   | 5 ft <sup>1, 2</sup>                     | 10 ft     |
| Side Setback    | 5 ft<br>[10 ft street side] <sup>3</sup> | N/A       |
| Rear Setback    | 5 ft                                     | N/A       |
| Building Height | N/A                                      | 4 stories |

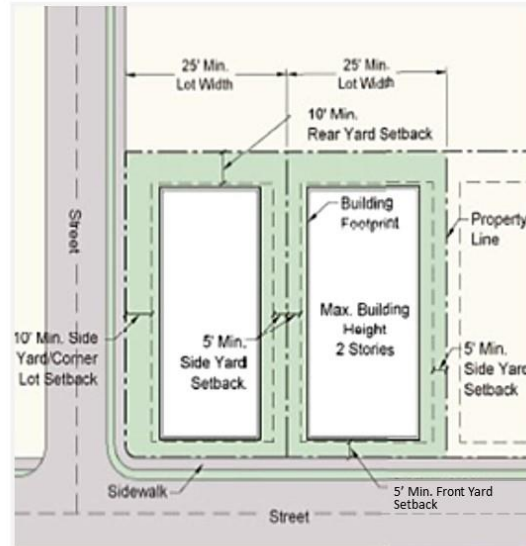


### 3.7.9 CMX-1 – Neighborhood Commercial/ Mixed Use Zoning District

#### CMX-1 ZONING DISTRICT PROFILE

Least intense commercial mixed-use district. Maximum 2-story building height. Applies to neighborhood corridors with small scale commercial and a variety of surrounding residential uses. High traffic uses are not appropriate. Residential uses allowed include detached, attached, and live/work units when scale, form, and design requirements are met.

| Lot Dimensions  |                           |           |
|-----------------|---------------------------|-----------|
|                 | Min.                      | Max.      |
| Lot Size        | N/A                       | N/A       |
| Lot Width       | 25 ft                     | N/A       |
| Front Setback   | 5 ft <sup>1, 2</sup>      | 10 ft     |
| Side Setback    | 5 ft / 10 ft <sup>3</sup> | N/A       |
| Rear Setback    | 10 ft                     | N/A       |
| Building Height | N/A                       | 2 stories |



Typical dimensions are as follows:  
 1. 10' Sidewalk / Utility Easement  
 2. 4' Sidewalk  
 3. 5' Vegetative buffer strip

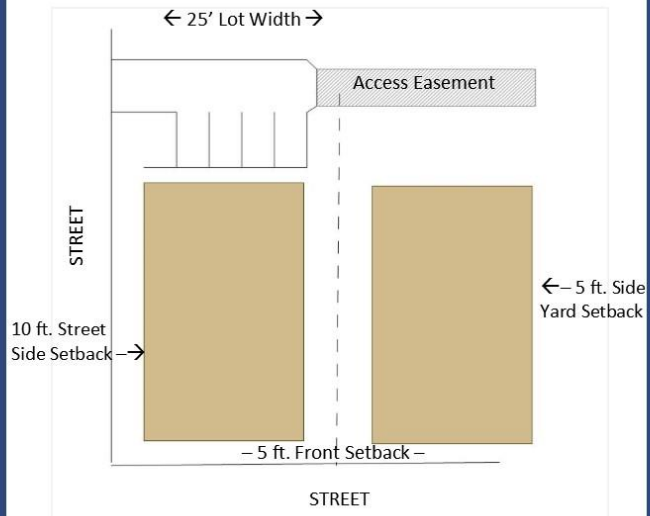


### 3.7.10 CMX-2 – Community Commercial/ Mixed Use Zoning District

#### CMX-2 ZONING DISTRICT PROFILE

Medium density mixed-use district. Maximum 4-story building height. Creates a corridor of compatible mixed uses that link more intense activity centers. Attached residential and mixed-uses include live/work units as long as scale, form, and design requirements are met.

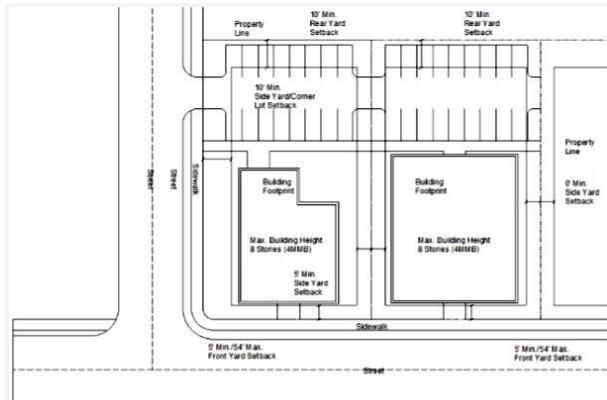
| Lot Dimensions  |                     |           |
|-----------------|---------------------|-----------|
|                 | Min.                | Max.      |
| Lot Size        | N/A                 | N/A       |
| Lot Width       | 25 ft               | N/A       |
| Front Setback   | 5 ft <sup>1,2</sup> | 10 ft     |
| Side Setback    | 5 ft / 10 ft        | N/A       |
| Rear Setback    | 10 ft               | N/A       |
| Building Height | N/A                 | 4 stories |



## C-H ZONING DISTRICT PROFILE

Most intense commercial mixed-use district allowing up to 75' building height. Includes the most intense retail, office, and residential development patterns with high traffic generation rates that serve a regional population.

| Lot Dimensions  |                      |                    |
|-----------------|----------------------|--------------------|
|                 | Min.                 | Max.               |
| Lot Size        | N/A                  | N/A                |
| Lot Width       | 25 ft                | N/A                |
| Front Setback   | 5 ft <sup>1, 2</sup> | N/A                |
| Side Setback    | 5 ft / 10 ft         | N/A                |
| Rear Setback    | 10 ft                | N/A                |
| Building Height | N/A                  | 75 ft or 6 stories |



Typical dimensions are as follows:  
 1. 10' Sidewalk / Utility Easement  
 2. 4' Sidewalk  
 3. 5' Vegetative buffer strip



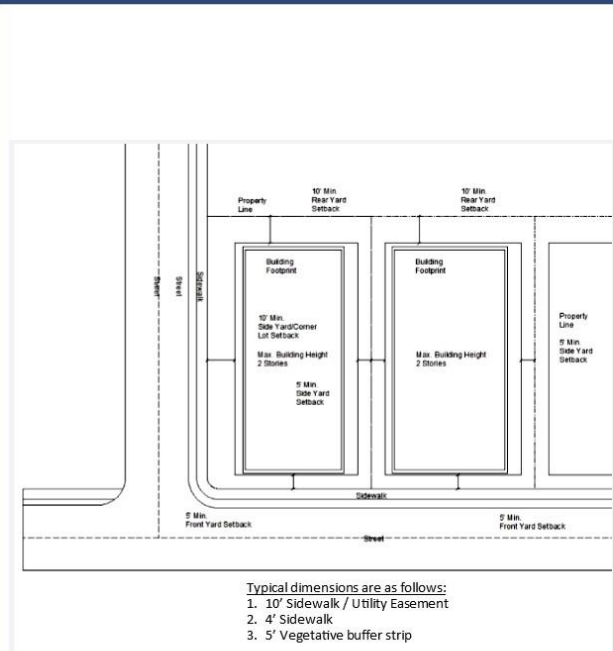


### 3.7.12 M1 – Manufacturing & Warehousing Zoning District

#### M-1 ZONING DISTRICT PROFILE

Light industrial uses that are incompatible with primary corridor activities and residential uses due to noise, traffic generation, outdoor storage requirements, or other performance or design standards.

| Lot Dimensions  |                      |                                    |
|-----------------|----------------------|------------------------------------|
|                 | Min.                 | Max.                               |
| Lot Size        | N/A                  | N/A                                |
| Lot Width       | 100 ft               | N/A                                |
| Front Setback   | 5 ft <sup>1, 2</sup> | N/A                                |
| Side Setback    | 5 ft / 10 ft         | N/A                                |
| Rear Setback    | 10 ft                | N/A                                |
| Building Height | N/A                  | 2 stories<br>or 50 ft <sup>3</sup> |



## C-P COMMERCIAL PUBLIC & CIVIC FACILITIES

The C-P District is intended for land and buildings owned by a government entity and used by the public, non-profits, or charitable entities to provide a community service. Should ownership of the property change from public to private, the property shall be removed from the C-P zoning district.

### Permitted Uses:

|                               |                                  |
|-------------------------------|----------------------------------|
| 1) Art Gallery                | 7) Farmers' Market               |
| 2) Multi-media Arts Education | 8) Community Center              |
| 3) Cultural Center            | 9) Public / Non-profit Childcare |
| 4) Library                    | 10) Culinary Education and Café  |
| 5) Museum                     | 11) City Services                |
| 6) Theater                    |                                  |



### DESIGN STANDARDS:

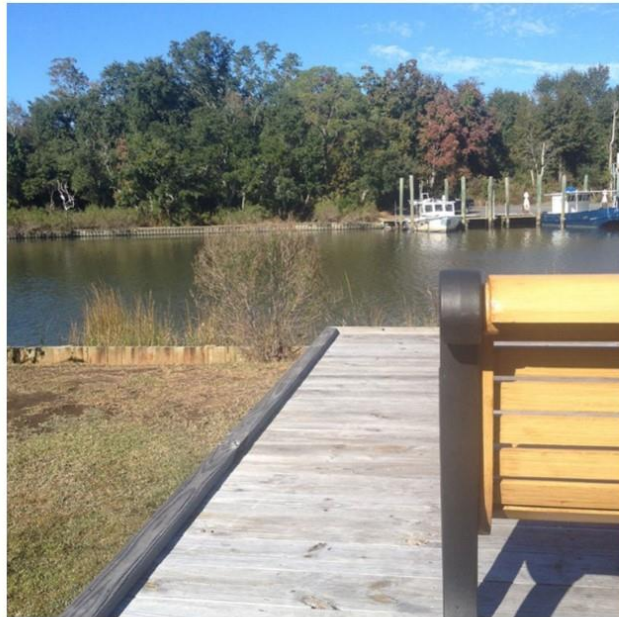
These special purpose districts are primarily concerned with permitted use. Commercial Design Review is required.



### 3.7.14 C-M - Commercial Marina Zoning District

#### **C-M ZONING DISTRICT PROFILE**

Yacht clubs, sale or service and supplies including beverages and food for boats and water craft using the small craft harbor. Specifically prohibited are: All types of commercial marine ways, repair shops or any type of industrial activity.



#### **DESIGN STANDARDS:**

These special purpose districts are primarily concerned with permitted use. Commercial Design Review is required.





### 3.7.15 Buildings to Be on a Lot

Every building shall be located on a lot, except as permitted for utility or public service buildings. No more than one principal building is permitted on a lot, unless otherwise provided in the applicable zoning district regulations.

### 3.7.16 Front and Side Setbacks

- A. Designation
- B. A property owner may impose more restrictive setbacks through restrictive covenants. The City of Ocean Springs shall only enforce the setbacks required by Chapter 3.
- C. Side Yard Building Line
- D. The building line for an existing residence having a side yard of 3 or more feet may be maintained on any addition to the residence, but in no instance shall the side yard be less than 3 feet. **Discuss this**
- E. Yards Adjacent to Rights-of-Way and Easements
- F. On lots that abut a public alley, railroad right-of-way, or a utility/drainage right-of-way or easement that is not part of a platted lot, the setback required is measured from the centerline of the ROW or easement. However, in no case shall a primary structure be located less than 10' from the rear property line.
- G. Rear Yards on Irregular Lots.
- H. For lots fronting on cul-de-sacs and other irregularly shaped lots, a rear yard of 15 feet is permitted based on the mean horizontal distance of the principal structure from the rear lot line, provided that no part of the structure is closer than 10 feet to the lot line. The mean horizontal distance shall be calculated by adding the products of the width of each segment of the principal structure multiplied by its average distance from the property line and then dividing this sum by the total width of the structure.
- I. Dwelling on Small Lot. A platted lot within a residential district that contains less than the minimum area for the district may be used for a single-family dwelling, provided that the lot was of record and in separate ownership from an adjoining lot as of January 1, 1985; the lot is held in separate and different ownership from any immediately abutting lot; has a minimum area of 2,500 square feet; and has a minimum street frontage of 20 feet.

### 3.7.17 Setback Encroachments

The following features may encroach into any required yard:

- A. Arbor, pergola, trellis or similar decorative garden and landscape appurtenances;
- B. Basketball goal, provided that a minimum setback of 3 feet on a side yard, 10 feet on a front yard and 10 feet on a rear yard be maintained;
- C. Berms;

- D. Bird houses;
- E. Clothes line with no more than two support poles, located within a rear or side yard only;
- F. ~~Un~~Covered decks or covered patios, provided that a minimum setback of 3 feet on a side yard (including roof overhang), and 10 feet on a rear yard be maintained;
- G. Driveways;
- H. Equipment, ancillary (in nonresidential districts);  
Deleted [ORD 2022-10]
- I. Fire escapes, fire towers, storm enclosures, or handicap ramps where required by the building code;
- J. Garages, attached or detached and loaded from an alley, provided that a minimum setback of ~~3-5~~ feet on a side yard, and 10 feet on a rear yard be maintained; **DISCUSS THIS**
- K. Gates;
- L. Heating and cooling units;
- M. Light pole;
- N. Low-voltage patio lights and 110-volt lights;
- O. Mailboxes installed in conformance with U.S. postal regulations, if not permitted on the residential structure by the U.S. Postal Service;
- P. Open pools, screened or enclosed pools, spas, and uncovered decks or patios (except in waterfront yards) no closer than 15 feet to a dwelling unit on an abutting lot;
- Q. Overhanging roofs, eaves, bay windows, balconies, gutters, cornices, buttresses, piers, awnings, steps, stoops, windowsills, chimneys, structural overhangs, or similar architectural features and awnings, up to a maximum encroachment of 42 inches;
- R. Parking areas;  
Porch (unenclosed), up to a 10-foot encroachment into the required front yard;
- S. Porch steps, landings, and similar structures necessary to provide access to a dwelling located within a flood hazard zone, when due to finished floor elevation requirements;
- T. Projecting overhangs on the ground floor not listed above;
- U. Ramps for citizens with impairments;
- V. Retaining walls;
- W. Sidewalks;  
Signs
- X. Stormwater detention

- Y. Emergency Power generator may encroach a maximum of 5 feet into a required rear yard if it is completely enclosed by a sight-proof fence equal in height to the generator

(Ord.No. 2022-10, § 1, 10-04-22)

### 3.7.18 Height

The regulations of this section supplement the specific zoning district regulations regarding the height of structures, except with regard to flood hazard regulations.

- A. Chimneys, elevators, poles, tanks, towers, air conditioners, vents, flues, and other mechanical appurtenances not used for human occupancy may extend above the height of a building no more than ten (10) feet and, with the exception of chimneys, must be screened from public view.
- B. Decorative towers, bell towers, cupolas, widow walks, parapets, minarets, decorative decks and similar architectural embellishments that are non-habitable may extend above the permitted building height no more than 20% of the height of the structure on which the feature is located. Such structures shall not occupy more than 20% of the area of the building footprint.
- C. Applicable to R-1A District Only.
  - (1) Roofs shall be consistent with the architectural style of the building.
  - (2) In multifamily, commercial, and industrial zoning districts, no flat roofs shall be permitted without a parapet. Mansard roofs are prohibited.
  - (3) Additional provisions will apply to structures located within the waterview preservation district as per Ordinance No. 3-1995-
  - (4) **(The area below in the Base flood elevation should not be included in the measurements of height).**

(Ord. No. 8-2006, § 1, 1-12-06) / (Ord. No. 2021-26)

### 3.7.19 Accessory Buildings

- A. In districts R-1, R-2, R-10, R-3, R-D, and RM-2 an accessory building may occupy not more than forty (40) per cent of the required rear yard and shall be no greater than two stories (R-1A maximum is 1-½ stories).
- B. In districts R-1 and R-2 the combined floor area of all accessory buildings on a lot shall not exceed fifty (50) per cent of the ground floor area of the principal structure, exclusive of breezeways, porches and attached garages. However, this regulation shall not be so interpreted as to reduce the permitted combined area of all accessory buildings on one lot to less than six hundred (600) square feet. ~~The area of swimming pools shall not be subject to accessory building regulations.~~
- C. **Accessory structures shall be located in the rear and side yard, except for a front-loading garage and carport.**

(Ord. No. 2021-26)

## 3.8 LAND USE AND DEVELOPMENT PATTERNS

### 3.8.1 Generally

This section groups similar or compatible land uses and assigns them to the appropriate base zoning districts. Uses are identified as either permitted uses or uses authorized through the granting of a Conditional Use Permit (CUP). Uses that are not permitted or allowed by CUP are prohibited from the specified district. Uses permitted as accessory uses within each zoning district are listed in the use matrix. Abbreviations used in the use matrix are defined in the Use Matrix Terminology table.

### 3.8.2 Uses Not Mentioned

A use not specifically mentioned or described by category in the use matrix is prohibited. Evaluation of these uses shall be conducted in accordance with this UDC.

### 3.8.3 Uses Preempted by State Statute

Notwithstanding any provision of this section to the contrary, uses that are required to be permitted in any zoning district by state statute may be permitted in accordance with state law whether or not the use is included in the use matrix.

### 3.8.4 Interpretation—Materially Similar Uses

- A. The Planning Director shall determine if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. In the event that a particular use is not listed in the **Use Matrix**, is not listed as a prohibited use and is not otherwise prohibited by law, the Planning Director shall determine whether a materially similar use exists in this section.
- B. If the Planning Director determines that a materially similar use does exist, the regulations governing that use shall apply to the use not listed. The Director shall prepare a written decision, which shall be filed with the City Clerk. Should it be determined that a materially similar use does not exist, the matter shall be referred to the Planning Commission for inclusion as an amendment to the Use Matrix of this UDC.
- C. Periodically, Planning Director interpretations may be codified by the Board of Aldermen upon recommendation by the Planning Commission in a manner consistent with UDC text amendments. If, when seeking periodic ratification of interpretations, the Planning Director's interpretation is reversed, then land uses established in reliance on the Planning Director's interpretation becomes legal nonconforming use

### 3.8.5 Rules of Construction

The Planning Director may determine that a use is materially similar if:

- A. The use is listed within the same function classification as the use specifically enumerated in the Use Matrix, as determined by the Land-Based Classification Standards (LBCS) of the American Planning Association (APA). The use shall be considered materially similar if it falls within the same LBCS classification. The Planning Director shall refer to the following

documents in making this determination. The LBCS is incorporated by reference and maintained on file in the office of the Planning Department.

- B. If the use cannot be located within one of the APA's LBCS classifications pursuant to subsection (A), above, the Planning Director shall refer to the 1997 NAICS Manual. The use shall be considered materially similar if it falls within the same industry classification of the 1997 NAICS Manual.
- C. In order to assist in interpretation of the use matrix, the LBCS numbers precede each use in the use matrix. In interpreting the use matrix, the following rules of construction apply:
  - 1. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs. The specific use is not permitted in all districts where the uses coded to the general classification are permitted simply because they share a similar LBCS or NAICS code number. The numbers increase as the classifications get more specific.
- D. Some uses are listed separately but fall within the same LBCS or NAICS classification. The uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same LBCS or NAICS classification.

Table 3.4: Use Matrix Terminology

| The letter                                | Has the following meaning ...                                                                                                                                                                                                                                   |
|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>LBCS</u></b><br><b><u>Codes</u></b> |                                                                                                                                                                                                                                                                 |
| P                                         | Permitted uses: The letter “P” indicates that the listed use is permitted by right within the zoning district. Permitted uses are subject to all other applicable standards of this chapter.                                                                    |
| C                                         | Conditional uses: The letter “C” indicates that the listed use is permitted within the respective zoning district only after review and approval of a conditional use permit, in accordance with this UDC.                                                      |
| A                                         | Accessory uses: The letter “A” indicates that the listed use is permitted only where it is accessory to another use that is permitted in the district on the same lot.                                                                                          |
| S                                         | Special Conditions / Permits: The letter “S” indicates that the listed use may be subject to special conditions or have a separate permitting process that is required. These activities are indicated by a number in the table and described in § 3.8.6 below. |
| —                                         | Prohibited uses: A dash indicates that the use is not permitted in the district.                                                                                                                                                                                |

Table 3.5: Residential Use Matrix (to be used in conjunction with APA LBCS Manual)

| LBCS Code        | Description                            | R-1 | R-2 | R-10 | R-3 | R-6 | RMH          | R-D          | R-1A                            | RM-2         | CMX-1                    | CMX-2                    | CH                       | M1 | CP | PUB | C-M                      |
|------------------|----------------------------------------|-----|-----|------|-----|-----|--------------|--------------|---------------------------------|--------------|--------------------------|--------------------------|--------------------------|----|----|-----|--------------------------|
| <del>S1110</del> | Single Family Detached units           | P   | P   | P    | P   | P   | P            | P            | See Footnotes 12 and 13 – Below | P            | P                        | <del>C</del><br><u>P</u> | -                        | -  | -  | -   | C                        |
| <del>S1120</del> | Single Family Attached units           | -   | -   | -    | -   | -   | <del>P</del> | <del>P</del> |                                 | <del>P</del> | <del>P</del>             | C                        | C                        | -  | -  | -   | C                        |
| <del>S1121</del> | Duplex structures                      | -   | -   | -    | -   | -   | -            | P            |                                 | P            | P                        | <del>C</del><br><u>P</u> | <del>C</del><br><u>P</u> | -  | -  | -   | -                        |
| <del>S1130</del> | Accessory <del>structures</del> units  | P   | P   | P    | P   | P   | P            | P            |                                 | P            | <del>C</del><br><u>P</u> | <del>C</del><br><u>P</u> | <del>C</del><br><u>P</u> | -  | -  | -   | <del>C</del><br><u>P</u> |
| <del>S1140</del> | Townhouses                             | -   | -   | -    | -   | -   | -            | -            |                                 | P            | P                        | <del>P</del><br><u>C</u> | <del>P</del><br><u>C</u> | -  | -  | -   | -                        |
|                  | <u>Condominiums</u>                    | -   | -   | -    | -   | -   | -            | -            |                                 | <del>P</del> | <del>P</del>             | <del>P</del>             | <del>P</del>             | -  | -  | -   | -                        |
| <del>1160</del>  | Manufactured housing                   |     |     | -    | P   | -   | P            | -            |                                 | C            | C                        | C                        | -                        | -  | -  | -   | -                        |
| <del>S1200</del> | Multifamily Dwelling Units/ Apartments | -   | -   | -    | -   | -   | -            | -            |                                 | P            | P                        | P                        | <del>P</del><br><u>C</u> | -  | -  | -   | -                        |
| <del>F1200</del> | Housing services for the elderly       |     |     |      |     |     |              |              |                                 | P            | P                        | P                        | <del>C</del><br><u>P</u> |    |    |     |                          |

Table 3.6: Land Use Matrix  
\* See Footnotes 12 and 13 below

| LBCS Code | Description                                                                             | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D                      | R-1A * | RM-2                     | CMX-1                    | CMX-2                    | CH       | M1 | CP       | PUB | C-M |
|-----------|-----------------------------------------------------------------------------------------|-----|-----|------|-----|-----|-----|--------------------------|--------|--------------------------|--------------------------|--------------------------|----------|----|----------|-----|-----|
| F-1300    | Hotels, motels, or other accommodation services, not elsewhere classified               | -   | -   | -    | -   | -   | -   | -                        |        | -                        | P                        | P                        | P        | C  | -        | -   |     |
| F-1310    | Bed and breakfast inn                                                                   | C   | C   | C    | C   | C   | P   | C                        |        | <del>C</del> P           | P                        | P                        | -        | -  | -        | -   |     |
| F-1320    | <b>Residential</b><br>Short-term rental                                                 | C   | C   | C    | C   | C   | C   | C                        |        | <del>P</del> C           | -                        | -                        | -        | -  | -        | -   |     |
| F-1320    | <b>Commercial Short-Term Rental</b>                                                     | -   | -   | -    | -   | -   | -   | -                        |        | -                        | <u>P</u>                 | <u>P</u>                 | <u>P</u> | -  | <u>P</u> | -   |     |
| F-1330    | <del>Hotel, motel, or tourist court</del>                                               | -   | -   | -    | -   | -   | -   | -                        |        | -                        | P                        | P                        | P        | C  | -        | -   |     |
| S-1300    | Other specialized residential structures (dormitories, barracks and similar facilities) | C   | C   | C    | C   | -   | C   | C                        |        | C                        | C                        | <del>C</del>             | -        | -  | -        | -   |     |
| S-1350    | Temporary structures, tents, etc. for shelter                                           | C   | C   | C    | C   | C   | C   | C                        |        | C                        | C                        | -                        | -        | -  | -        | -   | -   |
| S-1360    | Other structurally converted buildings                                                  | -   | -   | -    | -   | -   | -   | <del>C</del><br><u>P</u> |        | <del>C</del><br><u>P</u> | <del>C</del><br><u>P</u> | <del>P</del><br>-        | -        | -  | -        | -   | -   |
| S-2611    | Loft building                                                                           | -   | -   | -    | -   | -   | -   | <del>C</del><br><u>P</u> |        | <del>C</del><br><u>P</u> | <del>C</del><br><u>P</u> | <del>P</del><br><u>P</u> | -        | -  | -        | -   | -   |
| F-2100    | Retail sales or service, not                                                            | -   | -   | -    | -   | -   | C   | -                        |        | C                        | P                        | P                        | P        | C  | C        | -   | -   |



| LBCS Code | Description                                    | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D | R-1A * | RM-2                 | CMX-1          | CMX-2          | CH             | M1             | CP | PUB | C-M        |
|-----------|------------------------------------------------|-----|-----|------|-----|-----|-----|-----|--------|----------------------|----------------|----------------|----------------|----------------|----|-----|------------|
|           | elsewhere listed                               |     |     |      |     |     |     |     |        |                      |                |                |                |                |    |     |            |
| F-2110    | Automobile sales or service establishment      | -   | -   | -    | -   | -   | -   | -   |        | -                    | -              | -              | P              | P              | -  | -   | -          |
| F-2114    | Boat and Marine sales or service establishment | -   | -   | -    | -   | -   | -   | -   |        | -                    | -              | -              | P              | P              | -  | -   | -          |
|           | <b><u>Car Wash</u></b>                         | -   | -   | -    | -   | -   | -   | -   |        | -                    | <b>C</b>       | <b>C</b>       | <b>P</b>       | <b>P</b>       | -  | -   | -          |
| F-2116    | Fuel Sales or Fuel Pumps <sup>(1)</sup>        | -   | -   | -    | -   | -   | -   | -   |        | -                    | -              | -              | p <sup>1</sup> | p <sup>1</sup> | P  | -   | <b>P</b> C |
| F-2120    | Heavy consumer goods sales or service          | -   | -   | -    | -   | -   | -   | -   |        | -                    | -              | -              | P              | P              | -  | -   | -          |
| F-2130    | Durable consumer goods sales and service       | -   | -   | -    | -   | -   | -   | -   |        | -                    | P              | P              | P              | -              | -  | -   | -          |
| F-2143    | Tobacco Store                                  | -   | -   | -    | -   | -   | -   | -   |        | -                    | P              | P              | P              | -              | -  | -   | -          |
| F-2152    | Convenience store                              | -   | -   | -    | -   | -   | C   | -   |        | C <sup>1</sup>       | P              | P              | P              | -              | -  | -   | -          |
| F-2155    | Wine and liquor store                          | -   | -   | -    | -   | -   | -   | -   |        | C <sup>2</sup>       | p <sup>2</sup> | p <sup>2</sup> | p <sup>2</sup> | -              | -  | -   | -          |
| F-2200    | Finance and Insurance                          | -   | -   | -    | -   | -   | -   | -   |        | -                    | P              | P              | P              | -              | -  | -   | -          |
| F-2220    | Pawn Shop                                      | -   | -   | -    | -   | -   | -   | -   |        | -                    | -              | -              | p <sup>3</sup> | p <sup>3</sup> | -  | -   | -          |
| F-2300    | Real estate, and rental and leasing            | -   | -   | -    | -   | -   | -   | -   |        | <b>C</b><br><b>P</b> | P              | P              | P              | -              | -  | -   | -          |
| F-2330    | Rental and leasing                             | -   | -   | -    | -   | -   | -   | -   |        | P                    | P              | P              | P              | -              | -  | -   |            |
| S-2321    | Mini-warehouse                                 | -   | -   | -    | -   | -   | -   | -   |        | -                    | -              | C              | P              | P              | -  |     |            |

| LBCS Code | Description                                                                  | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D | R-1A * | RM-2       | CMX-1          | CMX-2          | CH             | M1             | CP | PUB | C-M |
|-----------|------------------------------------------------------------------------------|-----|-----|------|-----|-----|-----|-----|--------|------------|----------------|----------------|----------------|----------------|----|-----|-----|
| F-2400    | Business, professional, scientific, technical, services not listed elsewhere | -   | -   | -    | -   | -   | -   | -   |        | € <u>P</u> | P              | P              | P              | P              | -  | -   |     |
| F-2418    | Veterinary Clinic                                                            | -   | -   | -    | -   | -   | -   | -   |        | -          | -              | -              | p <sup>4</sup> | p <sup>4</sup> | -  | -   |     |
| F-2450    | Services to buildings and dwellings                                          | -   | -   | -    | -   | -   | -   | -   |        | -          | P              | P              | P              | P              | -  | -   |     |
| F-2500    | Food service, not listed elsewhere                                           | -   | -   | -    | -   | -   | -   | -   |        | € <u>P</u> | P              | P              | P              | P              | C  | -   |     |
| F-2530    | Non-alcoholic Coffee, Snack, Juice Bar                                       | -   | -   | -    | -   | -   | C   | -   |        | P          | P              | P              | P              | -              | P  | -   |     |
| F-2540    | Bar or drinking place <sup>6</sup>                                           | -   | -   | -    | -   | -   | -   | -   |        | -          | p <sup>6</sup> | p <sup>6</sup> | p <sup>6</sup> | p <sup>6</sup> | -  | -   |     |
| F-2550    | Mobile food services                                                         | -   | -   | -    | -   | -   | -   | -   |        | C          | P              | P              | P              | P              | -  | -   |     |
| F-2580    | Vending machine operator                                                     | -   | -   | -    | -   | -   | -   | -   |        | -          | P              | P              | P              | -              | -  | -   |     |
| S-2510    | Neighborhood center (convenience with 1+ anchors)                            | -   | -   | -    | -   | -   | -   | -   |        | -          | P              | P              | P              | -              |    |     |     |
| S-2550    | Fashion/specialty center (higher end,                                        | -   | -   | -    | -   | -   | -   | -   |        | -          | P              | P              | P              | -              | -  | -   | -   |

| LBCS Code | Description                                                       | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D | R-1A * | RM-2 | CMX-1          | CMX-2          | CH             | M1             | CP | PUB | C-M |
|-----------|-------------------------------------------------------------------|-----|-----|------|-----|-----|-----|-----|--------|------|----------------|----------------|----------------|----------------|----|-----|-----|
|           | fashion-oriented stores)                                          |     |     |      |     |     |     |     |        |      |                |                |                |                |    |     |     |
| S-2560    | Power center (category-dominated anchors with few small tenants)  | -   | -   | -    |     | -   | -   | -   |        | -    | -              | -              | P              | P              | -  | -   |     |
| S-2570    | Theme or festival center (leisure, tourist-oriented, restaurants) | -   | -   | -    |     | -   | -   | -   |        | -    | P              | P              | P              | -              | -  | -   | -   |
| S-2580    | Outlet or discount center (manufacturer outlet stores)            | -   | -   | -    |     | -   | -   | -   |        | -    | -              | C              | P              | P              | -  | -   | -   |
| F-2600    | Personal services                                                 | -   | -   | -    | -   | -   | -   | -   |        | P    | P              | P              | P              | -              | -  | -   |     |
| NA        | Tattoo Studio                                                     | -   | -   | -    | -   | -   | -   | -   |        | -    | -              | P <sup>7</sup> | P <sup>7</sup> | P <sup>7</sup> | -  | -   |     |
| F-2700    | Pet and animal sales or service (except veterinary)               | -   | -   | -    | -   | -   | -   | -   |        | €    | P <sup>5</sup> | P <sup>5</sup> | P              | -              | -  | -   |     |
| F-3100    | Food, textiles and related products                               | -   | -   | -    |     | -   | -   | -   |        | -    | -              | C              | C              | P              | -  | -   | -   |
| F-3200    | Wood, paper, printing products                                    | -   | -   | -    |     | -   | -   | -   |        | -    | -              | -              | -              | P              | -  | -   | -   |

| LBCS<br>Code | Description                                             | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D | R-1A * | RM-2 | CMX-1 | CMX-2 | CH             | M1              | CP | PUB | C-M |
|--------------|---------------------------------------------------------|-----|-----|------|-----|-----|-----|-----|--------|------|-------|-------|----------------|-----------------|----|-----|-----|
| F-3300       | Chemicals, metals, machinery, electronics manufacturing | -   | -   | -    |     | -   | -   | -   |        | -    | -     | -     | -              | P               | -  | -   | -   |
| F-3400       | Miscellaneous manufacturing                             | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | C              | P               | -  | -   | -   |
| F-3500       | Wholesale trade establishment                           | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | C     | P              | P               | -  | -   | -   |
| F-3600       | Warehouse and storage services                          | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | P              | P               | -  | -   | -   |
| F4100        | Transportation services                                 | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | P              | P               |    |     |     |
| F4138        | Vehicle Dismantling, Storage                            | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | p <sup>8</sup> | p <sup>8</sup>  |    |     |     |
|              | <b><u>Parking Lot (Stand Alone)</u></b>                 | -   | -   | -    | -   | -   | -   | -   |        | -    | P     | P     | P              | P               | P  | -   | P   |
| F-4153       | Marina, Port, harbor operations                         | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | C              | p <sup>10</sup> | C  |     |     |
| F-4200       | Communications and information                          | C   | C   | C    | C   | C   | C   | C   |        | C    | C     | C     | C              | C               | -  | -   | -   |
| F-4300       | Utilities and utility services                          | C   | C   | C    | C   | C   | C   | C   |        | C    | C     | C     | C              | C               | -  | -   | -   |
| F-5100       | Performing arts or supporting establishment             | C   | C   | C    | C   | -   | C   | C   |        | C    | C     | P     | P              | -               | P  | -   | -   |
| F-5200       | Museums, other special purpose                          | C   | C   | C    | C   | -   | C   | C   |        | C    | C     | P     | P              | -               | C  | -   | -   |

| LBCS Code | Description                                    | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D    | R-1A * | RM-2   | CMX-1  | CMX-2  | CH     | M1 | CP     | PUB | C-M |
|-----------|------------------------------------------------|-----|-----|------|-----|-----|-----|--------|--------|--------|--------|--------|--------|----|--------|-----|-----|
|           | recreational institutions                      |     |     |      |     |     |     |        |        |        |        |        |        |    |        |     |     |
| S-6320    | Landfill facility                              | -   | -   | -    | -   | -   | -   | -      |        | -      | -      | -      | -      | -  | -      | -   | -   |
| S-6340    | Hazardous waste storage facility               | -   | -   | -    | -   | -   | -   | -      |        | -      | -      | -      | -      | -  | -      | -   | -   |
| F-5300    | Amusement, sports, or recreation establishment | C   | C   | C    | C   | -   | C   | C      |        | C      | C      | P      | P      | P  | -      | -   | -   |
| F-5360    | Sand Beach                                     | P   | P   | P    | P   | P   | P   | P      |        | P      | P      | P      | P      | -  | P      | P   | P   |
| F-5400    | Camps, camping, and related Establishments     | -   | -   | -    | -   | -   | -   | -      |        | -      | -      | -      | -      | -  | -      | -   | -   |
| F-5500    | Natural, other recreational Parks              | P   | P   | P    | P   | P   | P   | €<br>P |        | €<br>P | €<br>P | €<br>P | P      | C  | C      | P   | P   |
| F-6100    | Educational services, not listed elsewhere     | C   | C   | C    | C   | -   | C   | C      |        | C      | C      | P      | P      | -  | P      | -   | -   |
| F-6110    | Nursery and preschool                          | C   | C   | C    | C   | --  | -   | C      |        | P      | P      | P      | P      | -  | P      | -   | -   |
| F-6120    | Grade schools                                  | C   | C   | C    | C   | -   | C   | C      |        | C      | P      | P      | -      | -  | -      | -   | -   |
| F-6130    | Colleges and Universities                      | -   | -   | -    | -   | -   | -   | C      |        | €<br>P | €<br>P | €<br>P | €<br>P | P  | €<br>P | -   | -   |
| F-6140    | Technical, trade, and other specialty schools  | -   | -   | -    | -   | -   | -   | -      |        | €<br>P | €<br>P | €<br>P | P      | -  | €<br>P | -   | -   |

| LBCS Code | Description                                        | R-1    | R-2    | R-10   | R-3    | R-6    | RMH    | R-D    | R-1A * | RM-2   | CMX-1          | CMX-2          | CH             | M1             | CP | PUB | C-M |
|-----------|----------------------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|----------------|----------------|----------------|----------------|----|-----|-----|
| F-6200    | Public administration                              | P      | P      | P      | P      | -      | P      | P      |        | P      | P              | P              | P              | P              | P  | -   | -   |
| F-6300    | Other government functions                         | P      | P      | P      | P      | P      | P      | P      |        | P      | P              | P              | P              | P              | P  | -   | -   |
| F-6400    | Public Safety                                      | P      | P      | P      | P      | -      | P      | P      |        | P      | P              | P              | P              | P              | -  | -   | -   |
| F-6500    | Health and human services, not elsewhere listed    | -      | -      | -      | -      | -      | -      | -      |        | P      | P              | P              | P              | -              | C  | -   | -   |
| F-6510    | Ambulatory and Outpatient Care                     | -      | -      | -      | -      | -      | -      | -      |        | -      | C              | P              | P              | -              | -  | -   | -   |
| F-6511    | Clinics                                            | -      | -      | -      | -      | -      | -      | -      |        | -      | P              | P              | P              | P              | -  | -   | -   |
| F-6520    | Nursing and Rehabilitative Services                | -      | -      | -      | -      | -      | -      | -      |        | C-P    | P              | P              | P              | -              | -  | -   | -   |
| F-6530    | Hospitals                                          | -      | -      | -      | -      | -      | -      | -      |        | -      | -              | C              | P              | -              | -  | -   | -   |
| F-6560    | Social Assistance, Welfare and Charitable Services | -      | -      | -      | -      | -      | -      | -      |        | -      | -              | P              | P              | -              | -  | -   | -   |
| F-6561    | Child and youth services                           | C      | C      | C      | C      | -      | C      | C      |        | C      | C              | C              | P              | -              | -  | -   | -   |
| F-6562    | Child day care                                     | C      | C      | C      | C      | -      | C      | C      |        | P      | P              | P              | P              | P              |    |     |     |
| F-6600    | Religious institutions <sup>11</sup>               | C      | C      | C      | C      | -      | C      | C      |        | P      | P              | P              | P              | P              | -  | -   | -   |
| F-6700    | Funeral homes, crematoriums <sup>9</sup>           | -      | -      | -      | -      | -      | -      | -      |        | -      | P <sup>9</sup> | P <sup>9</sup> | P <sup>9</sup> | P <sup>9</sup> | -  | -   | -   |
| F-6800    | Associations, nonprofit organizations, etc.        | €<br>P | €<br>P | €<br>P | €<br>P | -<br>P | €<br>P | €<br>P |        | €<br>P | P              | P              | P              | P              | -  | -   | -   |

| LBCS Code | Description                               | R-1 | R-2 | R-10 | R-3 | R-6 | RMH | R-D | R-1A * | RM-2 | CMX-1 | CMX-2 | CH | M1 | CP | PUB | C-M |
|-----------|-------------------------------------------|-----|-----|------|-----|-----|-----|-----|--------|------|-------|-------|----|----|----|-----|-----|
| F-7100    | Building, developing, general contracting | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | P     | P  | P  | -  | -   | -   |
| F-7200    | Machinery related                         | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | P  | -  | -   | -   |
| F-7300    | Special trade contractor                  | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | P  | P  | -  | -   | -   |
| F-7400    | Heavy construction                        | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | P  | -  | -   | -   |
| F-8100    | Oil and natural gas                       | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-8200    | Metals (iron, copper, etc.)               | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-8300    | Coal                                      | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-8400    | Nonmetallic mining                        | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-8500    | Quarrying and stone cutting Establishment | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-9100    | Crop production                           | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-9200    | Support functions for agriculture         | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-9300    | Animal production including slaughter     | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-9400    | Forestry and Logging                      | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |
| F-9500    | Fishing, hunting and                      | -   | -   | -    | -   | -   | -   | -   |        | -    | -     | -     | -  | -  | -  | -   | -   |

| LBCS<br>Code | Description                                   | R-1    | R-2    | R-10   | R-3    | R-6    | RMH    | R-D    | R-1A * | RM-2   | CMX-1  | CMX-2  | CH     | M1     | CP     | PUB | C-M    |
|--------------|-----------------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-----|--------|
|              | trapping, game preserves                      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |     |        |
| F-9900       | Non-conforming site, structure or use of land | €<br>P | €<br>P | €<br>P | €<br>P | €<br>P | €<br>P | €<br>P |        | €<br>P | €<br>P | €<br>P | €<br>P | €<br>P | €<br>P | ,   | €<br>P |

(Ord. No. 2021-26) / (Ord. No. 2023-06)



## FOOTNOTES

1. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by another ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control. Whenever the specific district regulations pertaining to one district permit 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.

2. Uses Permitted

In the R-1-A Special Apartment District or the R-1 Single Family District, no building or land shall be used and no building shall be hereafter erected, reconstructed, altered or enlarged, unless otherwise provided in this ordinance, except for one or more of the following uses:

*R-1A: (Previously listed in Section 401.A.2)*

- (1) Any use allowed in R-1 but subject to the provisions thereof.
- (2) Townhouse and/or apartment units.

*R-1 Uses permitted (Previously listed in Section 401.2)*

- (1) Detached single dwellings, but not including mobile homes or shell houses.
- (2) Detached accessory buildings, not exceeding one and one-half (1 1/2) stories in height, including one private garage or servants' quarters when located not less than sixty (60) feet from the front lot line, nor less than the distance required for the main building from any side or rear lot line. However, where property in this district is bounded by the Bay of Biloxi, a river, creek or bayou, a pier and/or boathouse may be permitted if the plans and specifications are approved by the mayor and board of aldermen.
- (3) Cemetery.
- (4) Churches and related accessory buildings, provided they are located on a minimum three-acre lot fronting a major artery or connecting route with required off-street parking spaces separated from property lines by a five-foot concealing fence.
- (5) Public parks, public beaches, and playgrounds.
- (6) Uses customarily incident to any of the above uses when situated in the same dwelling, when not involving the conduct of a business or industry, but including home occupation, as heretofore defined. The furnishing of board or lodging for not more than four (4) persons in a dwelling occupied as a private residence shall be considered an accessory use, provided no window or other display or sign is used to advertise such use.
- (7) One nonilluminated sign advertising the sale or rent of the land or buildings upon which it is located. Such sign shall not exceed six (6) square feet in area and shall be located at a point not less than one-half the front yard depth from the street line. The sign may remain in place until no longer needed provided it is kept in a nondeteriorating condition.
- (8) Customary signs in conjunction with residential usage, such as mailbox signs, names of residents and house numbers. These shall be nonilluminated and shall not exceed one square foot in area.
- (9) A gazebo, under however, the following limitations: Not to exceed fifteen (15) feet in height nor one hundred forty-four (144) square feet, or, if circular, not more than twelve (12) feet across. All gazebos shall be nonutilitarian and open (but may be screened) and shall be subject to minimum setback requirements of forty (40) feet from the front or rear property lines and ten (10) feet from the side property lines.
- (10) Group homes for the handicapped housing five (5) or fewer residents, excluding staff.

**(Ord. of 9-7-83, § 1; Ord. No. 6-2006, §§ 1, 2, 1-12-06) / (Ord. No. 2014-05, § 1(B), 5-20-14)**

Uses permitted after public notice and hearing and recommendation by the planning commission and approval by the mayor and board of aldermen. *(Previously listed in Section 401.3)*

- (1) Golf course, and/or country club, not including commercial miniature courses or driving range.
  - (2) Art gallery or museum (public).
  - (3) Telephone exchange, but not to include administrative office, shop or garage.
  - (4) School, public or private, offering general educational courses.
  - (5) College or university, not to include business or commercial college.
  - (6) Library (public).
  - (7) Public use, including utilities.
  - (8) Bed and breakfast type enterprises, including the furnishing of board or lodging, not to exceed four (4) rentable rooms, provided the following conditions have been met:
    - a. The facility is in accordance with the currently adopted list of required improvements for enhanced life safety for occupant egress, which will be proposed by the building official to the 164hop164ing commission and presented to the board of aldermen for adoption.
    - b. Sufficient off-street parking is available within the subject property to accommodate one vehicle per rental room of the facility, in addition to those of the property owner(s) and/or temporary property manager(s), as determined by building official.
    - c. Maximum occupancy will be determined by the building official and/or fire marshal during inspection.
    - d. Any meals furnished must be for guests only.
    - e. Non-transferable permits will be subject to annual inspection and renewal.
    - f. A guest registry must be maintained and made available to the city for inspection within two (2) days of written request.
    - g. Property within a subdivision with an active homeowner's association with adopted covenants that do not allow for rentals of less than thirty (30) days will not be considered for a permit and a letter of acknowledgment and support will be required from the homeowner's association in order to continue in the pursuit of a permit.
    - h. If there is not active homeowner's association, documentation must be presented that greater than fifty (50) per cent of property owners within a two hundred fifty (250) feet buffer from the boundaries of the subject property do not object to approval of the request for B&B activity. Property owners will not include public agencies. One signature per parcel will be counted.
    - i. Each B&B enterprise must have the property owner utilize the subject property as his/her primary residence, and either the said property owner or a temporary property manager must be present each and every night that rooms are rented.
    - j. Permits can be denied and/or revoked under the following conditions:
      1. The applicant failed to conform to the conditions set forth herein for the current or previous year.
      2. Guests and/or users of the property were issued noise ordinance and/or disturbing the peace citations during the previous or current year.
      3. Any other reasonable or ration factors or combination of factors, including, but not limited to, inadequate lot size, inadequate infrastructure or off-street parking, lack of response from property owner or temporary property manager to filed complaints of violation of the zoning code, building code, property maintenance code and/or applicable laws or regulations.
      4. Operation as B&B or short-term rental prior to receipt of the necessary approval.
    - k. Permits that are either denied or revoked under this subsection must wait a minimum of six (6) months to submit a new application for consideration. These applications will be considered as new requests and will be subject to all requirements under the ordinance from which this subsection was derived at the time of application.
  - (9) Limited professional office (LPO). An R-1 parcel within five hundred (500) feet of a commercial zone, such distance uninterrupted by railroad tracks or natural topography barriers including, but not limited to, streams, lakes, and bayous, may be used as a limited professional office which does not detract from the residential character of the area.
  - (10) Short-term rental in single-family structures which shall be with permit.
- (Ord. No. 21-2009, § 2, 10-20-09; Ord. No. 2015-11, 7-7-15; Ord. No. 2017-03, § 1, 3-21-17; Ord. No. 2018-02, § I, 2-20-18)

### 3.8.6 Rules of Construction

- [1] Fuel Sales or Fuel Pumps are permitted as accessory uses in the CMX-1, CMX-2 and C-H districts when:
- Not located within fifty (50) feet of the property line of a church, school, hospital, rest home, nursing home, playground or residential dwelling(s).
  - Pump islands are no closer than fifteen (15) feet of any property line and canopies no closer than ten (10) feet from any property line.
  - Provide a masonry or wooden fences at least four (4) feet high around the station site and also plant shrubs and trees around the site if the station wishes to locate closer than two hundred (200) feet to the uses listed in item a. above. Hours of operation may also be designated as part of the special use permit in situations of close proximity to these same uses.
  - Provide access driveways no closer than thirty-five (35) feet from the point of intersection of the right-of-way lines of the adjoining street(s). Two (2) driveways on each street frontage may be permitted and shall be at least twenty-five (25) feet apart and no closer than five (5) feet to the side property line(s).
- [2] Wine and Liquor stores are permitted uses in the CMX-1, CMX-2, C-H and M1 Districts when they are not located within ~~two hundred fifty (250)~~ **four hundred 400 feet** from a church, school, park/playground, daycare center or funeral home. Such distance shall be measured along a straight line between the nearest property line of the business and church, park/playground, daycare center or funeral home. If such facility is part and parcel of a strip mall, shopping center or other parcel with common parking facilities, sidewalks and grounds then said distance shall be measured in a straight line from the point that is closest to the liquor store and tobacco shop in question of the main structure of the church building, school, daycare or funeral home.
- However, if the area is zoned commercial or industrial, the minimum distance is 100 feet from the church, school etc. If the church, school, kindergarten, or funeral home is in an area that is zoned residential and the permittee is in an area zoned commercial, then the distance is 400 feet.**
- A church or funeral home can waive the distance requirements; however, a school, kindergarten or day care cannot waive the distance requirement. The waiver must be in writing from the owner, governing body or appropriate officer of the church or funeral home.**
- [3] Pawn shops are permitted in the C-H and M1 districts subject to the following requirements:
- Not located within two hundred (200) feet of a school, playground or church.
  - No exterior display.
  - No exterior storage.
- [4] Veterinary services, small animal clinics, kennels, pet grooming businesses and pet stores are permitted in the C-H and M1 districts when:
- The animals are confined primarily within the exterior walls of the building except for the use of runs for exercise.
  - Not be located closer than two hundred (200) feet to existing residence, restaurant, apartment, hotel, library, museum, clinic or hospital for humans, church or theater, unless approved in writing by the affected property owner.
  - Be soundproofed from all adjacent property and uses.
- [5] Small animal clinics and pet grooming are permitted in CMX-1 and CMX-2 districts when:

- a. All animals are confined within the exterior walls of the building at all times.
  - b. Not located within one hundred (100) feet of a restaurant.
  - c. There is no overnight boarding of pets.
- [6] Bar, Drinking Place or Lounges, which are defined as established with more than fifty (50) per cent of total revenues generated from the sale of alcoholic beverages, are permitted in the CMX-1, CMX-2, C-H and M1 districts subject to the following:
- a. Not located on parcels that abut a single-family residential district.
  - b. Not located within ~~two hundred fifty (250)~~ **four hundred (400)** feet of a church, school, park/playground, daycare center, or funeral home. Such distances shall be measured along a straight line between the nearest property lines of the lounge and the church, school, park/playground, daycare center, or funeral home. If such facility is part and parcel of a strip mall, shopping center or other parcel with common parking facilities, sidewalks and grounds then said distance shall be measured in a straight line from the point that is closest to the lounge in question of the main structure of the church building, school, daycare or funeral home.
  - c. When located within two hundred fifty (250) feet of a single-family residential district, hours of operation may be limited and additional buffering and construction methods (sound proofing) may be required.
- However, if the area is zoned commercial or industrial, the minimum distance is 100 feet from the church, school etc. If the church, school, kindergarten, or funeral home is in an area that is zoned residential and the permittee is in an area zoned commercial, then the distance is 400 feet.**
- A church or funeral home can waive the distance requirements; however, a school, kindergarten or day care cannot waive the distance requirement. The waiver must be in writing from the owner, governing body or appropriate officer of the church or funeral home.**
- [7] Tattoo studios are permitted in CMX-2, and M1 districts subject to the following additional requirements:
- a. No seating is provided in front of the establishment, no customer or employee break areas provided in front of the establishment.
  - b. Hours of operation shall not be before 10:00 a.m. or after 10:00 p.m.
  - c. Outdoor break areas must be screened from the public street or adjacent properties.
  - d. Tattoo stations cannot be visible from the street.
  - e. Off-street parking must be available for employees.
  - f. Not located within four hundred (400) feet of a church, school, park/playground, daycare center, funeral home or within one thousand (1,000) feet of another tattoo studio, pawn shop, or quick check cashing facility. Such distances shall be measured along a straight line between the nearest property lines of the studio and the church, school, park/playground, daycare center, funeral home, tattoo studio, pawn studio or quick check cashing facility. If such facility is part and parcel of a strip mall, shopping center, or other parcel with common parking facilities, sidewalks and grounds, said distance shall be measured in a straight line from the point that is closest to the studio in question of the main structure of the church building, school, daycare, funeral home, tattoo studio, pawn shop or quick check cashing facility.
  - g. Only allowed on CMX-2 or C-H parcels located within the currently adopted commercial business district (CBD). For the purposes of this subsection, the central business district includes

the parcels bounded by and adjacent to: Bienville Boulevard on the north; Porter Avenue from Front Beach Drive to Washington Avenue on the south; Washington Avenue from Porter Avenue to Government Street; Government Street on the south from Washington Avenue to Bechtel Boulevard; Bechtel Boulevard from Government Street to Bienville Boulevard; and east to the city limits including Ocean Springs.

- h. Signage must strictly conform to the currently adopted sign ordinance.
  - i. Operators must obtain and maintain all compliance of permits required by the Mississippi State Department of Health, Office of Health Protection.
- [8] Vehicle Dismantling and Storage are allowed by Conditional Use in the M1 district subject to the following additional requirements:
- a. Not located within two hundred fifty (250) feet of any street designated as a gateway, if not completely obscured from view of the street by landforms or building.
  - b. Located near a major collector or arterial or a local street in an industrial zone by special use permit. May be located near a railroad.
  - c. Comply with all state and federal environmental requirements.
  - d. Be reasonably compatible with surrounding land uses such as, vehicle repair shops, businesses that have outdoor storage, especially metal parts.
  - e. Have a minimum of three (3) acres of land.
  - f. Store all items within the fenced area, and ensure that no items be piled higher than the fence.
  - g. Provide for the storage and off-site disposal of oil and used tires.
  - h. It shall be unlawful for any person or property owner to store or 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.
- [9] Funeral homes, mortuaries and crematoriums are permitted in CMX-1, CMX-2, C-H and M1 Districts, subject to the following additional requirements:
- a. Located on an arterial street and with adequate ingress and egress to said arterial streets.
  - b. Be located at least one hundred (100) feet from any single-family residential district.
  - c. Have sufficient off-street automobile parking and assembly area provided for vehicles to be used in a funeral procession. The assembly area shall be provided in addition to required off-street parking.
  - d. Provide screening from all residential view for the loading and unloading area used by ambulances, hearses, or other such service vehicles.
- [10] In the C-M Marina district the use of buildings, other structures, and the land is restricted to yacht clubs, retail sale or service and supplies including beverages and food for boats and water craft using the small craft harbor. Specifically prohibited are: All types of commercial marine ways, repair shops or any type of industrial activity.
- [11] Churches and related accessory buildings, provided they are located on a minimum three-acre lot fronting a major artery or connecting route with required off-street parking spaces separated from property lines by a five-foot concealing fence.
- [14] Each medical cannabis cultivation facility, cannabis processing facility, cannabis research facility, cannabis testing facility, cannabis disposal entity or cannabis transportation entity shall obtain approval from the Mississippi Department of Health (MSDH) prior to the approval of a Certificate of Occupancy from the City of Ocean Springs.

- [15] Each medical cannabis dispensary shall obtain approval from the Mississippi Department of Revenue (MDOR) prior to the approval of a Certificate of Occupancy from the City of Ocean Springs.
- [16] Medical cannabis cultivation facilities shall not be located on parcels with frontage on streets classified on the Road Classification map as minor arterial streets (such as Government St. or Ocean Springs Rd.), collector streets, or local streets. Medical cannabis cultivation facilities should be located so as to not have direct frontage on Bienville Blvd., should have a retail building between the cultivation facility and the public street, purpose is to not have the cultivation facility building visible from the public street or minimize its visibility.
- (Ord. No. 2022-05, § 1, 7-05-22)

### 3.9 OVERLAY ZONING DISTRICTS

Purpose: each overlay district is intended to accentuate the unique land uses, building forms and other characteristics of that particular area of Ocean Springs by establishing additional standards and criteria for covered properties in addition to those of the underlying zoning district.

#### 3.9.1 Waterview Preservation

- A. Purpose. The Waterview Preservation development guidelines are designed to foster economic redevelopment, neighborhood stability and community well-being by:
1. Preserving vistas of the Gulf and bayous from Ocean Springs' historic neighborhoods.
  2. Physically and economically connecting the beach to the neighborhoods of Ocean Springs by:
    - Improving pedestrian facilities;
    - Providing and improving public spaces, parks and amenities

#### 3.9.2 Boundaries

Beginning on the northerly shore of Davis Bayou at a point approximately one thousand five hundred (1,500) feet east of the southwest corner of Section 34, Township 7 South, Range 8 West, thence westerly along the shoreline of Davis Bayou and the Mississippi Sound/Bay of Biloxi to its intersection of the shoreline of Old Fort Bayou; thence easterly along the shoreline of Old Fort Bayou to its intersections with the easternmost section line of Section 22, Township 7 South, Range 8 West. The district boundary shall be one thousand (1,000) feet inland from the normal high-water mark of the respective aforementioned bodies of water.

#### 3.9.3 Ocean View Protection Zone

The Ocean View Protection Zone will expand the existing Waterview Preservation area Commencing at the centerline intersection of Front Beach and Hillandale Drive and following the following centerlines between the intersections North along Hillandale Drive to Cleveland Avenue; East along Cleveland Avenue to Jackson Avenue; South along Jackson Avenue to Calhoun Street; East along Calhoun Street to General Pershing Avenue; South along General Pershing Avenue to Shearwater Drive; and East and South along Shearwater Drive to East Beach Drive.



*Figure 3.2: Ocean View Protection Zone*

A. Exclusion corridor.

Specifically excluded from the “WP” Waterview Preservation district is a commercial exclusion corridor. Such corridor begins at the western City limits intersection of U.S. Highway 90 (Bienville Boulevard) with the CSX Railroad (at the overpass over the railroad tracks) and proceeding easterly to the eastern City limits. Such corridor shall include all property south of said U.S. Highway 90 (Bienville Boulevard) that borders U.S. Highway 90 (Bienville Boulevard) and all property on the north side to a depth not to exceed three hundred (300) feet. All such property shall be excluded from the “WP” Waterview Preservation district.

## B. Restrictions and limitations

1. No part of a single-family structure located in the waterview preservation district shall be built nor modified to exceed forty (40) feet in height as measured from Base Flood Elevation (BFE) as determined by the most current National Flood Insurance Premium (NFIP) maps adopted by the Board of Aldermen, or the grade plane, whichever is higher, to the midpoint of the gable. A single-family structure may not exceed three (3) stories.
2. No part of a multifamily structure located in the waterview preservation district shall be built nor modified to exceed fifty (50) feet in height as measured from Base Flood Elevation (BFE) as determined by adopted National Flood Insurance Premium (NFIP) maps. This distance is measured from "grade plane" to the midpoint of the gable if roof is pitched.

- (a) For R-1A Zoning Districts only – No part of a multifamily structure located in the waterview preservation district shall be built nor modified to exceed fifty (50) feet in height as measured from "grade plane" to the midpoint of the gable if roof is pitched.
3. ~~Design flood elevation (DFE)~~ **Base flood elevation (BFE)** constitutes the beginning level of habitable space. The DFE is determined by the most recently approved National Flood Insurance Premium (NFIP) maps adopted by the Board of Aldermen plus any additional feet of freeboard as approved by the Board of Aldermen.
4. "Grade plane" is defined as a reference plane representing the average of the finished ground level adjoining the building at all exterior walls, exclusive of fill dirt. This is the definition from which to measure height from the building footprint; it replaces the term "grade."
5. If the roof is flat (zero slope) or nearly flat on a commercial or multifamily structure, a parapet is required to conceal mechanical equipment. Parapets and other decorative elements that do not take up more than twenty-five (25) per cent of the perimeter of the roof are allowed, but height must be contained within the fifty (50) [feet] from grade plane, with the exception of chimneys, antennae and church steeples. Decorative elements shall include decorative towers, bell towers, cupolas, widow walks, parapets, minarets, decorative decks and similar architectural embellishments. Elevators, poles, tanks, towers, air conditioners, vents, flues, and other mechanical appurtenances not used for human occupancy shall be screened from view, with the exception of chimneys.
6. Multi-level automobile or vehicle parking shall be only be permitted in the "WP" Waterview Preservation district in lots located on Government Street.
  - (a) For R-1A Zoning Districts only – No multilevel automobile nor vehicle parking nor storage facility shall be permitted within the waterview preservation district.
7. No storage facility shall be permitted in the "WP" Waterview Preservation district.
8. Houseboat and marine occupancy
  - Non-transient residence aboard watercraft shall be limited to the boat slips within the Ocean Springs Small Craft Harbor.
  - No merchandise may be sold, nor commercial services provided, from watercraft within the "WP" Waterview Preservation district, except for the sales of unprepared seafood and services incident to rental of watercraft for marine purposes.
  - No painting or working on boats that are in the water.
  - No permit nor certificate shall be issued allowing electricity, water, sewer services nor other utilities to be provided from the shore to watercraft, except that conventional utilities and services may be provided at residential piers, the boat slips of the Ocean Springs Small Craft Harbor, yacht clubs of defined memberships or licensed marinas.
- C. Waterview enhancement program



1. A height increase for a maximum of ten (10) feet or one additional story may be permitted when waterview enhancement program projects are provided. Applicable waterview enhancement program projects are those that increase waterfront access to the public by providing publicly accessible amenities such as boardwalks and sidewalks located within the waterview area at a rate proportional to the mass of the structure that exceeds the height limit.
2. A request for Building Height Increase and a Waterview Enhancement Project shall be made prior to the submittal of a Building Permit application. The request shall describe in detail the location, nature and extent of the proposed enhancement. The Planning Director shall review the request for compliance with existing and proposed waterview projects and may approve, approve with conditions, or deny the request.
3. Proximity to previous project improvements will determine placement of the project.
4. Potential benefits of locating parking beneath a structure include a reduction of surface parking and run-off, and a more storm-resistant structure. Because of the benefits that may be provided by understory parking, a 25% reduction in the required number of parking spaces is permitted provided that such parking meets the following guidelines.
  - i. Parking must be screened by architectural treatment and landscaping. Landscaping must provide 50% opaqueness at the time of planting and provide full opaqueness within three (3) years.
  - ii. Parking is limited to one level or story in every location except Government Street
  - iii. The total number of on-site parking spaces may not exceed by more than 10% the required number of parking spaces as per the off-street parking requirements.
- D. Potential Waterview enhancements may include sidewalks and bike paths along primary corridors to the waterfronts, comfort stations, parking, and piers for public use; such projects will be implemented concurrent with construction.

(Ord. No. 2021-26)

#### 3.9.4 Porter Avenue Corridor

- A. Purpose: Porter Avenue represents one of the most visible and underdeveloped areas within historic Ocean Springs, located south and extending east from Bienville Boulevard's (Highway 90) entry into Ocean Springs, one lot deep on both sides of Porter Avenue to Cleveland Ave ~~Front Beach on the west~~ and to Martin Avenue to the east and including properties that meet the following criteria: 1). Designated as zoning districts RM-2, 2) constructed prior to May 2024 and 3) adjacent to ethel circle. These properties are shown in the **Porter Avenue Redevelopment District** map.
- B. Porter Avenue's redevelopment potential stems from the avenue being a highly visible entryway to historic downtown, its significant inventory of vacant and underused lots, connection to the beach front and mix of residential and commercial uses. The Porter Avenue Corridor Overlay is designed to:
  1. Allow building types and design reminiscent of historic Ocean Springs;

2. Promote a mix of small scale retail, office, lodging and residential uses;
3. Create a neighborhood streetscape that is pedestrian-friendly and interwoven into the neighboring residential areas; and
4. Provide sufficient off-street parking resources behind the primary street-oriented structures.



Figure 3. 3: Porter Avenue District

C. Guiding Principles. The district requirements implement the following guiding principles:

1. Vacant and underdeveloped sites represent opportunities for infill projects that will mend the neighborhood fabric and intensify economic and social activity.
2. New construction should be encouraged to respect and reinforce its urban location within the community, relating to the scale and character of the adjacent buildings and addressing the street with building fronts.
3. Small block size, street and sidewalk connectivity, and tree-lined streets are key physical factors in creating a vibrant and walkable downtown environment.
4. The historic human-scaled architecture and public spaces create an inviting environment.
5. Ground-floor, street facing retail, residential, office uses and on-street parking will help to nurture a lively public realm.
6. Public open spaces which are strategically located, properly sized and offer an appropriate set of amenities for commercial and mixed use neighborhoods contribute to the attractiveness and activity of the street.

D. Buildings

1. **Building Types.** In order to reinforce the definition of the public realm through building mass and orientation towards the street, the following building-types are allowed: Single-Family Detached; Duplex; Townhouse; Live-work; Mixed Use; and Small Commercial. More details on these building types are provided in Definitions.
  2. **Orientation.** The front building façade and primary entrance must face Porter Avenue.
  3. ~~**Porches.** All primary buildings shall have at least one elevated porch, awning, enlarged building overhang or similar treatment to the front façade. The porch or porches should be elevated at least 18 inches.~~
  4. A least 50% of the front façade length shall be covered by a porch. The porch or porches must be elevated at least 18 inches.
  5. **Garages.** Garage doors shall not be visible from Porter Avenue.
- E. **Uses.** To provide greater flexibility in the use of existing and future buildings, uses allowed in the Porter Avenue district, listed in Table 3.6, may be permitted in addition to the use regulations described in Table 3.5 in Chapter 3. Any structure may house the uses in the **Porter Avenue Allowable Uses** table, subject to additional standards as noted.

*Table 3.6: Porter Avenue Allowable Uses*

| Land Use                 | 1st Floor         | 2nd Floor |
|--------------------------|-------------------|-----------|
| Residence                | X                 | X         |
| Professional Services    | Under Residential | X         |
| Tourism/Specialty Retail | X                 | X         |
| Lodging                  | X                 | X         |

1. **Use Mix.** Any combination of the allowable uses may occupy a structure
  2. **Hotels.** May be located within the district and up to eight rooms.
- F. **Design Standards**
1. **Setback Modifications.** When the lot is adjacent to existing or proposed streets in the Downtown District, the following range of setbacks shall be observed, as shown in the **Setbacks Adjacent to Existing and Proposed Streets** table.

*Table 3.7: Setbacks Adjacent to Existing and Proposed Streets*

| Yard Location |                    |                    | Setbacks |
|---------------|--------------------|--------------------|----------|
| Front         |                    |                    | 5' - 10' |
| Side Setback  | Street-facing      |                    | 5'       |
|               | Non- Street-facing |                    | 5' - 15' |
| Rear Setback  | Corner Lots        | With Rear Alley    | 10'      |
|               |                    | Without Rear Alley | 30'      |
|               | Interior Lots      | With Rear Alley    | 20'      |
|               |                    | Without Rear Alley | 40'      |

G. Streetscape

1. Sidewalk. Must be at least 5' wide and installed on both sides of Porter Avenue and along the side street length of corner lots. The building side edge of the sidewalk must be located adjacent to the property line. ADA compliant ramps must be installed at each corner along Porter Avenue.
2. Street Trees. An appropriate species of tree must be planted approximately every 30' along Porter Avenue. Any listed tree removed for any reason must be replaced.
3. Bicycle Racks. Each commercial structure must provide at least one 2-bike rack within 20 feet of the entrance. Adjacent property owners may submit a joint statement of their intention coordinate to meet this requirement in the most appropriate location.
4. Parking. The following parking requirements modify or are supplemental to the parking requirements in **Chapter 4**.
  - On-site parking shall be in the rear of the lot;
  - On-street parking shall be parallel or angled parking only.

H. Signage. The following signs are allowed subject to the sign regulations.

- Wall Signs;
- Monument Signs;
- Canopy Signs; and
- Exempt Signs

I. Fences

1. Within Front Yard and Street Side Yard: Fences and walls shall be constructed of any combination of wood posts and planks, wrought iron, decorative metal materials, brick, stone, masonry materials, or products designed to resemble those materials. Chain link fencing is not allowed.

2. Within Rear Yard and Interior Side Yard: Fences and walls may be constructed of any combination of wood posts and planks, wrought iron, decorative metal materials, chain link, brick, stone, masonry materials, or products designed to resemble these materials.
3. Chain link fences along rear yard, street side yard and interior side yard lot lines shall extend no closer to the front lot line than the front building line of the principal building on the nearest abutting lot or parcel.

(Ord. No. 2022-06, 5-05-22)

### 3.9.5 Downtown Overlay

- A. Purpose. Preserving and enhancing the unique historic functionality of Ocean Springs' downtown building and transportation patterns is vital to preserving the heart of our community, cultural identity, economic viability and interwoven neighborhoods. The Downtown Overlay District design standards fine tune and supplement the base zoning districts, by providing guidelines directly influenced by the best urban design features that currently and historically existed in the downtown neighborhood. These standards ensure preservation of typical development forms while promoting infill development that complements the historical structures. The Downtown Overlay district includes the land and improvements bound by the Historic Downtown Overlay District Subareas map.

Within this boundary are three subareas:

1. Washington Avenue,
2. Government Street, and
3. The Railroad District.

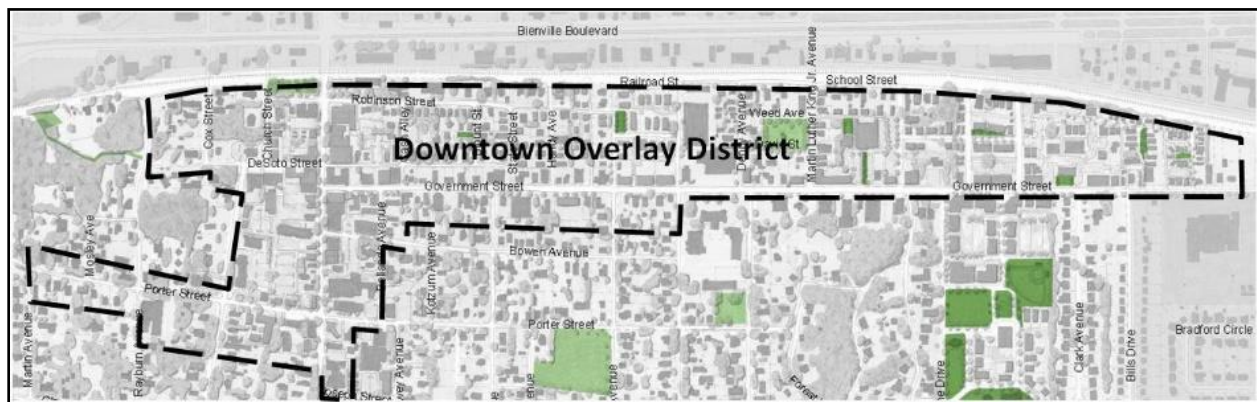


Figure 3. 4: Historic District Downtown Overlay

- B. Guiding Principles. The district requirements implement the following guiding principles:
  1. Small block size, street and sidewalk connectivity, and tree-lined streets are key physical factor in creating a vibrant and walkable downtown environment.
  2. Buildings shape the public spaces by creating a continuous street wall.

3. Holes in the neighborhood fabric are ideal locations for new buildings that reinforce the downtown's urban location as it relates to scale and the relationship of pedestrians to the street.
  4. The historic human-scaled architecture and public spaces create an inviting environment.
  5. New construction should be encouraged to respect and reinforce its urban location within the community, relating to the scale and character of the adjacent buildings and addressing the street with building fronts.
  6. Within the City, ground-floor, street facing retail, residential, office uses and on-street parking will help to nurture a lively public realm.
  7. Public open spaces which are strategically located, properly sized and offer an appropriate set of amenities for commercial and mixed-use neighborhoods contribute to the attractiveness and activity on the street.
- C. **Washington Avenue** – The intersection of Washington Avenue and Government Street is the historic heart of downtown and the community. Washington Avenue is a primary corridor connecting the highway (Bienville Boulevard) and the ocean front by way of the downtown. Its signature feature is the oak tree canopy, for which new development should preserve and enhance. There are several opportunities for infill development that can build the continuous street wall, create a pedestrian-friendly streetscape and connect to the existing neighborhood.
- D. **Government Street** – There is a diversity of building types and uses along Washington Street. Future development along Government Street should more closely resemble Washington Avenue. This may be accomplished by enhancing the streetscape and tree canopy, intensifying street-oriented building mass, consolidating parking to the rear of the lots, relocation or burying of overhead power lines and integrating Government Street to adjacent neighborhoods through sidewalk connections.
- E. **Railroad Street** –Traditionally a single-family residential neighborhood, the railroad district faces encroaching commercial uses, yet wishes to retain residential use. Located between Government Street on the south and the railroad tracks on the north, the existing buildings are primarily modest homes.
- F. While lot sizes are frequently smaller than the surrounding district, due to their historic status as legal lots, substantial rehabilitation and new construction of residential uses on these lots will not be required to go through a subdivision or re-platting process.
- Where possible, street trees, deep floor porches, raised foundations and sidewalk improvements should be introduced to bring many historic features of Ocean Springs to the Railroad District.
- G. **Development Standard**
1. **Building-Type.** In order to reinforce the definition of the public realm through building mass and orientation towards the street, the following building-types are allowed.
    - i. Live-work;
    - ii. Mixed Use; and

- iii. Commercial
  - iv. Civic buildings may be allowed provided they are on a corner lot, occupy an entire block or are located and oriented in such a manner as to be a significant focal point in the downtown.
2. Orientation. The front building façade and primary store fronts must face either Washington Avenue or Government Street.
  3. Front facade. All primary buildings shall have at least one elevated porch, awning, enlarged building overhang or similar treatment to the front façade. The porch or porches should be elevated at least 18 inches.
  4. Uses. Those uses allowed in the underlying base zoning district.
  5. Design Standards
    - i. Setback Modifications - When the lot is adjacent to existing or proposed streets in the Downtown District, the following range of setbacks shall be observed, as shown in the “Setbacks Adjacent to Existing and Proposed Streets” table below.
  6. Preserving the Tree Canopy. New Development and redevelopment should carefully consider neighboring trees to ensure minimum disturbance.

*Table 3.8: Setbacks Adjacent to Existing and Proposed Streets*

| Yard Location |                    |                 | Primary Corridors | Neighborhood Transition |
|---------------|--------------------|-----------------|-------------------|-------------------------|
| Front         |                    |                 | 0'-5'             | 0'-10'                  |
| Side Setback  | Street-facing      |                 | 0'                | 0'-5'                   |
|               | Non- Street-facing |                 | 0'-5'             | 0'-10'                  |
| Rear Setback  | Corner Lots        | With Rear Alley | 0'-5'             | 20'                     |
|               |                    | Without Rear    | 0'-5'             | 20'                     |
|               | Interior Lots      | With Rear Alley | 0'                | 20'                     |
|               |                    | Without Rear    | 0'                | 20'                     |





Figure 3.5: Historic District Downtown Overlay

## H. Streetscape

### 1. Primary Corridors

- i. Sidewalk. Must be at least 6' wide and installed on both sides of Washington and Government Avenues and along the side street length of corner lots. The building side edge of the sidewalk must be located adjacent to the property line. ADA compliant ramps must be installed at each corner.
- ii. Street Trees. A tree from the approved planting list must be planted approximately every 30' along Washington and Government Avenues. Any existing tree removed for any reason must be replaced.
- iii. Bicycle Racks. Each commercial structure must provide at least one 2-bike rack in the front of the building and should maintain a 4' free walking space on the sidewalk. Adjacent property owners may submit a joint statement of their intention to coordinate and meet this requirement in the most appropriate location.
- iv. Transit Stops. At locations for existing and proposed CTA bus stops, sidewalks shall be a minimum of 10' and a covered bus shelter installed.
- v. Fences:
  1. Within Front Yard and Street Side Yard: Fences and walls shall be constructed of any combination of wood posts and planks, wrought iron, decorative metal materials, brick, stone, masonry materials, or products designed to resemble these materials. Chain link fencing is not allowed.
  2. Within Rear Yard and Interior Side Yard: Fences and walls may be constructed of any combination of wood posts and planks, wrought iron, decorative metal materials, chain link, brick, stone, masonry, materials, or products designed to resemble these materials.



3. Chain link fences along rear yard, street side yard and interior side yard lot lines shall extend no closer to the front lot line than the front building line of the principal building on the nearest abutting lot or parcel.



Figure 3.6: Neighborhood Transition District

(Ord. No. 2022-05, 07-05-22)

## 2. Neighborhood Transition

- i. Sidewalk. Must be at least 5' wide and installed on both sides of the street. The building side edge of the sidewalk must be located adjacent to the property line. ADA compliant ramps shall be installed at each corner.
- ii. Street Trees. A tree from the approved planting list must be planted approximately every 30' along streets in transition areas. Any existing tree removed for any reason must be replaced
- iii. Bicycle Racks. Each structure must provide at least one 2-bike rack in the front yard. Adjacent property owners may submit a joint statement of their intention to coordinate and meet this requirement in the most appropriate location.
- iv. Parking. On-site parking shall be in the side or rear of the lot.
- v. Signage. The following signs are allowed subject to the sign regulations.

Table 3.9: Signs in the Downtown District

| Sign Type  | Primary Corridors | Neighborhood Transition |
|------------|-------------------|-------------------------|
| Wall       | X                 | X                       |
| Projection | X                 | X                       |
| Monument   |                   | X                       |
| Canopy     | X                 | X                       |
| Exempt     | X                 | X                       |

### 3.9.6 Conservation Subdivisions

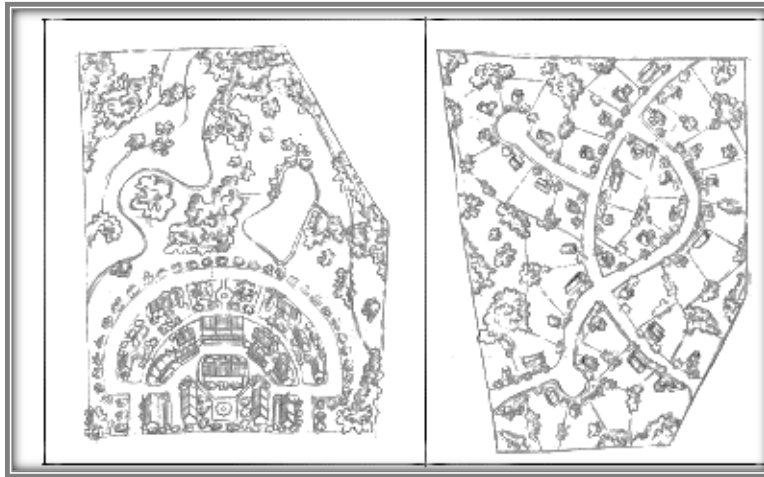


Figure 3.7: Conservation vs. Conventional Subdivision Design

- A. Purpose and Findings. This district provides design guidelines and approval procedures for development patterns that promote the use of strategies to preserve wetland and woodland habitat as well as preserving common open spaces. The intended outcome of developing under these district guidelines is also to improve water quality and minimize local flooding. Conservation subdivisions are designed to work within their landscape in order to:
1. Protect the natural features of a site that relate to its topography, shape, and size; and to provide for a minimum amount of open space;
  2. Provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure; and
  3. Encourage the development of sites where property shape, size, environmental constraints including wetlands and floodplains and, or topography make it difficult to establish conventionally designed development.
- B. Conservation subdivisions (left) feature smaller lots with a high percentage of open space. Conventional subdivisions (right) feature large lots with little common open space. A conventional subdivision is subject to the base zoning district standards, such as minimum lot size, front setbacks, landscaping, and adequacy of public facilities.
1. **Procedure & Evaluation Criteria.** Conservation subdivisions are processed in accordance with the subdivision procedures established in this UDC. In order to foster the attractiveness and functionality of a conservation development, and better serve the public health, safety, and general welfare, the following criteria apply to master site plans. These criteria shall neither be regarded as inflexible requirements nor are they intended to discourage creativity or innovation.
    - i. Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal.

- ii. Proposed buildings shall be sited to promote views of natural areas, and minimize environmental hazards such as erosion, wetland encroachment and habitat destruction of the terrain.
  - iii. Lots shall be configured so as to protect waterways with a 30' vegetated buffer zone. Up to 25% flexibility in lot size and configuration shall be allowed to achieve this goal.
- C. Size and Location of Site: There is no minimum or maximum size for a conservation subdivision, provided the minimum open space requirements are met.
- D. Uses: Permitted uses are governed by the applicable zoning district regulations.
- E. Lot and Block Design:
  - 1. Lots within a conservation subdivision may vary within 25% of the minimum lot size, minimum frontage, or minimum lot width requirements of the zoning district. In order to provide undivided open space for direct views and access, at least 30% of the lots within a conservation subdivision shall abut a conservation area. Direct pedestrian access to the open space from all lots not adjoining the open space shall be provided through a continuous system of sidewalks and trails.
  - 2. Lots within 100 feet of a conservation area shall front on a local street.
  - 3. Lots may be arranged in any of the patterns set forth in the **Lot Configuration for Conservation Subdivisions** table.

*Table 3.10 Lot Configuration for Subdivisions*

| Lot Form                              | Definition                                                                                                                                                                                                                                                                                                               |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Single-family detached homes          | Single-family dwelling that is not attached to any other dwelling by any means and is surrounded by open space or yards.                                                                                                                                                                                                 |
| Detached homes with shared driveways  | This pattern permits the grouping of up to four homes on a shared driveway. The driveway is limited to 50 feet in length.                                                                                                                                                                                                |
| Detached homes with shared courtyards | A courtyard is an open area adjacent to, or part of, a group of residential buildings. Courtyards function as gathering places and may incorporate a variety of nonpermanent activities, such as vendors and display stands.                                                                                             |
| Detached homes with commons           | This design approach emphasizes open space by orienting the front doors of houses to a formal common area. The common area may include a greenway, playground, green, park, or parkway. Cottage homes are small homes built around common, private open space, typically on smaller tracts.                              |
| Detached patio (zero lot line) homes  | A patio home or garden home is a single-family residential structure of one or two stories, which is constructed in such a manner that one, but not both, of the side exterior walls is constructed along one of the side property lines of each lot. The side setback shall be waived on one side of the property line. |

- F. Transportation
  - 1. A conservation subdivision shall comply with the street design standards, unless otherwise provided, and of this subsection.

2. The conservation subdivision shall include a pedestrian circulation system. All sidewalks must be a minimum of 5 feet in width, and can use a variety of permeable paving materials including permeable concrete, gravel and permeable pavers. They shall connect to other sidewalks or paved or unpaved trail and trails shall connect to potential areas qualifying as conservation areas on the development parcel, adjoining undeveloped parcels, or with existing parks and open space on adjoining developed parcels.
3. Streets shall not cross wetlands.

G. Stormwater Management

1. Stormwater management ponds that are fully landscaped with native vegetation as evidenced by a planting plan may be included as part of the minimum required conservation areas, as provided in this UDC.
2. Over 50% of the subdivision's stormwater drainage facilities shall draw upon the Best Management Practices (BMPs) promoting infiltration and capture as detailed in the City's Stormwater Management Ordinance. These may include the use of pervious pavement, bioretention swales, bioretention planters, rain barrels and other specified strategies.

H. Utilities

- (a) A conservation subdivision shall comply with utilities standards in this UDC, except land within the rights-of-way for underground pipelines may be included as part of the required conservation areas. Land within the rights-of-way of high tension power lines shall not be included as part of the minimum required conservation area.

I. Conservation Areas

1. Generally:
  - This section establishes the standards for conservation areas. Conservation areas are the parks, natural features, and passive open space that distinguish this use pattern from other types of development.
  - Conservation areas shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement held by the City of Ocean Springs or by a land trust or conservancy.
  - The conservation easement shall prohibit further development in the conservation areas and may establish other standards safeguarding the site's special resources from negative changes.
  - The parks and open space standards relating to maintenance apply to the required open spaces in the conservation subdivision. No other requirements of the parks and open space standards apply to a conservation subdivision.
2. Set-Aside and Allocation of Conservation Areas.

A minimum of 40% of the total tract area shall be designated as conservation areas. The following areas shall be designated as conservation areas:

  - i. Wetlands;
  - ii. Woodlands;

- iii. Sensitive aquifer recharge features;
  - iv. All of the floodway and flood fringe within the 100-year floodplain, as shown on the official Federal Emergency Management Agency (FEMA) maps;
  - v. All areas within 100 feet of the edge of the 100-year floodplain, as delineated on the FEMA maps, and any Letter of Map Revision;
  - vi. All areas within 100 feet of the banks of any stream shown as a blue line on the U.S. Geological Survey 1:24,000 (7.5 minute) scale topographic maps for the City of Ocean Springs;
  - vii. Significant bird and wildlife habitat areas;
  - viii. Historic, archaeological, or cultural features listed (or to be listed) on national, state, or City of Ocean Springs registers or inventories; or
3. Connectivity: Where possible, conservation areas shall abut existing conservation areas, parks, or open space on adjacent parcels.
  4. Environmental Protection: A conservation subdivision shall comply with the following environmental protection standards:
    - ix. No conservation area shall be cleared, graded, filled, or subject to construction. However, rights-of-way for trails; any streets needed to provide access to the proposed subdivision; and water, sewer, electric, or cable lines may be cleared. The width of rights-of-way for streets or trails shall be restricted to the minimum required in this UDC; and
    - x. No structure shall be sited on a slope with highly erodible soils.
  5. Landscaping and Screening: The landscaping and screening standards apply to conservation subdivisions.
  6. Parking: In order to encourage design flexibility, to preserve open space, and to minimize impervious surfaces, a conservation subdivision is not subject to minimum parking design standards
- J. Approval Process
1. The Applicant shall submit a legal instrument establishing a plan for the use and permanent maintenance of the common areas/facilities and demonstrating that the community association is self-perpetuating and adequately funded to accomplish its purposes, and providing the City of Ocean Springs with written permission for access at any time without liability when on official business, and further, to permit the City of Ocean Springs to remove obstructions if necessary for emergency vehicle access and assess the cost of removal to the owner of the obstruction. The instrument must be approved by the City of Ocean Springs as to legal form prior to any plat recordation and shall be recorded at the same time as the plat.
  2. Master Site Plan. After the Conservation Subdivision (CS) district zoning is granted, a master site plan shall be submitted to and approved by the Planning Commission prior to approval of any plats or the issuance of any development approvals or certificates of occupancy. The master site plan shall incorporate any conditions imposed with the granting of the "CS" district zoning.

### **3.10 HISTORICAL PRESERVATION DISTRICTS, SITES AND LANDMARKS**

#### **3.10.1 Landmark Buildings**

The following buildings are hereby designated by the City of Ocean Springs, Mississippi as historical landmarks within the City of Ocean Springs, Mississippi with the descriptive name assigned in order to avoid confusion:

- A. Bertuccini House and Barbershop
- B. C. E. Thompson Place
- C. Miss-La-Bama
- D. Old Ocean Springs High School
- E. Thomas Isaac Keys House
- F. VanCleave Cottage
- G. W. B. Schmidt Estate

#### **3.10.2 Landmark Sites**

The following sites are hereby designated by the City of Ocean Springs, Mississippi as historical landmarks within the City of Ocean Springs, Mississippi with the descriptive name assigned in order to avoid confusion:

- A. Marble Springs.

#### **3.10.3 Landmark Districts**

The following areas are hereby designated by the City of Ocean Springs, Mississippi, as historical districts within the City of Ocean Springs, Mississippi with the descriptive name assigned in order to avoid confusion:

- A. Bowen Avenue Historic District
- B. Marble Springs Historic District
- C. Indian Springs Historic District
- D. Lovers Lane Historic District
- E. Old Ocean Springs Historic District
- F. Railroad Historic District
- G. Shearwater Historic District
- H. Sullivan-Charnley Historic District

#### 3.10.4 Landmark District Maps

An official map delineating, designating and identifying historic landmark sites and historic districts shall be kept and maintained in the office of the city clerk of the City of Ocean Springs, Mississippi, where it will be subject to public inspection during normal office hours; provided, however, that the Historic Preservation Commission shall have the sole responsibility and authority for its maintenance, updating, and changes after appropriate approval by the Mayor and Board of Aldermen.

(Ord. No. 5-1990, § 1, 10-16-90)

**Editor's note**— Ord. No. 5-1990, §§ 1—4, adopted October 16, 1990, did not specifically amend the Code; therefore, inclusion as § 17-58 was at the discretion of the editor. The landmarks from the ordinance are only listed. For a full description, see the ordinance and map which are on file in the office of the city clerk.

### 3.11 DENSITY BONUS

#### 3.11.1 Purpose and Findings

There are instances where it is in the best interests of the private landowner and the City of Ocean Springs to exceed the minimum requirements of this UDC. In such instances, the City's interests in restricting density or imposing certain regulatory requirements can be offset by increases in open space, natural resources, natural hazard mitigation measures or the provision of affordable housing or certain amenities. Further, the system provides incentives to landowners while preserving the overall integrity of the Comprehensive Plan by providing uniform rules of general application for density increases. This system provides regulatory incentives while ensuring that regulatory modifications are not made solely and exclusively for the private benefit of the landowner. This division implements the following provisions:

- A. Ordinance revisions and development proposals that conserve energy and water, enhance the attractiveness of the environment, and protect valuable natural and cultural resources;
- B. Create a land exchange mechanism to acquire land for public purposes;
- C. Encourage a balance of new development and redevelopment; and
- D. Promote the provision of sound and affordable housing to all Ocean Springs residents.

#### 3.11.2 Guidelines

- A. Density should be encouraged, not penalized. Developers should have an economic incentive to use the program.
- B. High quality design should be required of all development. Properties seeking a density bonus should conform to the development standards applicable to the property's neighborhood.
- C. Additional density should be allowed only where appropriate and compatible. Neighborhood character and design should be protected.

- D. Granting density bonuses should be focused on community benefits, including but not limited to housing affordability, seniors housing, resilience to natural hazards, preservation of historic resources and cultural vitality and diversity.

#### 3.11.3 Applicability

- A. This subsection applies to density of use on the parcel subject to an application for development approval. Density bonuses will be granted as of right subject to compliance with Bonus Criteria in this Chapter.
- B. In order to receive the concessions and/or incentives described in this Section, the Applicant must submit to the City a Density Bonus Application which will be treated as part of the development application. Director will request from applicant additional information reasonably necessary to clarify and supplement the application or determining the consistency of the proposed DBA with the requirements of this Article. The DBA should include, but not be limited to, the following:
  - 1. A description of the Residential Development Project including the proposed total number of Affordable Housing Units, Senior Housing Units;
  - 2. The zoning ~~general plan~~ designations and assessor's parcel number(s) of the project site;
  - 3. A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout.
  - 4. A description of the concessions or incentives requested.
  - 5. If an additional incentive(s) is requested, the application should describe why the additional incentive(s) is necessary to provide the Affordable Housing Units or to take measures related to natural hazard mitigation.
  - 6. Granting an incentive shall not require a Plan Amendment, zoning change, or other discretionary approval.
- C. The decision process for a development requesting an incentive shall be the same decision process that would be required if the incentive were not a part of the development proposal.

#### 3.11.4 Types of Incentives or Regulatory Concessions

- A. For the purposes of this Article, concession or incentive may mean:
  - i. A reduction in lot coverage, setback and square footage requirements; or
  - ii. A reduction in the ratio of vehicular parking spaces and/or configurations as set forth in this UDC;
  - iii. Reduced minimum building separation requirements;
  - iv. Reduced street standards, such as reduced minimum street widths; or
  - v. Approval of a mixed-use development plan in conjunction with the residential development project if commercial, office, industrial, or other land uses will reduce the development cost of the residential development project and if the commercial, office, industrial, or other land



uses are compatible with the residential development project and the existing or planned development in the area where the proposed housing project will be located.

- B. Nothing in this Section shall be construed to require the provision of direct financial incentives for the residential development project, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

#### 3.11.5 Design, Distribution and Timing of Affordable Housing Units

- A. Affordable Housing Units must be constructed concurrently with market-rate units. The Affordable Housing Units shall be integrated into the Residential Development Project and be comparable in infrastructure (including sewer, water and other utilities), construction quality and exterior design to the market-rate units.
- B. No building permits will be issued for market-rate units until permits for all Affordable Housing Units have been obtained, unless Affordable Housing Units are to be constructed in phases pursuant to a plan approved by the City.
- C. Market-rate units will not be inspected for occupancy until all Affordable Housing Units have been constructed, unless Affordable Housing Units are to be constructed in phases pursuant to a plan approved by the City.

#### 3.11.6 Compliance

The provisions of this Article shall apply to all agents, successors and assignees of an Applicant, developer, builder or property owner proposing a residential development project governed by this Section. No tentative map, use permit, special development permit or occupancy permit shall be issued for any residential development project unless exempt from or in compliance with the terms of this Section. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to actions to revoke, deny or suspend any permit or development approval.

#### 3.11.7 Bonus Criteria

- A. An applicant may be granted a density bonus by establishing any of the incentive items described in the Incentive Zoning Bonus table.

*Table 3.11: Incentive Zoning Bonus*

| Active Open Space | Passive Open Space | Affordable Housing | Percent to Total Permitted Dwelling |
|-------------------|--------------------|--------------------|-------------------------------------|
|                   | ✓                  |                    | 110%                                |
| ✓                 |                    |                    | 120%                                |
|                   |                    | ✓                  | 120%                                |

- B. The total permissible dwelling units shall be calculated in accordance with the Bonus Density chart.

*Table 3.12: Bonus Density Chart*

| Incentive Item                      | Criteria                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parks and Open Space                | Establish active or passive open space or floodplain, riparian and wetland area in excess of the minimum acreage requirements of the parks and open space standards, Development Standards, of the UDC). The area dedicated to open space shall comprise at least 1 acre and shall comply with parks and open space standards to receive bonus credit. |
| Affordable Housing: Very Low Income | At least 5% of all dwelling units must be restricted as very low-income housing, based on HUD standards, through a deed restriction or an enforceable contract with a public housing authority or community development corporation.                                                                                                                   |
| Affordable Housing: Low Income      | At least 15% of all dwelling units must be restricted as low-income housing through a deed restriction or an enforceable contract with a public housing authority or community development corporation.                                                                                                                                                |
| Affordable Housing: Seniors         | 100% of all dwelling units must be restricted to residents over 55 yrs. old through a deed restriction or an enforceable contract with a public housing authority or community development corporation.                                                                                                                                                |

|                   |                                                                                                 |            |
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# Chapter 4. Development & Design Standards

## 4.1 GENERALLY

### 4.1.1 Development Improvements

This Section provides the development framework and design standards for lots, blocks, buildings, and structures that offer a pedestrian scale, alternative paths for vehicular traffic, and accommodate on-street parking. Standards are provided to ensure lots have adequate access and conform to the zoning provisions of the UDC. Exceptions to these standards may be made for districts requiring greater flexibility in order to encourage environmental protection or economic development.

- A. The improvements required herein shall be designed and constructed under the observation and in accordance with specifications set forth by the City of Ocean Springs, Mississippi.
- B. The basis of design and complete design calculations will be provided by the developer's engineer for all required improvements and will be reasonably subject to the specifications set forth by the City as well as the City Engineer's review of the subdivision plans and calculations. The design will be based on sound engineering practices for the particular site in which they are to be installed.
- C. All subdivisions developed in phases or which have future subdivisions extending from them must submit a plan subject to approval of the City as to how required improvements will accommodate future phases and subsequent subdivisions in keeping with all requirements and standards of these regulations.

### 4.1.2 Design Standards

The City finds that the appearance of buildings important to the image of the community both as a tourist destination and as a coastal City of permanent residents. Design standards and guidelines apply for any non-residential or mixed-use parcel which lies in whole or in part along an arterial roadway, in the R-D, R-1A, RM-2, CMX-1, CMX-2 or C-H districts or within an overlay district. The application of the most comprehensive design standards in this Chapter is strongly encouraged for any development receiving a density bonus.

(Ord. No. 2021-26)

## 4.2 AMERICANS WITH DISABILITIES ACT

### 4.2.1 Visitability

In order to promote accessibility of buildings for people with mobility challenges, developers and builders within Ocean Springs shall design and build structures that are “visitable”. A structure is visitable when it meets three basic requirements:

- A. At least one no-step entrance;
- B. Doors and hallways wide enough for a person in a wheelchair to navigate through; and
- C. A bathroom on the first floor that is of sufficient area and dimensions for a person to get out of and into in a wheelchair and close the door.

#### 4.2.2 Infrastructure

Infrastructure construction and improvements of facilities shall comply with the Americans with Disabilities Act (ADA) of 2010.1 Applicants shall consult both the Title III Technical Assistance Manual and the Title II Technical Assistance Manual.

#### 4.2.3 Multi-Family Housing

Multifamily housing and condominium development shall comply with § 804(f)(5)(C) of the Fair Housing Act of 1988 and the implementing regulations codified at 24 C.F.R. 100.205. Applicants shall consult the Fair Housing Accessibility Guidelines 4.

### 4.3 OPERATION AND MAINTENANCE

All improvements required by this chapter shall be operated and maintained as required by this section. The instruments creating the dedication, homeowners' association (HOA), condominium association, easement, transfer, or improvement district shall be attached to the application for subdivision plat approval.

#### 4.3.1 Dedication of Land

- A. Dedication of the improvement to the City of Ocean Springs satisfies the requirements of this section. The City of Ocean Springs may accept the improvement if:
  - 1. Such land is accessible to the residents of the City of Ocean Springs;
  - 2. There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
  - 3. The improvement conforms to the applicable standards of this chapter.

#### 4.3.2 Homeowners' Association (HOA)

- A. Improvements that are owned in common by all owners of lots or units in the subdivision or condominium are required by this chapter to be operated and maintained by an HOA established in the covenants, conditions, and restrictions (CC&Rs) adopted as a condition of development approval. The CC&Rs shall provide that, in the event that the association fails to maintain the improvements according to the standards of this chapter, the City of Ocean Springs may, following reasonable notice and demand that deficiency of operation or maintenance be corrected, enter the land area to repair, operate, or maintain the improvement. The cost of such maintenance shall be the responsibility of the HOA, which shall be required by the CC&Rs to levy an assessment to be charged to all owners.

- B. The HOA shall be formed and operated under the following provisions:
1. The developer shall provide a description of the HOA, including its bylaws and methods for operating and maintaining the improvement.
  2. The HOA shall be organized by the developer, and shall be operated with a financial subsidy from the developer, before the sale of any lots or units within the development or condominium.
  3. Membership in the HOA is mandatory for all purchasers of homes and their successors. The conditions and timing of transferring control of the HOA from developer to homeowners shall be identified.
  4. The HOA shall be responsible for maintenance of insurance and taxes on all improvements, enforceable by liens placed by the City of Ocean Springs on the HOA. The HOA shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments. Such liens may require the imposition of penalty interest charges. Should any bill or bills for maintenance of undivided improvement by the City of Ocean Springs be unpaid by November 1 of each year, a late fee of 15% shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.
  5. A proposed operations budget and plan for long term capital repair and replacement of the improvement shall be submitted with the final plat. The members of the HOA shall share the costs of maintaining and developing such undivided improvement. Shares shall be defined within the HOA bylaws. The operations and budget plan shall provide for construction of any improvements relating to the improvement within three years following recordation of the plat.
  6. In the event of a proposed transfer, within the methods here permitted, of undivided improvement land by the HOA, notice of such action shall be given to all property owners within the development.
  7. The HOA shall have or hire staff to administer common facilities and properly and continually maintain the undivided improvement.
  8. The HOA may lease improvement lands to any other qualified person, or corporation, for operation and maintenance of park and/or open space lands, but such a lease agreement shall provide that:
    - i. The residents of the development shall at all times have access to the reserved park and/or open space lands;
    - ii. The undivided improvement to be leased shall be maintained for the purposes set forth in this chapter; and

- iii. The operation of improvement facilities may be for the benefit of the residents only, or may be open to the residents of the City of Ocean Springs, at the election of the developer and/or HOA, as the case may be. The lease shall be subject to the approval of the board, and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements so entered upon shall be recorded with the Chancery Clerk within 30 days of their execution and a copy of the recorded lease shall be filed with the City of Ocean Springs.
- 9. Failure to adequately maintain undivided improvements in reasonable order and condition constitutes a violation of this chapter. The City of Ocean Springs is authorized to give notice, by personal service or by U.S. mail, to the owner or occupant, as the case may be, of any violation, directly to the owner to remedy same within 30 days.

#### 4.3.3 Condominiums

The undivided improvement and associated facilities may be controlled through the use of permanent condominium agreements, approved by the City of Ocean Springs. All undivided improvement land shall be held as a common element. A proposed operations budget and plan for long-term capital repair and replacement shall be submitted with the application.

#### 4.3.4 Dedication of Easements

The City of Ocean Springs may, but is not required to, accept easements for public use of any portion or portions of undivided improvement land, the title of which is to remain in ownership by the condominium or HOA, provided that:

- A. Such land is accessible to City of Ocean Springs residents;
- B. There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
- C. A satisfactory maintenance agreement is reached between the developer, the condominium, the HOA, and the City of Ocean Springs. Land dedicated as a natural area, greenway, or greenbelt shall be subject to a duly executed conservation easement meeting the requirements and enforceable in accordance with state statute, which easement shall be unlimited in duration.

#### 4.3.5 Transfer of Easements

For parks and open space only, an owner may transfer a perpetual conservation easement to a public, private or nonprofit organization, among whose purposes it is to conserve improvement and/or natural resources (such as a land conservancy), provided that:

- A. The organization is a bona fide conservation organization with perpetual existence;
- B. The organization is financially capable of maintaining such improvement;
- C. The conveyance contains legally enforceable provisions for proper reversion or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;



- D. The organization shall provide a proposed operations budget and plan for long-term capital repair and replacement; and
- E. A maintenance agreement is entered into by the developer and the organization.

#### **4.4 SITE DESIGN**

- A. Buildings and improvements shall be located so as to minimize changes to the existing topography and the loss of existing, mature landscaping.
- B. Areas of natural vegetation shall be preserved along property lines, including fence rows and drainage ways, and should be incorporated into the site's overall landscape concept. The Development Plan for the project shall identify "no-grade" zones for this purpose.
- C. All required parking spaces shall be provided on the subject site or within ~~four~~ three hundred (4300) feet of the site evidenced by multi year lease. On street parking may be permitted in areas of existing or planned on street parking.
- D. Parking requirements are to increase in proportion to the size of any addition.
- E. No development shall be built on a lot which does not abut or have direct access to a public street.

#### **4.5 ARCHITECTURAL STANDARDS**

##### **4.5.1 Architectural Features**

- A. Multi-family, commercial, and office buildings in R-1A, RM-2, CMX-1, CMX-2 and C-H districts shall be designed to be compatible with the character of the neighborhood. The compatibility of the multi-family, commercial, or office building shall be determined by comparing the consistency of the design elements, colors, materials, and landscaping of the proposed buildings with the design of adjoining structures.
- B. Entrances and Circulation - Building facades of an individual structure on a single lot should generally be oriented parallel to the streets they face, such that their main entrances are visible as a means of creating continuous streetscapes. Within office or commercial complexes, buildings should be clustered so as to create plaza or pedestrian mall areas. Where the clustering of buildings cannot be achieved due to the size or shape of the lot, link the building pads together with pedestrian walkways that are defined by separate paving textures and accented by landscape areas.
- C. Parapet Facades – Parapet facades may be used when of unified construction with the primary surface of the wall and of the same material and color. The parapet shall be designed such that the reverse side of all elements shall not be visible to public view. Canopies are permissible provided they are an integrated part of the overall building design and are not used as a location or support for wall-mounted signage.
- D. Building Façade – The wall of any commercial building over 100 feet in length shall be interrupted through the use of projections or recesses, portals, courtyards, plazas, pilasters, columns or other appropriate architectural feature. The design of off-setting wall plane projections or recesses shall have a minimum depth of two (2) feet. Multi-story buildings with over twenty thousand

(20,000) sq. ft. of gross floor area shall be designed with either off-setting wall planes or upper story setbacks of at least four (4) feet in depth.

- E. Small Retail Stores - Where large retail establishments contain additional separately owned stores that occupy less than thirty thousand (30,000) square feet of gross floor area, with separate, exterior customer entrances, the street level façade of such stores shall be transparent above the walkway grade for no less than fifty (50) percent of the horizontal length of the building facade of such additional stores.
- F. Façade Materials - At least 75% of the total wall area (excepting fenestration and building entrances) shall be comprised of high-quality architectural materials such as brick, stone, cast stone, or other materials as designated in this ordinance. Window and door awnings, applied trim and accent materials, colors and decorative bands, with the exception of stucco, masonry, or concrete control joints, must be used in such a way that they do not give a panelized or pre-fabricated appearance.
- G. Building should be designed so that all loading docks, overhead doors, and truck parking are positioned on the subject property to not be visible from the public street.
- H. Use of architecturally proportionate decorative trim around the roof perimeter, all doors, windows, and signs to include pediments, quoins, and cornices.
- I. Use of decorative gates, fencing, windows, and railings.
- J. Use of architectural decorative accents in complimentary materials including portals, windows, stained glass, carved stone cantera, or plaster.
- K. Decorative use of brick, stucco, or stone accents around walls, columns, roof lines, doors and windows, including crown molding.
- L. Columns may be incorporated into the design to support roof overhang or structure.
- M. Use of decorative towers, bell towers, cupolas, widow walks, parapets, minarets, and similar architectural embellishments that are non-inhabitable.
- N. Use of dormers in roof design.
- O. Use of antique, pierced, ceramic, metal, or other decorative lighting fixture when compatible with the overall architectural style of the building.
- P. Sustainable design elements, from LEED certification, energy star appliances, green roofs or solar panel installation are strongly encouraged, as are stormwater management best practices such as rain gardens, tree planting and permeable pavement.

(Ord. No. 2021-26)

#### 4.5.2 Walls

Exterior walls visible by a pedestrian standing within the vehicular right-of-way should be completely covered by one or more of the following materials: Brick; Stone; split-faced block; Stucco; Synthetic stucco; Exterior insulation finish system (E.I.F.S.); fiber cement siding, or Vinyl, wood or aluminum siding, provided that such siding is applied in horizontal panels with no panel exceeding eight (8) inches

in height.

- R. A metal surface, excluding windows and trim, is prohibited as the sole exterior wall surface. Flat-faced concrete block or mirrored glass curtain wall are discouraged but may be allowed upon review. Metal as a minor exterior design element may be permitted upon review by the Planning Director.

S. Exterior Color

1. Building colors for multi-family residential and commercial uses should be subdued, with natural tones and neutral colors predominating.
2. Color of predominate exterior surface material should be: White, off-white, cream, dark subdued green, earth tones, pastels of earth tones, including rose and terra cotta; and/or Pastel colors of non-earth tone hues, such as blues, yellows, greens, and grayish greens.
3. Primary, secondary, and highly saturated, bright tertiary colors, metallic and primary colors are discouraged, but may be permitted upon review by the Planning Director.
4. All other colors not listed above are subject to review by the Planning Director.

4.5.3 Roofs

- T. Roofs shall be consistent with the architectural style of the building.
- U. In multifamily, commercial, and industrial zoning districts, no flat roofs shall be permitted without a parapet.
- V. Pitched Roofs. Where pitched roofs are utilized, the primary roof form should be on a slope of no less than 4/12. Porches should be on a slope of not less than 2/12. Pitched roofs should be shingled in accordance with the materials list contained under the “Optional Requirements” of this section.
- W. Material: Roofs that are visible to the public or adjacent properties should be composed of a single material.
- X. Color. Browns, earth tones, tin or copper metal, light grays and blues, dark subdued green, hunter green, and terra cotta; or Low intensity flat colors. The use of bright, high intensity colors is prohibited. All other colors not listed above are subject to review by the Planning Director.

4.5.4 Doors and Windows

Walls define the overall form of buildings, while openings give them a human scale and the appearance of being occupied. 100% of doors, windows, and glazed surfaces, with the exception of steel fire doors on the rear elevation of the building, should have one or more of the following:

- Y. Frames recessed a minimum of four (4) inches;
- Z. Encased with trim;

- AA. Divided lights (non-simulated); and
- BB. Exposed or otherwise decorative lintels.
- CC. More than 50%, but less than 100% of the doors, windows, and glazed surfaces, with the exception of steel fire doors on the rear elevation of the building, have one or more of the above-referenced elements.
  - 1. All glazing is clear, tinted neutral gray, leaded, frosted, or decorative glass;
  - 2. ~~More than 50%, but less than 100%, of windows have operable shutters; and~~
  - 3. ~~More than 25%, but less than 50%, of windows have operable shutters.~~
- DD. The treatment of doors and windows shall be compatible throughout the building design, with the exception of designated fire doors. The use of mirrored or solar glazing is discouraged, but may be permitted upon review by the Planning Director.

#### 4.5.5 Screening

For new construction, mechanical units, communications, and service equipment, (including satellite dishes and vent pipes), shall be screened from view from adjacent properties and streets, and should be totally screened from public view by parapets or wall, or painted to visually match adjacent surfaces.

## 4.6 STREETScape STANDARDS

### 4.6.1 Vehicular Circulation and Streetscape Design

Streets should be designed to balance the circulation requirements of multiple users, facilitating the movement of automobile traffic, while promoting increased opportunities for pedestrians and bicyclists. To accomplish this objective, street design must move beyond the width of the roadway to focus on the use of the entire Right-of-Way to promote efficient drainage and safe circulation of non-motorized traffic. Where possible, the use of paved surfaces should be minimized as new streets are developed in order to minimize flooding.

The street design standards below apply to the construction of new residential streets in the City of Ocean Springs.

### 4.6.2 Residential Street Standards, Historic Ocean Springs Low-Density Neighborhoods

This Historic Street Type is designed to replicate the environment of the traditional Ocean Springs neighborhood. Historic street Rights of Way in Ocean Springs are often significantly narrower than this fifty (50) foot ROW model, any additional in this ordinance width provides for modern requirements for improved pedestrian circulation and stormwater drainage. Permitted Street Dimensions are outlined in Chapter 5, Table 5.1. This street design provision applies for use in low-density, low traffic environments in R-1, R-2, R-D, R-10 and Conservation Overlay Districts, and includes:

- A. Two (2) ten-foot travel lanes;
- B. One eight-foot lane of on-street parking;
- C. Two 6' curbs + planters for street trees and stormwater drainage; and
- D. Two 5' sidewalks for pedestrian circulation in residential areas.

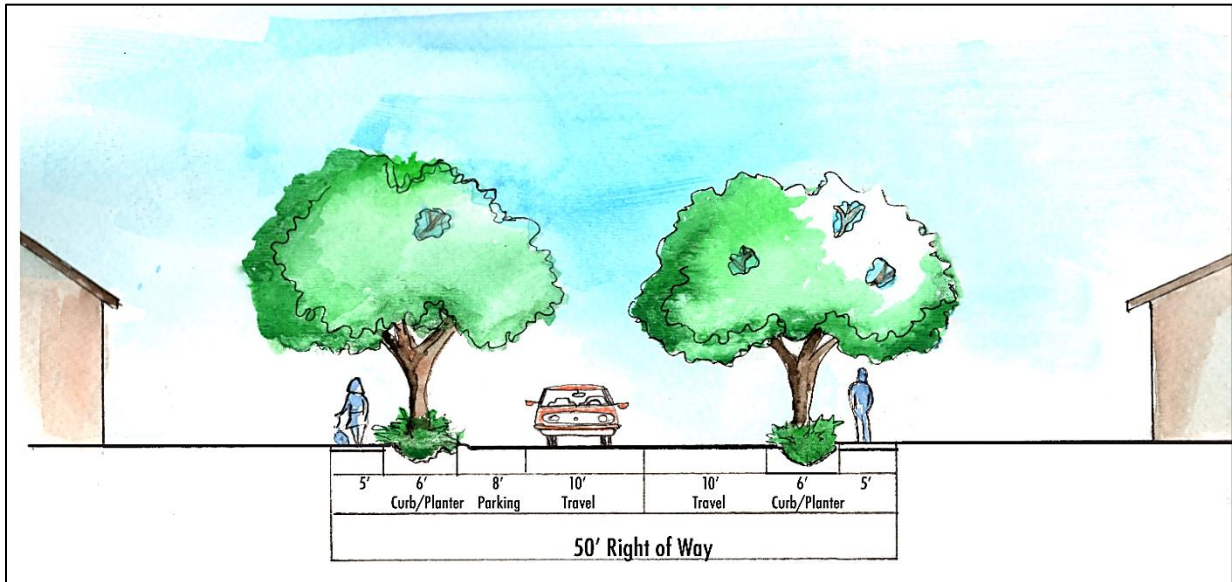


Figure 4.1: 50' ROW Street

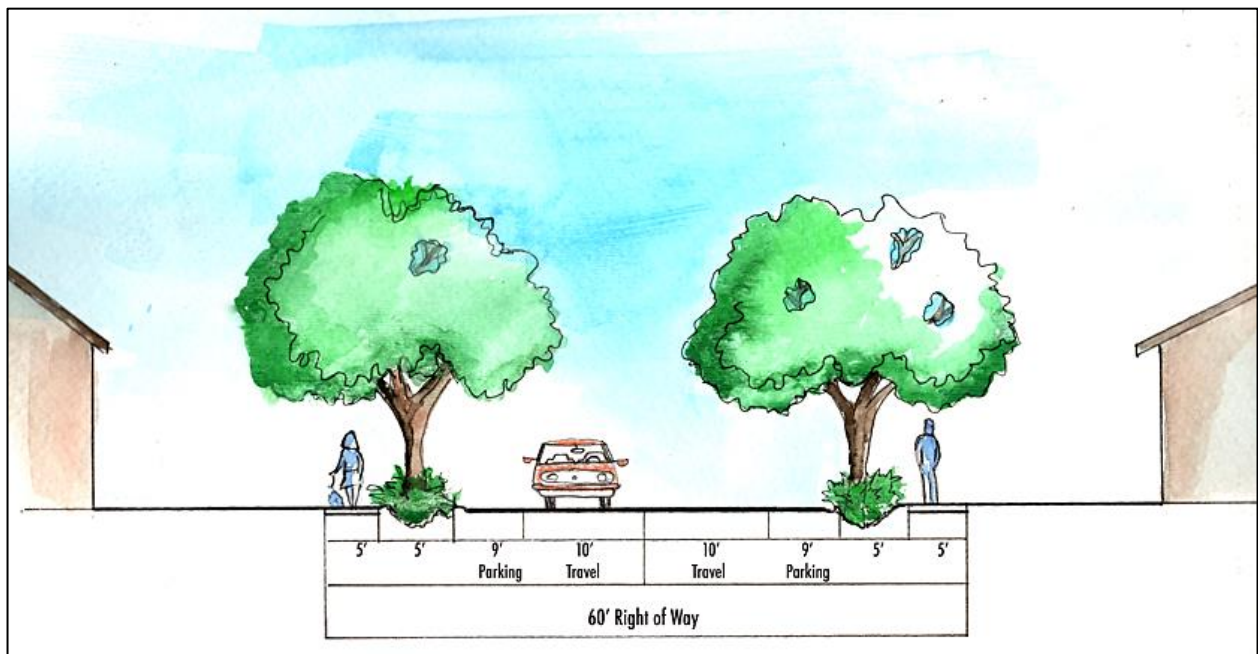


Figure 4.2: 50' ROW Street

#### 4.6.3 Residential Street Standards – Medium Density Districts

This Street Type provides additional width in the ROW to be used for improved pedestrian circulation and drainage as well as more on-street parking for higher density residential districts. Permitted Street Dimensions are outlined in *Chapter 5, Table 5.1*. This street type is for use in moderate-density, moderate traffic residential environments in R-2, R-3, R-1A, RM-2 and ~~Conservation Overlay Districts~~, and includes:

- E. Two (2) ten to eleven-foot travel lanes;
- F. Two nine-foot lanes of on-street parking;
- G. Two 6' curbs + planters for street trees and stormwater drainage; and
- H. Two 5' sidewalks for pedestrian circulation in residential areas.

(Ord. No. 2021-26)

#### 4.6.4 Pedestrian Circulation

- I. Pedestrian circulation should be designed in a manner to promote pedestrian activity and other aspects of good urban design that is sensitive to adjacent properties in placement of parking, scale, mass, and design.
- J. At least one sidewalk with a landscaping strip or street trees along entire length of parcel should be provided, consistent with the requirements in this UDC.
- K. Brick pavers, tile, stamped and/or stained concrete or stone should be used for sidewalk connecting from building to frontage road sidewalk and/or other private walkways. Asphalt, cinders, crushed limestone are strictly prohibited.
- L. Projects are encouraged to feature a functional urban park, public art, outdoor furniture or outdoor seating or dining areas visible from right-of-way or sidewalks.
- M. Bicycle racks are encouraged to be conveniently located near building entrance and not interfere with pedestrian accessibility.

### 4.7 PARKING STANDARDS

#### 4.7.1 General Intent and Application

It is the intent of these requirements that adequate off-street parking and loading facilities be provided for each use of land within the jurisdiction of this ordinance. These requirements shall be applied in all districts.

#### 4.7.2 Parking Area Location

- A. The majority of parking spaces should be located to the rear or side of the principal building. Variations from this configuration are subject to Planning Commission and Board Approval. All employee parking shall be located in the rear or side area. Parking areas between the

building and the street should preferably be one row, with a maximum of two rows of parking spaces, plus a two-way, 24-foot drive aisle;

- B. Parking areas shall be organized as a series of small parking bays containing a maximum of 15 contiguous parking spaces, with landscaped islands separating them;
- C. Parking shall be shared among adjacent or nearby properties to an extent that the minimum number of parking spaces as required by ordinance may be reduced by a maximum of 25% and shall be proportionate among the sites. A greater reduction may be allowed if uses can demonstrate off-peak hours of operation;
- D. Parking areas on adjacent property shall be connected by vehicular and/or pedestrian accesses; and
- E. Exterior parking lot light sources shall be properly shielded to mitigate light pollution.

(Ord. No. 2024-02, 04-02-2024)

**F. Compact spaces of 7.5 feet x 18 feet can make up 5 % of your parking field.**

**4.7.3 Dimensional Standards of Automobile Parking and Storage Space**

- A. Vehicle parking spaces and parking lot aisles shall comply with the dimensional standards established in the following table: *4.7.1, Dimensional Standards for Parking Spaces and Aisles.*

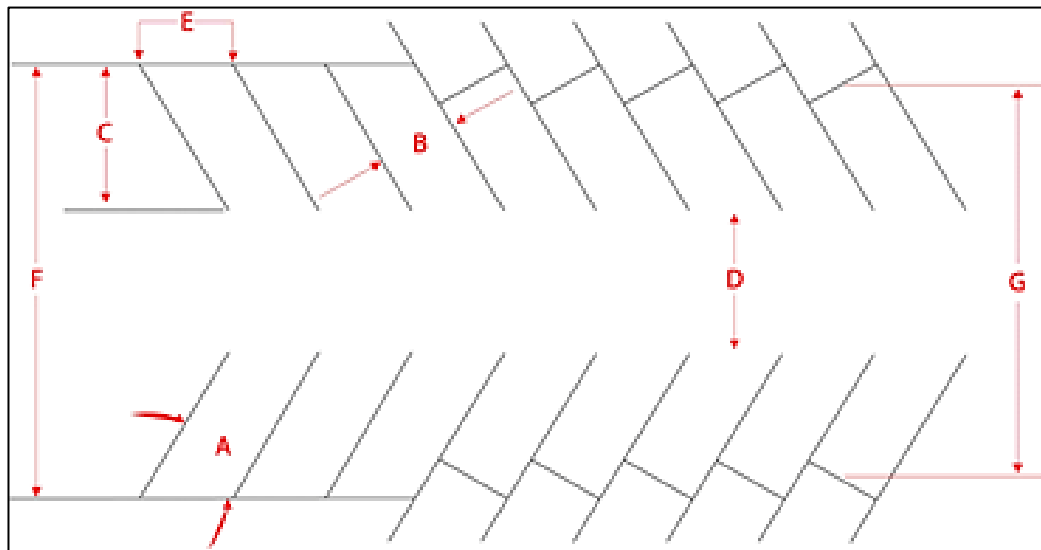
| TABLE 4.7.1: DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES <sup>1</sup> |                  |                                        |                               |                              |                                    |                                        |
|-------------------------------------------------------------------------------|------------------|----------------------------------------|-------------------------------|------------------------------|------------------------------------|----------------------------------------|
| PARKING ANGLE (DEGREES)                                                       | STALL WIDTH (FT) | STALL DEPTH PERPENDICULAR TO CURB (FT) | AISLE WIDTH (FT) <sup>2</sup> | STALL LENGTH ALONG CURB (FT) | DOUBLE ROW WIDTH CURB TO CURB (FT) | DOUBLE ROW WIDTH CENTER TO CENTER (FT) |
| A                                                                             | B                | C                                      | D                             | E                            | F                                  | G                                      |
| 0                                                                             | 9                | 9                                      | 24                            | 23                           | 42                                 | 42                                     |
|                                                                               | 10               | 10                                     |                               |                              | 44                                 | 44                                     |
| 45                                                                            | 9                | 19.1                                   | 24                            | 12.7                         | 62.2                               | 57.5                                   |
|                                                                               | 10               | 19.8                                   |                               | 14.2                         | 63.6                               | 56.6                                   |
| 60                                                                            | 9                | 21                                     | 24                            | 10.4                         | 66                                 | 61.5                                   |
|                                                                               | 10               | 20.6                                   |                               | 11.6                         | 65.2                               | 60.2                                   |

|    |    |    |    |    |    |    |
|----|----|----|----|----|----|----|
| 90 | 9  | 19 | 24 | 9  | 62 | 62 |
|    | 10 | 18 | 24 | 10 | 60 | 60 |

NOTES:

1. Refer to Figure 4.7.1, below, for illustration of parking space and aisle dimensions in various configurations (A-G) are measured.
2. For two-way traffic. Aisles for one-way traffic shall be a minimum of eighteen (18) feet wide (for all parking angles).

**FIGURE 4.7.1: PARKING SPACE AND AISLE DIMENSIONS**



#### 4.7.4 Off-street Parking Surfacing Requirements

- A. **Drainage, maintenance, and containment:** All parking facilities and access for all residential, commercial and industrial uses shall be properly drained to prevent ponding; shall be maintained free of trash and rubbish; and the surfacing material must be contained and maintained so as not to deposit on public rights-of-way.
- B. **Commercial and industrial parking and access:** Commercial and industrial parking facilities and access shall be asphalt, concrete, or brick/concrete pavers. Parking facilities and access may be of crushed limestone or similar material only upon approval of the Planning Commission or Historic Preservation Commission.
- C. **Residential parking and access:** Except as required by subdivision regulations, subdivision plat approval or otherwise for newly platted subdivisions, residential parking and access shall be asphalt, concrete, or brick/concrete pavers. Single-family and Two-family Residential parking and access may be crushed limestone, gravel and road millings upon



approval of the Planning Director, provided that a hard surface material (asphalt, concrete, or brick/concrete pavers) a minimum of 3 (three) feet in width is provided between the street pavement and the crushed limestone/gravel so as to insure proper containment. Any deviation from the above requirement shall be submitted to the Planning Commission (or Historic Preservation Commission for properties within a historic district) for a recommendation and to the Board of Aldermen for approval.

(Ord No. 2022-11, 10/04/22)

#### 4.7.5 Off-Street Automobile Parking and Storage

- A. Off-street automobile parking or storage space shall be provided on every lot on which any of the structures in this UDC are hereafter established ~~except that within the CMX-2 commercial district the minimum number of required spaces is one-half the designated spaces. Where space is not available on the lot, space shall be provided within three hundred (300) feet of such lot 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 structures.~~ All requirements are based on structure type, unless otherwise noted, exclusive of attics not accessible to the public. If attics are converted to usable space, that space must be added to the gross floor area and will require additional parking.

Table 4.7.2: Off-Street Parking Requirements

| Use                                                                                               | Required Parking Spaces                                                                                                                                |
|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Single family, two-family, townhouse and multi-family dwellings                                   | 2 parking spaces for each dwelling unit                                                                                                                |
| Mobile home                                                                                       | 2 parking spaces for each dwelling unit                                                                                                                |
| Bed and breakfast inn                                                                             | 2 spaces plus 1 space for each guest room                                                                                                              |
| <b><u>Car Wash or Auto Detailing</u></b>                                                          | <b><u>1 per employee on largest shift</u></b>                                                                                                          |
| Childcare, day care center                                                                        | 1 space for each 5 children, plus adequate off-street loading and unloading space                                                                      |
| Private clubs, lodges, fraternities, and sororities                                               | 1 space for each 50 square feet of total floor area in the main auditorium, assembly hall, dining room in such building plus 1 space per sleeping room |
| Churches                                                                                          | 1 space for each 5 seats in the main auditorium                                                                                                        |
| Funeral homes                                                                                     | 1 space for each 2 seats in the chapel                                                                                                                 |
| Theaters, auditoriums, stadiums, gymnasiums, convention halls and other places of public assembly | 1 space for each 4 seats in the building or structure, based on maximum seating capacity                                                               |
| Elementary schools                                                                                | 1½ spaces for each classroom or teaching station                                                                                                       |
| Secondary schools                                                                                 | 10 spaces for each classroom                                                                                                                           |
| Business colleges and trade schools                                                               | 1 space for each 2 student seats at maximum enrollment                                                                                                 |
| Hospitals                                                                                         | 1 space for each patient bed, plus 1 space for each 300 square feet of gross floor area                                                                |
| Nursing homes, convalescent homes, etc.                                                           | 1 space for each five (5) beds                                                                                                                         |
| Medical and dental clinics                                                                        | 1 parking space for each 250 square feet of office space                                                                                               |
| Retail sales with less than 5,000 sq. ft. of gross floor area (convenience                        | 1 space for each 250 square feet of retail floor area exclusive of storage areas                                                                       |

| Use                                                                                                                                                                   | Required Parking Spaces                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| stores, clothing stores, drug stores, food stores, small appliance stores, etc.)                                                                                      |                                                                                                                                   |
| Retail sales and service stores-with 5,000 sq. ft. of gross floor area or more (furniture store, large appliance store, swimming pools, etc.)                         | 1 space for each 500 square feet of retail floor space not including storage areas                                                |
| Health club or exercise club                                                                                                                                          | 1 space for each 250 square feet of gross floor area                                                                              |
| Personal service establishments and repair shops (such as beauty and barber shops, shoe repair, day spa, dry cleaning and coin-operated cleaners, pet grooming, etc.) | 1 space for each 250 square feet of gross floor area                                                                              |
| Wholesale, warehouse industrial and manufacturing establishments                                                                                                      | 1 parking space for each 400 square feet of gross floor area plus 1 space for each vehicle to be stored or stopped simultaneously |
| Restaurants, eating establishments, taverns lounges, nightclubs                                                                                                       | 1 space for each 200 square feet of gross floor area, plus 3 queuing spaces for each drive-up window                              |
| Hotel, motel                                                                                                                                                          | 1 space per guest room                                                                                                            |
| Office, bank and similar buildings                                                                                                                                    | 1 space for each 300 square feet of office space                                                                                  |
| Museum, art gallery                                                                                                                                                   | 1 space for each 500 square feet of gross floor area                                                                              |
| Bus terminals                                                                                                                                                         | 5 spaces for each loading and unloading bay                                                                                       |
| Vehicle service                                                                                                                                                       | Three (3) spaces plus 2 spaces for each service bay                                                                               |
| Vehicle or boat sales                                                                                                                                                 | 1 space per 300 sq. ft. of gross floor area plus 1 space per 5,000 sq. ft. of outdoor display area                                |
| Boat repair and service                                                                                                                                               | 1 space for each 250 square feet of gross floor area                                                                              |
| Mini-warehouse and self-storage                                                                                                                                       | 4 spaces plus 1 space for each 300 square feet of office space                                                                    |

| Use                           | Required Parking Spaces                                                                                                                                                                                                                                                          |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Other uses                    | Parking requirements for uses other than those stated shall be determined by the planning director as part of design review                                                                                                                                                      |
| CMX-1                         | <b>CMX-1 commercial district the minimum number of required spaces is 25% of the required spaces, if current parking count regulations cannot be achieved.</b>                                                                                                                   |
| CMX -2                        | <b>CMX-2 commercial district the minimum number of required spaces is 50% the designated spaces if current parking count regulations cannot be achieved.</b>                                                                                                                     |
| Shared parking                | <b>Where space is not available on the lot, space shall be provided within three hundred (300) feet of such lot 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 structures,</b> |
| Existing Commercial Buildings | <b>Existing buildings that have been used as a commercial building are exempt from complying with the parking requirements of this article.</b>                                                                                                                                  |

- B. **Entrances and exits:** All uses shall control access along streets upon which the use abuts in accordance with the following requirements:
1. **Access barrier:** Each lot, with its buildings, other structures and parking and loading areas shall be physically separated from each adjoining street by a curb or other suitable barrier against unchanneled motor vehicle ingress and egress. Except for the access ways permitted below, such barrier shall be continuous for the entire length of any lot line adjoining a street.
  2. **Number of access ways per lot:** A limit of one curb cut per street wherever feasible or one space for every one hundred (100) feet of the lot's street frontage. Access to parking facilities along arterial streets is from side streets that connect directly to arterials wherever possible to reduce the number of curb cuts along arterial streets. Arterials with speed limits of 50 mph or greater are limited to one driveway every two hundred (200) feet. Backing out onto arterials is prohibited.
  3. **Width of access ways:** The width of any curb cut shall not exceed thirty-three (33) feet nor be less than fifteen (15) feet with a minimum curb radius of five (5) feet for multi-family and commercial uses. The City Engineer may permit comparable cut-offs or chords in lieu of rounded corners.

- C. **Distances between access ways and minimum setbacks from street intersections:** The spacing of access ways shall conform to the following:
1. At its intersection with the lot line, no part of any access way shall be nearer than twenty (20) feet to any other access way on the same lot, nor shall any part of the access way be nearer than ten (10) feet to any side or rear property line;
  2. At intersections with other streets, no part of an access way shall be permitted within forty (40) feet of the intersecting streets right-of-way line, however, the Public Works required distance may be greater at intersections with collector and arterial streets; and
  3. No part of an access way shall be permitted within a corner radius.
- D. **Reduction of traffic hazards at access ways:** Access ways shall be designed and constructed so that vehicles will not back into public streets or alleys, except for single-family and duplex structures. The location and number of access ways shall be so arranged that they will reduce the possibility of traffic hazards as much as possible.

#### 4.7.6 Combined Parking

The required parking spaces for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time, except that one-half of the parking space required for churches, theaters, 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.

#### 4.7.7 Off-Street Loading and Unloading Space

- E. Every building or structure used for business, trade or industry shall provide space as indicated herein for the loading and unloading of vehicles. Such space shall have access to a public street or alley. Where possible, loading areas should not be visible from any adjoining public street.
- F. Retail business: Minimum of one space of five hundred (500) square feet per location plus one space of three hundred (300) square feet for each three thousand (3,000) square feet of floor area.
- G. Wholesaling and industry: Minimum of one space of five hundred (500) square feet per location or one space of five hundred (500) square feet for each ten thousand (10,000) square feet of floor area, whichever is the greater.
- H. Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loading or unloading at the terminal at any one time.

#### 4.7.8 Parking Requirements for Existing Commercial Buildings

Existing buildings that have been used as a commercial building are exempt from complying with the parking requirements of this article. All new buildings, buildings converted from

residential use or any expansion or addition to a commercial use building shall not be exempt from the parking requirements set out in this UDC.

Parking lots shall be designed to avoid glare from vehicle lights onto property zoned for residential, public or conservation purposes as vehicles enter or exit the parking lot and individual spaces. Wherever a parking space faces such property, a fence or wall of solid construction extending from the parking surface to a height of not less than forty-two (42) inches shall be provided.

## **4.8 FENCES AND SCREENING WALLS**

### **4.8.1 Parking Areas**

Where parking areas adjoin public streets, an opaque barrier, a minimum of three (3) feet above the elevation of the adjacent parking area shall be provided between the parking area and the street right-of-way line, for the length of the parking area, to obscure parked vehicles within these areas from public view, and to prevent the lights from parked vehicles encroaching upon the public street. The opaque barrier shall meet the following standards:

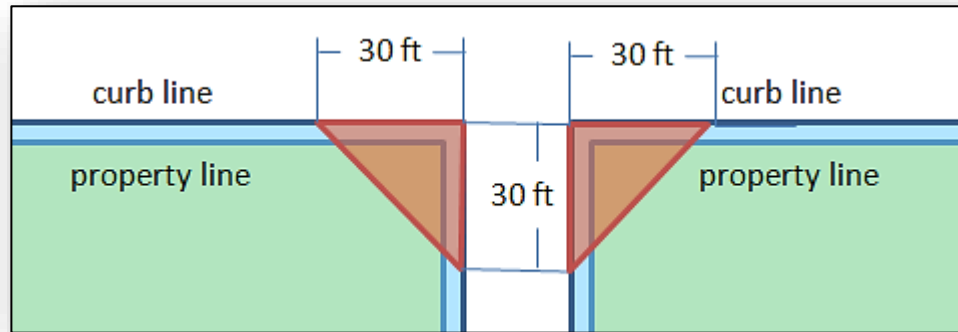
- A. Within front yard setback areas, walls and fences shall not exceed four ~~(4)~~(5) feet in height;
- B. Walls and fences shall not impede or divert the flow of storm water;
- C. Walls and fences shall not block access to any above ground, pad mounted transformer, and shall provide a minimum clear access to the transformer doors, as required by the utility company; and
- ~~D.~~ Solid walls and fences shall not create a stockade appearance. This can be accomplished by undulating the fence plan. Fences over eighty (80) feet long shall have no more than 50% of their length on a continuous line. ~~The remaining length shall be setback a minimum of six (6) feet.~~

### **4.8.2 Sight Triangles**

- A. Except as otherwise allowed, no fence, wall, hedge, sign, or other structure or planting more than three (3) feet in height above the crown of the street pavement shall be placed or permitted on any corner lot within the triangular areas formed by two legs extending thirty (30) feet from the projected intersection of the curb lines or edge of pavement lines and a hypotenuse connecting the ends of the legs as shown in the Sight Triangles illustration. This provision also applies to non-residential and multi-family driveways.

*Deleted [ORD 2022-10]*

Figure 4.3: Sight Triangles



## 4.9 LIGHTING

### 4.9.1 Adequate Lighting for Private streets

Private streets, driveways, parking lots, walks and service areas shall be adequately lighted at all times so that the area is safe for occupants and visitors. Lighting levels should be as even as possible.

Table 4.9.1: Lighting Intensity Standards table.

| Location                                                                                                                                                                  | Lighting Intensity        |                 |                          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------------|--------------------------|
|                                                                                                                                                                           | Minimum Foot- Candle (fc) | Maximum Average | Maximum to Minimum Ratio |
| Within Multi-Family developments and commercial developments with less than or equal to 25,000 sq. ft. of conditioned space.                                              | 1.0 fc                    | 3.0 fc          | -                        |
| Within commercial developments with more than 25,000 sq. ft. of conditioned space.                                                                                        | 1.0 fc                    | 5.0 fc          | -                        |
| Fronts of buildings and along main driveway aisles in commercial developments with less than or equal to 25,000 sq. ft. of conditioned space.                             | 2.0 fc                    | 6.0 fc          | 4.0:1.0                  |
| Fronts of buildings and along main driveway aisles in commercial developments with less than or equal to 25,000 sq. ft. of conditioned space.                             | 2.0 fc                    | 8.0 fc          | 4.0:1.0                  |
| High security areas, such as, but not limited to automated teller machines and motor vehicle display areas, but not including parking lots within commercial developments | 10.0 fc                   | 30.0 fc         | 4.0:1.0                  |

#### 4.9.2 Lighting Intensity Levels

Lighting intensity levels for multi-family and commercial development shall comply with the standards in Lighting Intensity Standards table below:

- A. All entrances and exits to both the subject property and any proposed structures shall be lighted.
- B. Security lighting controlled and activated by motion sensor devices shall not be triggered by activity off the property and shall not exceed 30.0 foot-candle.
- C. Canopy light fixtures for automotive fuel stations shall be recessed so that the lens cover is recessed within the bottom surface of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to 60 degrees or less from vertical.
- D. Low wattage fixtures (comprised fixtures with output less than one hundred (100) lumens), such as, but not limited to holiday lighting, shall not be installed more than forty-five (45) days before and removed not more than fifteen (15) days after the subject holiday.
- E. Non-essential lighting that was not designated on the original development plan to serve the purposes of safety and security shall be turned off between 11:00PM and 5:00AM, unless otherwise approved by the Planning Director.
- F. Lighting fixtures (parking lot lighting or security lighting - non- accent lighting) within commercial developments with less than 25,000 square feet of conditioned space and multiple-family developments, whether mounted upon a building or independently upon a light standard, shall not exceed twenty (20) feet in height. Lighting fixtures (parking lot lighting or security lighting - non- accent lighting) within commercial developments with more than 25,001 square feet of conditioned space, whether mounted upon a building or independently upon a light standard, shall not exceed twenty-five (25) feet in height.
- G. All luminaries (the complete lighting unit, consisting of the light source and all necessary mechanical, electrical, and decorative parts) shall be a full "cut-off type" luminaire, with elements such as shields, reflectors, or refractor panels which direct and cut-off the emitted light at a specific angle. All luminaries shall have a cut-off angle of ninety (90) degrees or less. Architectural luminaires may be permitted upon review by the Planning Director.
- H. The lighting from any luminaire shall be shielded, shaded, or directed to prevent either direct or reflected light from being cast upon any adjacent residential property, and to prevent glare and other objectionable problems to surrounding areas. Lighting levels at property boundaries with residential uses shall not exceed 0.5 foot-candle. Lighting levels at property boundaries with other commercial, industrial and multifamily uses shall not exceed 1.0 foot-candle.
- I. No exterior lighting fixture of any kind shall be so placed or oriented such that the direct or reflected light there from shall interfere with the operation of automotive vehicles on any adjacent street.
- J. No exterior light shall have any blinking, revolving, flashing, or fluttering light, or other illuminating device which has a changing light intensity or brightness of color. High intensity



light beams, such as, but not limited to, outdoor searchlights, lasers, or strobe lights shall be prohibited.

- K. All exterior lighting fixtures shall be either low pressure sodium, fluorescent, metal halide, or LED fixtures. High pressure sodium, mercury vapor or other fixtures may be permitted upon review by the Planning Director.
- L. Lighting fixtures shall be compatible in style with the architecture of their associated buildings.

#### 4.10 LANDSCAPING BUFFERING AND SCREENING

##### 4.10.1 Purpose

Ocean Springs' urban canopy provides the City with multiple benefits, including providing shade, reducing heat radiated from paving, managing stormwater runoff and screening parked automobiles from public view. Existing trees are an amenity that increases the value of property and require many years to replace. Therefore, new development must contribute to the city's tree canopy while protecting existing trees. Landscaping and trees are used along streets and in parking areas to improve auto circulation and safety, and to screen parked automobiles from public view.

##### 4.10.2 Applicability

The landscaping, buffering, tree preservation and street tree requirements shall apply to all subdivisions, re-subdivisions, redevelopment and new development as indicated in Applicability of Landscape Standards by Base Zoning District table.

*Table 4.2: Applicability of Landscape Standards by Base Zoning District*

| Requirement       | Base Zoning District |     |     |      |     |      |      |     |       |       |    |    |
|-------------------|----------------------|-----|-----|------|-----|------|------|-----|-------|-------|----|----|
|                   | R-1                  | R-2 | R-3 | R-10 | R-6 | R-1A | RM-2 | RMH | CMX-1 | CMX-2 | CH | M1 |
| Landscaping       | X                    | X   | X   | X    | X   | X    | X    | X   | X     | X     | X  | X  |
| Buffering         |                      |     |     |      |     | X    | X    | X   | X     | X     | X  | X  |
| Tree Preservation | X                    | X   | X   | X    | X   | X    | X    | X   | X     | X     | X  | X  |
| Street Trees      | X                    | X   | X   | X    | X   | X    | X    | X   | X     | X     | X  | X  |

(Ord. No. 2020-05, § I, 2-04-20) / (Ord. No. 2021-26) / (Ord. No. 2023-06) / (Ord. No. 2024-02)

##### 4.10.3 Exemptions

The following minor development activities must comply with the tree preservation and street tree requirements but are exempt from the landscaping and buffering requirements required for apartment, mixed-use and commercial districts.

- A. Single-family residence;
- B. Two-family residences; and
- C. Existing developments and facilities except as otherwise provided herein.

#### 4.10.4 Landscaping Plan

When the provisions of this section are required, a landscape plan must be submitted and reviewed for conformance with these requirements. The plans shall be dimensioned and drawn to scale and shall include, at the minimum, the following:

- A. Species, size and location of existing trees to be retained;
- B. Species, size and location of trees and vegetation to be planted;
- C. Shrubs and other landscape vegetation to be provided;
- D. Screening and buffers from adjacent uses;
- E. Buffers for Protection of wetlands, water Bodies, and conservation areas;
- F. Proposed structures, sidewalks, signs, parking, loading and other site improvements;
- G. Relationship of site to adjacent streets and properties; and
- H. Other information as the Planning Director may reasonably require to determine compliance.

#### 4.10.5 Landscaping Requirements

- A. Site Development
  - 1. All applicable development activities require one tree per 2,500 square feet or fraction thereof of lot area. A minimum of 50% of the required trees shall be shade trees.
  - 2. The required landscaped area shall be a minimum of 20% of the property not occupied by buildings, but in no instances, shall the landscaped area be less than 15% of the total lot area.
  - 3. All parking areas must include interior landscaping equivalent to at least 10% of the total parking area.
  - 4. A green area of no less than four feet in width will be required between the building and any and all parking area except for direct access ways to building entrances and exits.
  - 5. Any new development which has 15 parking spaces or less shall be exempt from the above parking area interior landscaping requirements.
  - 6. Required landscaped area shall be exclusive of the land occupied by curbs and sidewalks. Vehicles shall not overhang more than two feet onto landscaped areas.
  - 7. An approved green area of no less than three feet in width shall be required between vehicular use areas and all lot lines.

8. Cross visibility, at the corner of each side of permitted points of access from public right-of-way, landscaping must be planted and maintained as to provide unobstructed visibility between the heights of two and one-half (2 1/2) feet and ten feet within an area defined by constructing lines parallel to 30 feet from the curb line and extending back 30 feet from the point of intersection of curb lines projected as illustrated in Figure 4.1.

B. Subdivision Development.

1. Each new subdivision will be required to provide landscaped entrances, right-of-way and medians to consist of approved landscaping material and trees at a ratio of one tree per each 1,250 square feet or fraction thereof, of rights-of-way. Entrances, medians and other landscaped areas shall include water service for irrigation. A minimum of 50% of the required trees shall be shade trees.
2. All new collector streets will have a minimum of one median area for every 2,000 linear feet. The median area will be a minimum of 200 square feet and the area will be landscaped. The median landscape material must consist of at least 50% living vegetation.
3. In all areas where landscaping is required and stormwater drainage ways are proposed with side slopes of 3:1 or greater and/or where design depth of maximum water retained is two (2) feet or greater, landscaping of at least two (2) feet in width along the outer perimeter must be installed with provisions for maintenance access.

4.10.6 Buffer Yards and Screening

- A. Transitional Buffer Yards - Transitional screening is required where commercial or multi-family uses adjoin single-family residential areas or uses.
- B. Location - Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, alongside and rear property lines. Buffer yards shall not be located on any portion of a public or private street right-of-way.
- C. Nuisance Screening - To reinforce the natural environment and a consistent streetscape, service and utility functions shall be screened from public view.
- D. Garbage Collection Areas - Garbage collection areas shall be located at the rear of buildings and shall be enclosed on all sides by a gated wall wherever possible, conforming to the requirements for opaque barriers. The following criteria shall apply:
  1. Dumpster enclosures shall be located on a concrete pad, of such size as recommended by the disposal company;
  2. The approach to the dumpster area shall be paved of a hard surface Portland cement, asphalt, or a substitute approved by the City of a specification sufficient to support the weight and continual use of the refuse collection vehicle;
  3. The screening on all enclosed dumpsters shall be a minimum of at least two (2) feet taller than the dumpster;

4. For restaurants, a floor drain shall be provided within the dumpster enclosure which ties to the sanitary sewer;
5. Either the dumpster enclosure must be constructed of sufficient size to accommodate all refuse materials to be recycled, such as grease barrels for restaurants and used oil barrels for automotive uses, or a separate enclosed pad of the same specifications shall be provided; and
6. The use of chain-link fencing or chain-link fencing with slats as a screening device for garbage collection areas is prohibited.

#### 4.10.7 Buffer Requirements

- A. Landscaped buffers and a solid wall or fence shall be required to separate property zoned for commercial or industrial use from adjacent property zoned or used for residential purposes (Single-family or Multi-family) and to separate property zoned for Multi-Family Use from adjacent property zoned or used for Single-family Residential Use. The minimum buffer width shall be twenty feet (20') and be planted with one (1) large or medium tree for each twenty (20) linear feet of property on the boundary separating the adjacent Uses. The solid wall or fence shall be at least six (6) feet and not more than eight (8) feet in height and be located no more than one (1) foot from the property line.
- B. Subdivisions of ten (10) Lots or more shall provide a landscaped buffer along any perimeter property boundary adjacent to property zoned for commercial or industrial Use. The minimum buffer width shall be fifteen (15) feet and be planted with one (1) large or medium tree for each twenty (20) linear feet of property along such boundary.

#### 4.10.8 Use of Landscaped Buffers

- A. Landscaped buffers may be counted toward satisfying Open Space requirements. Buffers may contain pedestrian or bike trails, provided the total width of the buffer is maintained. The following uses are prohibited in landscaped buffers: playfields, stables, swimming pools, tennis courts, parking lots and vehicular use areas, dumpsters, equipment storage, open storage, and buildings or building overhangs.
- B. Stormwater retention or detention facilities, grassed swales and bio-retention areas, including rain gardens, may be allowed to encroach into landscaped buffers, provided all planting requirements are met. The sides of stormwater retention or detention facilities may be landscaped to satisfy the planting requirements of this section.

#### 4.10.9 Buffers for Protection of Wetlands, Water Bodies, and Conservation Areas

- A. A buffer shall be required between any proposed development and a water body, wetland, or federal, state or locally designated conservation area. The required buffer shall consist of at least one (1) of the following:
  1. An existing undisturbed vegetated area, consisting of native vegetation; or

2. An area planted with landscape materials meeting the requirements of Section 4.9.7 above, with plants selected from the approved vegetation list provided in Section 4.12. Such planted area shall only be required in those areas where the native vegetation has been cleared. In such cleared areas, landscaping shall be replanted at the following rates:
  - A medium or large tree shall be planted every 1600 square feet of cleared buffer area. Three (3) small trees may be substituted for one (1) large tree, at the discretion of the property owner;
  - Ground cover shall be required for all other cleared areas. Grassed areas are prohibited within the buffer required for a water body, wetland, or wildlife habitat; and
  - A combination of existing native vegetation and planted landscaping, as otherwise required in this UDC.
- B. The width of the buffer may vary, based upon the natural features of the land, such as slope, elevation, and transition of vegetation. The buffer shall be not less than thirty (30) feet in width from the wetland or water boundary or from the centerline of the stream.
- C. In areas where 30 feet is not achievable due to right-of-way easements, utility easements, environmental permits, and/or access easements existing at the time of adoption of this UDC, the maximum width achievable shall be required; however, in no case shall the buffer be less than an average of 20 feet. Where averaging is used, the buffer at no point shall be less than 20 feet in width except in those areas where encroachments are permissible. Buffer width is measured from the USCE or MDEQ jurisdictional line.
- D. The following structures may be allowed within the buffer; however, the extent of such encroachment shall be minimized:
  1. Piers, docks, roads, utilities, recreational crossings, stormwater facilities, or substantially similar structures. The number of such encroachments shall be minimized by co-location.
  2. A path or trail, up to a maximum of fifteen (15) feet in width, may be cleared through the buffer to provide access to allowable structures. Any wetland crossing shall require a permit from USCE and/or MDEQ.

#### 4.10.10 Alternative Design Solutions

The Planning Director shall have the authority to approve alternative designs upon finding that strict adherence to the requirements of this section create practical difficulties with development. The alternative design shall equal or exceed the planting requirements of this section. In no way shall the alternative design solution circumvent the intent of this section.

### 4.11 TREE PROTECTION AND PRESERVATION

#### 4.11.1 Applicability

The provisions of this article shall apply to live oaks (*Quercus virginiana*); magnolia (*magnolia grandiflora*); and eastern red cedar (*Juniperus virginiana*) on all privately-owned property within the City limits.

#### 4.11.2 Trees on Private Property

Except as provided and permitted herein, it shall be unlawful to cut down, remove, deface, burn, poison, injure, mutilate, disfigure or substantially trim any tree identified herein as a protected tree in such a manner or such a degree that the aesthetic, ecological or economic value of the tree is lost or that such action results ultimately in the destruction of any tree designated in this article. This article applies to trees on private property which have a trunk diameter of 5.75 inches DBH, as measured four feet six inches (4'6") above ground level from the base of such tree.

#### 4.11.3 Trees on Public Property

All trees of any kind, regardless of size, located on public property belonging unto the City shall not be removed, cut down nor destroyed except upon action of the Mayor when s/he determines that an emergency situation justifies such removal or destruction; provided, however, any tree removed under authority of the Mayor shall nonetheless be reported to the Board of Aldermen by the Mayor, stating her/his reasons therefore.

#### 4.11.4 Exemption of Public Utilities

Any public utility operating within the City may, upon order of the Board of Aldermen, be exempt from the provisions of this article, upon a finding that the services provided by them are necessary for the general health, safety and welfare of the citizens of the City. However, any such cutting, removal or taking of any other action that would ultimately result in the destruction of any tree designated in this article shall be limited to the amount necessary in order to provide such utility service.

- A. Existing trees shall be protected throughout site construction
- B. Whenever possible, healthy existing trees should be retained. The landscaping plan must identify:
  - 1. The species, location, DBH and size of the tree canopy of all trees of at least 5.75 DBH, as measured four feet six inches (4'6") above the ground, or larger, and
  - 2. Which trees are to be retained or removed.
    - i. For those trees to be preserved, a critical root zone must be located on the plan. A protective fence shall be placed around the critical root zone. No excavation, fill storage of construction equipment or materials, washout of concrete or paint, and/or trenching for utilities shall take place within the critical root zone. The Applicant must submit a justification for any trees proposed for removal and review shall be required by the Ocean Springs Tree Protection Committee.
    - ii. A barrier must be installed no less than fifteen (15) feet from the trunk of a tree or at 75% of the dripline, whichever is greater. These barriers shall be constructed as follows:
      - Projects with an estimated completion time of less than ninety (90) days may use temporary fencing;

- Projects with an estimated completion time of more than ninety (90) days shall use agriculture wire or wooden permanent fencing to protect trees; and
- Fencing shall be removed upon completion of construction.

Existing Tree Credit. For every existing tree of 5.75 inches DBH maintained as part of the proposed development, the Applicant shall receive a credit on a 1:1 basis against the tree requirement of either the perimeter or interior landscaping standards, dependent upon the location of the existing trees on the site. The maintenance of existing trees shall be considered a credit against the perimeter street tree requirement if the existing trees to be maintained lie within the subject site, but also within reasonable proximity to the street right-of-way line.

## 4.12 LOCATION, MAINTENANCE, AND REMOVAL OF TREES

### 4.12.1 Required

- Street trees are required along public and private streets in all Zoning Districts;
- Alleys, service drives and driveways are not streets requiring trees;
- Trees to be located adjacent to a sidewalk or curb should be selected from *Table 4.7 Approved Understory or Ornamental Tree Planting List* or *Table 4.8 Understory or Ornamental Trees, Non-Flowering* to avoid root or canopy damage to City infrastructure. If a canopy tree is to be installed, it must be planted using root barriers to avoid damaging public infrastructure; and
- The street trees adjacent to a property will be reviewed in conjunction with the issuance of a building permit. Any required trees and planting condition improvements will be part of the work to be completed under said permit and must be planted in order for a permitted project to be completed or for the issuance of a Certificate of Occupancy, when required.

### 4.12.2 Species

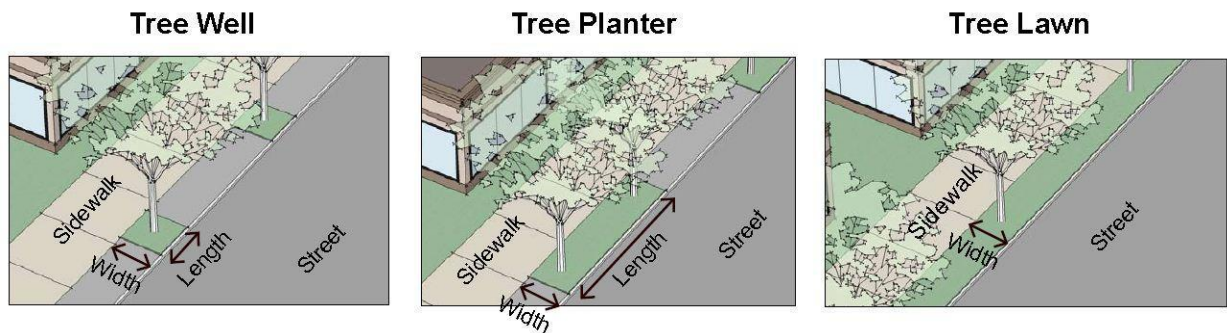
- A variety of tree species shall be planted along the street on every block.
- Allowable species are listed in Table 4.5 Approved Species List. Canopy trees are not suitable for planting directly under overhead utility lines.

### 4.12.3 Planted Size

- Large deciduous trees shall be at least two (2) inch caliper at the time of planting.
- Small deciduous ornamental trees shall be at least 1 ½ inch caliper at the time of planting.
- Full consideration shall be given to the size of the tree at maturity, so as to ensure the tree's long-term survival in the proposed planting conditions and its compatibility with adjacent sidewalks, streets and other infrastructure.

#### 4.12.4 Location and Spacing

- A. Location – the planting of trees within the street right-of-way or public easements shall be done in consultation with the City Engineer:
1. Street trees shall be located on the parkway between the sidewalk and curb where a sidewalk exists.
  2. Where a sidewalk does not exist, trees shall be planted approximately 5' from the back of the curb.
  3. Where a curb does not exist, trees shall be planted approximately 8' from the property line, provided said location does not interfere with underground utilities or street and drainage improvements.
- Tree spacing may range from 15' to 40' apart depending upon width of the lot. No gap in the street tree spacing greater than 40' is allowed, unless it is an existing condition, which



will change over time as building permits are issued.

#### 4.12.5 Planting Conditions

- A. General - There are three type of street planting “conditions” based on the improvements within the parkway (Planting Conditions graphic).
- B. Planting Condition by Zoning District Table shows the base zoning districts in which each type of planting condition is allowed.

*Table 4:3 Planting Conditions by Zoning District*

| Base Zoning District | Planting Condition |              |           |
|----------------------|--------------------|--------------|-----------|
|                      | Tree Well          | Tree Planter | Tree Lawn |
| R-1                  |                    |              | X         |
| R-2                  |                    |              | X         |
| R-3                  |                    | X            | X         |
| R-10                 |                    | X            | X         |
| R-6                  |                    | X            | X         |



| Base Zoning District | Planting Condition |              |           |
|----------------------|--------------------|--------------|-----------|
|                      | Tree Well          | Tree Planter | Tree Lawn |
| R-D                  | X                  | X            | X         |
| R-1A                 |                    | X            | X         |
| RM-2                 | X                  | X            | X         |
| RMH                  |                    |              | X         |
| CMX-1                | X                  | X            | X         |
| CMX-2                | X                  | X            |           |
| C-H                  | X                  | X            |           |
| M-1                  | X                  | X            | X         |

(Ord. No. 2021-26) / (Ord. No. 2023-06)

- C. The size and area of the parkway planting conditions are as follows:

*Table 4.4: Size and Area of Planting Conditions*

| Size and Area | Planting Condition     |                        |           |
|---------------|------------------------|------------------------|-----------|
|               | Tree Well              | Tree Planter           | Tree Lawn |
| Width         | 5' min                 | 5' min                 | 5' min    |
| Length        | 5' min                 | 10' min                | -         |
| Area Per Tree | 25 ft <sup>2</sup> min | 25 ft <sup>2</sup> min | -         |

- D. Tree wells and tree planters must be at least 10' apart from other tree wells and tree planters.

#### 4.12.6 Maintenance and Replacement

- A. The property owner is required to maintain all vegetation located within the parkway including the appropriate maintenance of street trees.
- B. If a street tree is either removed or determined to be dead by the City as verified by a City Building Inspector, the owner has 30 days to replace the tree.
- C. In maintaining the street trees, the property owner must prune the tree in a manner consistent with Standard Practice for Trees, Shrubs and Other Woody Plant Maintenance, ANSI 300 of the National Tree Care Association.
1. The owner shall manage pests while:
    - i. Avoiding over-fertilization and over-watering, which can make plants more susceptible to pests and disease;
    - ii. Avoiding routine applications of pesticides; apply pesticides only if and when needed.
  2. The owner shall fertilize appropriately by:
    - i. Fertilizing only as needed;
    - ii. Choosing fertilizers that contain 30% or more slow-release nitrogen.

#### 4.12.7 Maintenance of Trees and Landscaping

The owner, tenant, agent or another person in charge of the premises shall be jointly and severally responsible for the maintenance of all landscaping, landscaped areas and incidentals as required by this ordinance. All trees and other plant material shall be kept in a healthy, living state and grounds shall be kept free of rubbish, refuse and debris. Grass and shrubbery shall be kept neatly trimmed.

#### 4.12.8 Maintenance of Overall Landscape Plan

Trees, shrubs, and other landscaping materials depicted on the Development Plan shall be considered binding elements of the project in the same manner as parking, building, materials, and other details. The Applicant, his/her successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping materials for a period of two (2) years. Plant material or trees which exhibit evidence of insects, disease, leaning, or damage shall be appropriately treated. Dead plants or trees shall be removed and replaced within ninety (90) days following notification by the City.

#### 4.12.9 Contents of Permit Application

Any person, firm, partnership, corporation, or other legal entity seeking permission to cut down, remove, deface, burn, poison, or take any other action that results ultimately in the destruction of any tree designated in this article, shall first make written application to the Tree Protection Department, with said application to contain the following information:

- A. The plat map describing the property on which the tree or trees are located, naming streets adjacent to the property and showing the location of the tree or trees on the plat. The map may be prepared by the applicant (compass direction shall be shown on the map). The scale of the map shall be as follows:

| Scale Property Size  |                                 |
|----------------------|---------------------------------|
| 1" equals 10' (1:10) | Up to 200' wide x 300' deep     |
| 1" equals 20' (1:20) | Up to 400' wide x 600' deep     |
| 1" equals 30' (1:30) | Up to 600' wide x 900' deep     |
| 1" equals 40' (1:40) | Up to 800' wide x 1,200' deep   |
| 1: equals 50' (1:50) | Up to 1,000' wide x 1,500' deep |
| 1" equals 60' (1:60) | Up to 1,200' wide x 1,800' deep |

- B. Property over one thousand two hundred (1, 200) feet by one thousand eight hundred (1, 800) feet should have a key plan base plot map with attached partial plot maps at the larger appropriate scale.
- C. Trees to be affected shall be so denoted on the map by a circle and numbered in sequence so that they may be identified by the same code from any written material accompanying the map.
- D. The requirement of a scaled plat map may be waived by the Tree Protection Department.
- E. An explanation or description of the work or alteration to be performed on each tree.

- F. The name, legal residence, mailing address and phone number of the property owner, or other party with a legal interest in the property with owner consent, making the request and the same information of the person or, firm doing the work.
- G. Any other information so required by the Tree Protection Department or Building Official.
- H. An application fee to cover the cost of administration shall be submitted with the permit application for removal of any protected tree(s) in the amount reflected in the currently adopted fee schedule.

(Ord. No. 2020-21, § II, 12-15-20)

#### 4.12.10 Removal and Replacement of Trees

Recognizing that the preservation of existing trees and if necessary, their relocation or replacement, is preferred and in order to implement these objectives, the following procedures are established:

- A. After an application is filed, the Tree Protection Department shall issue a permit for the removal, relocation or substantial alteration of a protected tree if their review determines that one or more of the following criteria set forth in this section are met:
  - 1. The tree is located in an area where a structure or improvement will be placed according to a tree site plan and it unreasonably restricts all reasonable use of the property.
  - 2. The tree is diseased, injured, in danger of falling and causing destruction or damage to an existing structure, interferes with existing utility service, creates unsafe vision clearance, is currently causing damage to an existing structure or property, or conflicts with other ordinances or regulations.
  - 3. The economic hardship imposed on the applicant by denial of the permit outweighs the loss created by removal of the tree.
- B. If the application for removal of a tree(s) does not qualify for such removal, relocation, or substantial alteration under the conditions of 4.12.10(A), the Tree Protection Department may require the applicant to relocate on said premises each protected tree being removed, and to keep such tree in a healthy living condition for at least three (3) years following relocation. In the event relocation the tree(s) cannot be relocated or was removed without a permit, the applicant shall be required to replace the tree(s) with one of the same type or compensate the City in an amount equal to the value of the lost protected tree(s), as determined by the City arborist or Tree Protection Department by reference to the current edition of the Guide for Plan Appraisal by the International Society of Arboriculture. In documented hardships the Tree Protection Department will be allowed to waive up to one-half of the reimbursement amount. Such replacement funds will be administered by the Board of Aldermen and used for replacement trees and shrubbery at the applicant's site or alternate public property as may be recommended the City arborist or Tree Protection Department.

(Ord. No. 2019-12, § VII, 6-18-19) (Ord. No. 2020-10, §IV, 5-19-20)

#### 4.12.11 Decision

- A. The Tree Protection Department shall forward all recommendations in writing to the Board of Aldermen for final decision.
- B. The applicant or other aggrieved party may file an appeal of the Tree Protection Department's recommendation within seven (7) days of the meeting at which the recommendation was made. The Board of Aldermen shall make a final decision within thirty (30) days of the Tree Protection Department's recommendation.

(Ord. No. 2019-12, § VII, 6-18-19) (Ord. No. 2020-10, § V-§ VIII, 5-19-20)

### 4.13 APPROVED VEGETATION

#### 4.13.1 Plant Material Minimum Standards

- A. Trees and shrubs selected for planting shall meet the minimum requirements provided in the Mississippi Nursery and Landscape Association (MNLA) manual, latest edition, and the Mississippi Department of Agriculture and Commerce.
- B. All landscaping shall be installed in a sound manner and in accordance with accepted standards of the Louisiana Nurseryman's Manual for the Environmental Horticulture Industry, latest edition, as published by The Louisiana Nursery and Landscape Association.
- C. Plant material must be true to name, variety and size shall conform to all applicable provisions of the American Standards for Nursery Stock, latest edition.
- D. All single trunk trees shall have a minimum two (2) inch caliper DBH.
- E. Multi-trunk trees shall have main stems with a minimum one (1) inch caliper DBH and have a minimum of three (3) main stems.

#### 4.13.2 Species

The following tables provide the approved tree, shrub and groundcover species. Native species that are not listed must be approved by the Planning Director and are subject to appropriate location based on sun, temperature, soil, and water requirements.

*Table 4.5 Approved Canopy Tree Planting List*

| Canopy Trees      |                              |                                                                                    |
|-------------------|------------------------------|------------------------------------------------------------------------------------|
| Common Name       | Species                      | Description                                                                        |
| American Beech    | <i>Fagus grandifolia</i>     | Slow growing, with an average height of 65-100 feet. Shade tolerant                |
| American Elm      | <i>Ulmus Americana</i>       | Average height of 60 feet and width of 40 feet.                                    |
| American Sycamore | <i>Platanus occidentalis</i> | Fast growing; and Height range 60 to 100 feet.                                     |
| Bald Cypress      | <i>Taxodium distichum</i>    | Growth rate medium to fast; and Height range 60' to 80'.                           |
| Black Gum         | <i>Nyssa sylvatica</i>       | Slow growing species reaching a height of 30-50 feet. Prefers medium to wet soils. |

| Canopy Trees         |                                                |                                                                                                                                                                                                           |
|----------------------|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Common Name          | Species                                        | Description                                                                                                                                                                                               |
| Cherrybark Oak       | <i>Quercus falcata</i> var. <i>pagodifolia</i> | Average height range of 60 feet in height and 40 feet in width.                                                                                                                                           |
| Cow Oak              | <i>Quercus michauxii</i>                       | Average height of 60 feet and with of 40 feet.                                                                                                                                                            |
| Drummond Redmaple    | <i>Acer rubrum</i> var. <i>Drummondii</i>      | Average height range of 40 feet in height and 30 feet width.                                                                                                                                              |
| Eastern Cottonwood   | <i>Populus deltoids</i>                        | Average height of 60 feet and width of 30 feet.                                                                                                                                                           |
| Ginko                | <i>Ginko biloba</i>                            | Pest free, tolerates pollution, drought resistant; Growth rate slow; and Height range 50' to 60' and width of 30 feet.                                                                                    |
| Green Ash            | <i>Fraxinus pennsylvanica</i>                  | Average height of 50 feet and width of 30 feet.                                                                                                                                                           |
| Live Oak             | <i>Quercus virginiana</i>                      | Growth rate medium to fast; and Height range 65' to 85' feet.                                                                                                                                             |
| Nuttall Oak          | <i>Quercus nuttallii</i>                       | Growth rate medium to fast; and Height range 60' to 100'.                                                                                                                                                 |
| Overcup Oak          | <i>Quercus lyrata</i>                          | Grows well in poorly drained soils.                                                                                                                                                                       |
| Pecan                | <i>Carya illinoensis</i>                       | Growth rate moderate, reaching an average height of 75 -100 feet. Produces fruit in 8-10 years. Less suitable for parking lots due to size and falling fruits.                                            |
| Pin Oak              | <i>Quercus palustris</i>                       | Growth rate medium to fast; Height range 60' to 70'; and Dried foliage persists in winter.                                                                                                                |
| Red Mulberry         | <i>Morus rubra</i>                             | Average height is 50 feet and width is 40 feet. Not appropriate for parking lots as they attract birds.                                                                                                   |
| River Birch          | <i>Betula nigra</i>                            | Subject to drought; May be multi-stem; Growth rate fast and height range of 40' to 70'.                                                                                                                   |
| Sawtooth Oak         | <i>Quercus acutissima</i>                      | Hardy tree that holds leaves in winter, drops lots of acorns. Growth rate medium- fast. Height from 35' -70'.                                                                                             |
| Shumard Oak          | <i>Quercus Shumardii</i>                       | Grows in dry to medium conditions, with an average height ranging from 40' to 60'.                                                                                                                        |
| Southern Sugar Maple | <i>Acer barbatum</i>                           | Growth rate medium; Flood tolerant and Height range 30' to 70'.                                                                                                                                           |
| Southern Red Oak     | <i>Quercus falcate</i>                         | Native to area; Growth rate medium to fast; and Height range 70' to 80'.                                                                                                                                  |
| Sweet Gum            | <i>Liquidambar styraciflua</i>                 | Low maintenance tree growing in medium to well drained soils with showy fall color. Average height is 60' to 80' feet. Not appropriate in conditions where "gum balls" would cause a maintenance problem. |
| Tulip Poplar         | <i>Liriodendron tulipifera</i>                 | Needs lots of space, good soils; Growth rate fast; and Height range 60' to 90'.                                                                                                                           |
| Water Oak            | <i>Quercus nigra</i>                           | Prefers well drained clay, fertile moist soil; Growth rate medium to fast; Height ranges from 70' to 80'.                                                                                                 |
| White oak            | <i>Quercus alba</i>                            | Very long lived; Growth rate slow; and Height ranges from 70' to 80'.                                                                                                                                     |

| Canopy Trees |                        |                                                                                                            |
|--------------|------------------------|------------------------------------------------------------------------------------------------------------|
| Common Name  | Species                | Description                                                                                                |
| Willow Oak   | <i>Quercus phellos</i> | Very common tree in this area; Withstands urban conditions; Growth rate fast; and Height range 70' to 80'. |
| Winged Elm   | <i>Ulmus alata</i>     | Average height of 80 feet and width of 50 feet.                                                            |

Table 4.6: Approved Evergreen Tree Planting List

| Evergreen Trees    |                                    |                                                                                                           |
|--------------------|------------------------------------|-----------------------------------------------------------------------------------------------------------|
| Common Name        | Species                            | Description                                                                                               |
| Austrian Pine      | <i>Pinus nigra</i>                 | Tolerates urban conditions, Growth rate medium; and Height range 50' to 60'.                              |
| Leyland Cypress    | <i>Cupressus cyparis Leylandii</i> | Maintains good shape, excellent screening; Medium to fast growth rate; and Height range 60' to 70'.       |
| Loblolly Pine      | <i>Pinus taeda</i>                 | Susceptible to pine beetles if not kept healthy; Growth rate fast; and Height range 15' to 40'.           |
| Longleaf Pine      | <i>Pinus palustris</i>             | Fast growing, reaches a height of 100 feet.                                                               |
| Red Bay            | <i>Persea borbonia</i>             | Average height is 40 feet and width is 20 feet.                                                           |
| Red Cedar, Eastern | <i>Juniperus virginiana</i>        | Small, slow growing tree with attractive blue berries that attract birds. Average height from 15' to 60'. |
| Slash Pine         | <i>Pinus Elliottii</i>             | Average height is 60 feet and width is 30 feet.                                                           |
| Southern Magnolia  | <i>Magnolia grandiflora</i>        | Drops large leaves; Growth rate medium to fast; and Height range 50' to 80'.                              |

Table 4.7 Approved Understory or Ornamental Tree Planting List

| Understory or Ornamental Trees – Flowering |                                 |                                                                                                                                                                                                                    |
|--------------------------------------------|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Common Name                                | Species                         | Description                                                                                                                                                                                                        |
| Crape Myrtle                               | <i>Lagerstroemia indica</i>     | Must be maintained in tree form; Growth rate medium; Varieties include: Dixie Brilliant, Potomac, Natchez, William Toovey, Majestic Orchid, Glendora White, Muskogee, and Watermelon Red; Height range 15' to 45'. |
| Flowering Dogwood                          | <i>Cornus florida</i>           | Needs partial shade and good soils; Growth rate medium to fast; and Height range 20' to 25'.                                                                                                                       |
| Parsley Hawthorne                          | <i>Crataegus Marshallii</i>     | Average height of 20 feet and width of 15 feet.                                                                                                                                                                    |
| Japanese or Saucer Magnolia                | <i>Magnolia X Soulangeriana</i> | Growth rate medium; height range 20' to 30'.                                                                                                                                                                       |
| Redbud                                     | <i>Cercis Canadensis</i>        | Average height 20 feet and width 15 feet.                                                                                                                                                                          |
| Silverbell                                 | <i>Halesia diptera</i>          | Average height of 30 feet and width of 15 feet.                                                                                                                                                                    |
| Vitex, Chaste Tree                         | <i>Vitex Agnus-castus</i>       | Grows to height of 15 feet and width of 15 feet or can                                                                                                                                                             |

|            |                        |                                                                                               |
|------------|------------------------|-----------------------------------------------------------------------------------------------|
|            |                        | be maintained as a large shrub.                                                               |
| Wax Myrtle | <i>Myrica cerifera</i> | Grows to average height of 10 feet and width of 8 feet or can be maintained as a large shrub. |

Table 4.8: Understory or Ornamental Trees, Non-Flowering

| Understory or Ornamental Trees – Non-Flowering |                                                       |                                                                                                                               |
|------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Common Name                                    | Species                                               | Description                                                                                                                   |
| Bayberry Wax Myrtle                            | <i>Myrica cerifera</i>                                | Tolerant of lengthy droughts, effective as a screen row tree; Growth slow to medium; and Height range 10' to 15'.             |
| Chinese Elm, Drake Elm                         | <i>Ulmus parvifolia</i>                               | Resistant to Dutch Elm disease; Growth rate medium; and Height range 40' to 50'.                                              |
| Chinese Pistachio                              | <i>Pistachia chinensis</i>                            | Average height of 35 feet and width of 25 feet.                                                                               |
| Deodar Cedar                                   | <i>Cedrus deodara</i>                                 | Average height of 30 feet and width of 15 feet.                                                                               |
| Eastern Red Cedar                              | <i>Juniperus virginiana</i>                           | Average height of 30 feet and width of 15 feet.                                                                               |
| European Hornbeam                              | <i>Carpinus betulus</i>                               | Pest free, tolerates urban conditions; Growth rate slow; and Height range 40' to 60'.                                         |
| Hedge Maple                                    | <i>Acer palmatum</i>                                  | Growth rate slow; height range 15' to 35'.                                                                                    |
| Ironwood/American Hornbeam                     | <i>Carpinus caroliniana</i>                           | Pest free, tolerates urban conditions; Growth rate slow; and Height range 20' to 30'.                                         |
| Japanese Maple                                 | <i>Acer palmatum</i>                                  | Growth rate slow; height range 15' to 35'. Requires shade.                                                                    |
| Mayhaw                                         | <i>Crataegus opaca</i>                                | Average height of 20 feet and width of 20 feet. Not appropriate for parking lots, as it attracts birds.                       |
| Savannah Holly, Foster's                       | <i>Ilex x attenuata Fosterii</i> var. <i>Savannah</i> | Multiple uses; Growth rate fast; and Height range 20' to 30'. Berries attract birds, may not be appropriate for parking lots. |
| Yaupon Holly                                   | <i>Ilex vomitoria</i>                                 | Multiple uses; Growth rate fast; and Height range 20' to 30'. Berries attract birds, may not be appropriate for parking lots. |
| Spruce Pine                                    | <i>Pinus glabra</i>                                   | Average height is 25 feet and width is 20 feet.                                                                               |
| Sweetbay Magnolia                              | <i>Magnolia virginiana</i>                            | Average height of 30 feet and width of 25 feet.                                                                               |

Table 4.9: Approved Shrub Species

| Approved Shrub Species |                  |                      |
|------------------------|------------------|----------------------|
| Althea                 | Forsythia        | Mock Orange          |
| Azaleas                | Gardenia         | Nandina              |
| Baby's Breath Spirea   | Glossy Abelia    | Native Azalea        |
| Banana Shrub           | Hibiscus         | Oakleaf Hydrangea    |
| Bottlebrush            | Indian Hawthorne | Oleander (Poisonous) |

|                      |                     |                    |
|----------------------|---------------------|--------------------|
| Bridal Wreath Spirea | Japanese Acuba      | Pineapple Guava    |
| Butterfly Bush       | Japanese Barberry   | Pittosporum        |
| Camellia             | Japanese Cleyera    | Pyracantha         |
| Chaste Tree          | Japanese Hollies    | Ricepaper Plant    |
| Chindo Viburnum      | Japanese Kerria     | Sandwanka Viburnum |
| Chinese Snowball     | Japanese Yew        | Sasanqua Camellia  |
| Common Hydrangea     | Juniper             | Spireas            |
| Dwarf Yaupons        | Laurustinus         | Sweet Olive        |
| Elaeagnus            | Leatherleaf Mahonia | Tea Viburnum       |
| Fatsia               | Ligustrum           | Vanhouttee Spirea  |
| Flowering Almond     | Lorapetulam         | Wax Myrtle         |
| Flowering Quince     |                     | Weigela            |

*Table 4.10: Approved Groundcover Species*

| <b>Approved Groundcovers</b> |                           |                             |
|------------------------------|---------------------------|-----------------------------|
| Taller Groundcovers          | Lower Groundcovers        |                             |
| Creeping Junipers            | Algerian Ivy              | English Ivy                 |
| Dwarf Azaleas                | Asian Jasmine             | Gumbo Azalea                |
| Dwarf Gardenia               | Asparagus Fern            | Holly Fern, Holly Leaf Fern |
| Dwarf Indian Hawthorne       | Bugleweed, Ajuga          | Hostas                      |
| Dwarf Nandina                | Carolina Yellow Jessamine | Japanese Painted Fern       |
| Dwarf Pittosporum            | Cast Iron Plant           | Liriope                     |
| Dwarf Yaupon                 | Common periwinkle         | Mexican heather             |
| Helleri Holly                | Confederate Jasmine       | Mondo Grass                 |
| Ornamental Grasses           | Creeping Fig              | Shore Juniper               |
| Shore Juniper                | Daylilies                 | Trailing Lantana            |
|                              | Dwarf Bamboos             | English Ivy                 |

#### 4.13.3 Penalties

Any entity which causes any protected tree to die within three (3) years of the conclusion of the development, redevelopment or improvement of any parcel of land as a result of any activity deemed to be unlawful or through any other inappropriate construction action or inaction, as determined by the City arborist or other designated official, shall cause such entity to be subject to the requirements of Sections 4.10.1-3 above.

## 4.14 FLOOD DAMAGE PREVENTION

SEE APPENDIX A.

Editor's Note: Section 4.14.15(K), 4.14.16(A)(B)(C)(G.1..ii), 4.14.17, and 4.14.18 were modified by Ord. No. 2019-09, § I - § VIII, 5-28-19. Section 4.14.17 was modified by Ord. No. 2019-18, §I, 10-01-19. (Section 4.14 repealed by Ord. No. 2020-06, § IV, 2-18-20 and replaced with Appendix A – Ord. No. 2020-06, § VI, 2-18-20.)



## **4.15 WETLANDS PROTECTION**

### **4.15.1 Applicability**

The provisions of this section shall apply to all wetlands located within the City. The location of wetland boundaries shall be according to the requirements of the U.S. Army Corps of Engineers (USCE) and/or the Mississippi Department of Environmental Quality (MDEQ).

### **4.15.2 Agency Permits Required**

All development within the City shall obtain applicable permits from the USCE and/or MDEQ for development within or adjacent to protected wetlands prior to issuance of City building permits. The issuance of a local development order, pursuant to this UDC, may be conditioned upon the receipt of wetlands permits prior to receipt of building or other construction permits from the City.

### **4.15.3 Development Rights in Wetlands**

- A. Density or intensity of development, as established for the zoning district in which the wetland is located, shall be calculated for the entire site, including the wetland.
- B. Proposed development on a parcel containing protected wetlands shall be located on uplands within the parcel or pursuant to any conditions of permits issued by the USCE and/or MDEQ.
- C. Where the amount of uplands is not sufficient to accommodate the allowable development and permits from the USCE and/or MDEQ allow impacts to protected wetlands, mitigation shall be required, as set forth in this UDC and as required by the USCE and/or MDEQ.

### **4.15.4 Mitigation of Wetlands Impacts**

- A. Wetlands shall be protected from the impacts of development through the provision of buffers. Buffers shall meet the location and design standards set forth in this UDC.
- B. Any allowable impact on wetlands shall be mitigated as required by the USCE and/or MDEQ.

### **4.15.5 Limitations on Development**

- A. Clearing of vegetation within a wetland shall be limited to the requirements of the USCE and/or MDEQ. Native vegetation shall be protected, except for clearing allowed by this section.
- B. Allowable buildings shall be built on pilings to ensure that the lowest floor exceeds the highest recorded flood level in the wetland by a minimum of eighteen inches (18"). Where no flood data are available, the lowest floor shall exceed the highest seasonal water level by a minimum of two (2) feet.
- C. Septic tanks, drain fields and gray water systems, where permitted, shall be located a minimum of 100 feet from the boundary line of the wetland.
- D. Allowable development within or adjacent to wetlands shall be designed and located to avoid impacts to the following:

1. The habitat, quantity, diversity and food sources of fish, wildlife and listed species;
2. Water quality of the wetland; and
3. The capability of the wetland to store and convey flood waters.

#### 4.15.6 Limitations on Dredge and Fill Activities

Dredge and fill activities shall be limited to that approved by the USCE and/or MDEQ.

### 4.16 PROTECTED HABITATS

#### 4.16.1 Applicability

Applications for development proposed for locations identified as Least Suitable for Development on the Land Suitability Map of the Comprehensive Plan shall include a Habitat Management Plan.

#### 4.16.2 Requirements for a Habitat Management Plan

A Habitat Management Plan shall include the following information:

- A. A pre-development vegetative cover survey by a professional biologist, which identifies occurrences of listed species.
- B. An analysis of the impact of proposed development on the protected habitat. Such analysis shall include consideration of the abundance, diversity and food sources for listed species.
- C. An estimate of the land needed to provide viable habitat for listed species that occur on the site.
- D. Identification of methods and techniques to ensure protection of the habitat and any listed species. Methods and techniques shall include, but are not limited to, storage and removal of construction materials, equipment and debris; erosion control measures; revegetation; stabilization of disturbed areas; protection of existing native vegetation; and methods to prevent pollution of surface and ground waters.
- E. Where disturbance, damage or destruction of the protected habitat is unavoidable and allowable by permit from agencies with jurisdiction, the habitat management plan shall identify the proposed mitigation for disturbance, consistent with this UDC and USCE and/or MDEQ requirements.
- F. The adequacy of the habitat management plan shall be determined by the City in consultation with other appropriate agencies.

### 4.17 PARK AND OPEN SPACE STANDARDS

Parks and open space provide a valuable asset to the City of Ocean Springs, its historical development, and the general welfare of its residents. These standards ensure that parks and open space provide focal points for new communities.

#### 4.17.1 Applicability

- A. This section applies to any application for residential subdivision plat approval.
- B. The location and extent of parks/open space shall be indicated on any preliminary plat or site plan, unless determined to be exempt under Section C below.

### 4.18 REQUIRED PARKS/OPEN SPACE SET-ASIDES

#### 4.18.1 Parkland

- A. General. For all new residential subdivisions in residential and mixed-use zoning districts (R-1, R-2, R-3, R-1A, RM-2, CMX-1, CMX-2) that are classified as "major subdivisions" (Section 2-19) the Board of Aldermen and Mayor shall require the preservation of land as open space in the amount set forth in Table 4.11 of this section. This open space is meant to provide recreational opportunities to residents, and it may also be used for the preservation of natural areas and/or the enhancement of water quality.
- B. Review Procedures. Provision for the dedicated open space shall be included in the design plans submitted to the Planning Commission for preliminary approval of such residential development. Each design plan submitted for preliminary approval of a new residential subdivision shall provide for encumbrances for exclusive use as open space. The amount of land required shall be determined by the criteria contained in Table 4.11 below.
- C. Park Dedication. Where the land is to serve as a park, it shall be dedicated to the city, free and clear of all liens and encumbrances. No parcel less than one acre shall be accepted by the city unless such land adjoins other dedicated parkland. A copy of the design plans submitted for preliminary approval shall be furnished to the Department of Parks and Recreation at the time such plans are submitted to the Planning Commission. The Department of Parks and Recreation shall be given the opportunity to recommend acceptance of the proposed dedication. In no event, however, shall the Department of Parks and Recreation delay, without good cause, the review process of the proposed development. The Department of Parks and Recreation shall be deemed to have waived its opportunity for such recommendation if it is not received by the Planning Commission prior to the date scheduled for preliminary approval of the residential development.
- D. Exception; private alternative. As an alternative to the requirements of subsections (b) and (c) of this section, a proposed development may be submitted with private recreational space meeting the area requirements set forth in Table 4.11. Its future operation and maintenance must be secured by the developer to the satisfaction of the city, with an agreement on the part of the developer on behalf of himself and any subsequent owner.

(Ord. No. 2021-26)

Table 4.11: Required Parks / Open Space

| (A) Zoning Districts                                          | (B) Required Parks / Open Space |
|---------------------------------------------------------------|---------------------------------|
| Residential Zoning Districts                                  |                                 |
| R1 Low Density Residential                                    | 20% of development site area    |
| R2 Low Density Residential                                    |                                 |
| R3 Single Family Residential                                  |                                 |
| R-10 Single Family Residential                                |                                 |
| R-D Two Family Residential                                    |                                 |
| R-1A Special Apartment Use District                           |                                 |
| RM-2 multi-family                                             |                                 |
| RMH – Mobile Home Park                                        |                                 |
| Commercial, Office, Industrial and Mixed-Use Zoning Districts |                                 |
| CMX-1 Urban Center (Neighborhood Corridor)                    | 10% of development site area    |
| CMX-2 Urban Center (Community Corridor)                       |                                 |
| M1 Manufacturing & Service                                    | Not Applicable                  |

(Ord. No. 2021-26)

#### 4.18.2 Categories of Parks/Open Space

The types of park or open space that may be provided to satisfy this chapter are described in Parks and Open Spaces Categories table. The minimum dimension, improvement, and maintenance requirements shall be consistent with Columns (B) and (C) of **Parks and Open Spaces Categories** table. The Applicant may choose among the types of parks or open space to include within the proposed development that is consistent with the overall minimum set-aside requirements of **Parks and Open Spaces Categories** table.

- A. Exclusions. The following areas are not considered parks or open space pursuant to this section:
1. Areas covered by buildings, parking lots, or other impervious surfaces accessible to automobiles;
  2. Utility easements, drainage easements, or street rights-of-way, unless such areas are usable for public recreational purposes and will not be permanently converted to a street or trench;
  3. Land underneath overhead utility lines, except where used for jogging trails, bicycle trails, or parking areas accessory to a park/open space;
  4. Streets; and

5. Ponds or lakes exceeding 2,500 square feet, unless surrounded by an upland area with a minimum width of 25 feet.
6. Excess Capacity. Any excess capacity of a park or open space provided pursuant to this section may be credited toward the required dedication for another subdivision within a 1- mile radius, where:
7. The subdivision for which the credit is applied is in the same ownership by the same Applicant; and
8. The park/open space areas are accessible to each subdivision.

*Table 4.12: Park and Open Space Categories*

| <i>(A) Park or Open Space Category</i> | <i>(B) Description</i>                                                                                                                                                                                                                                                                                                                 | <i>(C) Design and Maintenance Requirements</i>                                                                                                                                                                                                                                                                                       |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Natural areas                          | Natural areas are established to protect attributes of local, regional, and statewide significance. May be used for scientific research, education, aesthetic enjoyment, and uses not detrimental to the primary purpose. Areas may provide passive recreational activities like hiking and picnicking.                                | Maintenance is limited to removal and avoidance of hazards, nuisances, or unhealthy conditions. Natural water courses shall be maintained as free flowing and devoid of debris. Stream channels shall not be permitted to alter floodplain levels. Land shall only be cleared for trails.                                            |
| Greenways                              | A Greenway is an open space connecting residences and recreational areas and/or following a development's perimeter. It may incorporate and protect natural settings, (creeks, wetlands, significant stands of trees). When located on the perimeter of a development, it may serve to buffer the neighborhood from incompatible uses. | A greenway shall have an average width of at least 50 feet and extend at least 300 feet in length. Land shall not be cleared except for trails. Along street rights-of-way, trees shall be planted as required by ordinance. Uses permitted: Critical habitat areas; Linear parks with trails, benches, and/or playground equipment. |
| Active Park                            | An Active Park creates a central open space serving a neighborhood or group of neighborhoods. It may incorporate physical features that are an asset to the community (lake or bayou frontage, high ground, significant stands of trees). Play equipment may be included. Active Parks may be combined with parkways and greenbelts.   | Minimum size: 1-acre Parks shall be bounded by streets on a minimum of 50% of their perimeter. Trees shall be planted parallel to all perimeter rights-of- way or at edge of active recreational use at 15-50 ft on center. Interior portions of parks may be kept free of tree plantings.                                           |
| Plazas                                 | Plazas are areas for passive recreational use that are entirely bounded by streets and/or lanes.                                                                                                                                                                                                                                       | Width: 200 ft – 500 ft<br>Length: 300 ft -800 ft. Plazas shall be square or rectangular with a length of not less than 1.5x of its width. Bounded on all sides by streets                                                                                                                                                            |

| <i>(A) Park or Open Space Category</i>                | <i>(B) Description</i>                                                                                                                                                                                                                                                                                                                                                                                      | <i>(C) Design and Maintenance Requirements</i>                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Courtyard                                             | A courtyard is an open area adjacent to, or part of, a building or facility and is surrounded by building frontages. Courtyards function as gathering places and may incorporate a variety of nonpermanent activities, such as vendors and display stands. Courtyards shall be credited toward parks and open space requirements only in nonresidential zones and shall be maintained in private ownership. | Minimum dimension: 2,000 ft <sup>2</sup><br>Maximum dimension: 30,000 ft <sup>2</sup><br>Courtyards shall be paved in brick or other paver or crushed stone and shall be level or sloped at less than a 5% grade. At no time shall a courtyard's horizontal length or width be < 3x height of the surrounding building(s). Courtyards may be left unplanted or planted with trees along edges. Tree spacing shall be a maximum of 25 ft on center. Parking not permitted. |
| Green                                                 | The green is an urban open space that is natural in its details. Like the square, it is small, civic, and surrounded by buildings. Unlike the square, it is informally planted and may have irregular topography.                                                                                                                                                                                           | Greens shall be landscaped with trees at the edges and open lawns at the center. Greens shall contain no structures other than benches, pavilions, memorials. Trails or pathways are optional.                                                                                                                                                                                                                                                                            |
| Community garden                                      | Community gardens are areas where plants are raised and maintained by the homeowners' association, condominium association, or other established community association for scientific research, education, aesthetic enjoyment, and recreational purposes.                                                                                                                                                  | An irrigation system shall be installed in accordance with the landscaping standards. The area shall be maintained in a neat and clean condition and cleared of debris.                                                                                                                                                                                                                                                                                                   |
| Low-Impact Development Stormwater Management Practice | Space meeting the site's stormwater management needs while providing an amenity to the surrounding development. Infrastructure shall be designed to use natural processes and native plants to retain and filter stormwater, and may include rain gardens, infiltration basins, grassed swales or other Best Management Practices detailed in the MDEQ Stormwater Runoff Management Manual, Vol. 2          | The Low-Impact development practice is considered to be an amenity when Integrated with the design and location of other site features, when plantings use shrubs, grasses, trees and other materials compatible with the landscaping of the surrounding development, and when actions are taken to enhance access and views that contribute to the enjoyment of the feature.                                                                                             |

#### 4.18.3 Park and Open Space Characteristics

The standards provided below ensure that all designated parks and/or open space are usable and have suitable size, location, dimension, topography, character, and access.

- A. Generally. The required park or open space areas shall be provided as common areas for the use of all residents/occupants of the proposed development. If a portion of the lands dedicated serves to protect natural areas, such as streams, wetlands or significant stands of

trees, the subdivision plans shall clearly indicate lands where public access is and is not permitted. Land designated as a park or open space shall be maintained as a park or open space and may not be separately sold, subdivided, or developed.

- B. Recorded. Any areas reserved as a park or open space shall be indicated on the application for development approval. A parks and open space provision and maintenance plan shall be submitted as a part of the application for development approval, including the project phasing schedule. This plan shall designate and indicate the boundaries of all proposed parks or open space required by this section and the type of park or open space provided. Platted lots located within subdivisions shall be located outside of the parks and open space areas. Parks and open space shall be placed in undivided preserves.
- C. School Site Locations. Park sites shall be located, whenever possible, adjacent to and contiguous with school sites in order to make maximum use of common facilities and grounds. Land area dedicated to a school district shall be credited toward the minimum requirements of this chapter if there is a joint use agreement between the City of Ocean Springs and the school district.
- D. Distance from Lots. Parks and open space shall not be further than one-half ( $\frac{1}{2}$ ) mile from any lot or, if the proposed park development does not involve a subdivision or any principal building, this distance shall be measured from the entrance allowing people, bicycles, or equestrians to enter into the park or open space or to view the park or open space area.
- E. Parks or Open Space in Floodplains or Water Features
  - 1. Areas within a floodplain shall not exceed 50% of the area counted as parks or open space, except as provided below. Water features exceeding 2,500 square feet shall not be considered as parks or open space unless permitted below.
  - 2. The restriction on the maximum percentage of parks/open space in water features or floodplains (hereinafter "restricted areas") can be increased to 75% where:
    - An area of a minimum 25 feet in width surrounding a floodway or surge zone is improved as a greenway;
    - The water feature provides a recreational opportunity for boating, fishing or swimming;
    - The structures or activities located with the restricted areas do not cause an increase in base flood elevations;
    - The velocities during a 10-year flood event do not exceed 6 feet per second; and
    - For parks/open space dedicated to the City of Ocean Springs at least 1 acre is located outside of the restricted area.
- F. Percentage in Retention or Detention Areas
  - 1. Not more than 25% or 1 acre, whichever is less, of a retention or detention basin required as part of the stormwater management standards qualify as a park or open space area.
  - 2. 50% or more of the active and usable area shall be above the 25-year storm level and designed for multiple uses.

3. Retention or detention areas used as park or open space shall be included as part of a greenbelt or a greenway. Retention or detention areas shall not be inundated in such a manner that they become unsuitable for their designated recreational purposes for an extended period of time
  4. Retention or detention areas shall be constructed of natural materials. Terracing, berming, and contouring is required in order to naturalize and enhance the aesthetics of the basin.
  5. Basin slopes shall not exceed a 3:1 slope.
- G. Walls and Fences. Walls and fences, if used, shall not exceed 6 feet in height. This requirement does not apply to fences used in conjunction with athletic fields and tennis courts.
- H. Buffers or Landscaped Areas. Any buffer or landscaped area provided pursuant to this chapter that meets the requirements for a particular category of parks or open space shall be credited toward the minimum parks and open space requirements.
- I. Slopes. At least 50% of required dedicated park or open space land shall have slopes less than 7%.
- J. Access. Parks and/or open space provided pursuant to this section shall have direct access to a public street or to a private street maintained by an HOA, condominium association, or apartment association.
- K. Dedication of Parks/Open Space. Areas designated as parks or open space shall not be subdivided and shall be shown as a “park” or “open space” on a plat. Land intended to be used as a park shall be deeded as a park, regardless of ownership. In order to ensure that open space areas are maintained so that their use and enjoyment are not diminished or destroyed, they may be owned, preserved, and maintained by any mechanism.
- L. Development Phasing. This section establishes a procedure for enforcing the requirements for parks and open space through development phasing while providing flexibility in the development approval process. This procedure recognizes that there is usually a delay between the date when a subdivision plat is approved and when lots are built upon and occupied, thus creating a demand for parks and open space.
1. If the required park or open space for the residential subdivision will serve to enhance the subdivision’s drainage and stormwater management plans, open space dedication and improvements must be made in concert with the development of other infrastructure, such as streets, water and wastewater services.
  2. In residential subdivisions that are to be platted in two or more phases, the required park or open space dedication must be provided in each phase of the subdivision except as provided in subsection (3), below.



3. If a subdivision is proposed in phases, the Applicant may plat the first 100 lots pursuant to the preliminary plat and defer the provision of parks and/or open space to future phases of the development. No further subdivision plat shall be approved unless and until parks or open space are provided in increments equal to the acreage required herein, subject to the phasing provisions of the **Development Phasing for Parks and Open Space** table.
4. If any subdivision is platted without providing the required parks or open space at the time of platting and no future subdivision phases are planned pursuant to the preliminary plat, the parks or open space required shall be provided within one year after recordation of the plat and shall be secured by deferment contract.
5. The City of Ocean Springs may authorize the developer to reserve parkland for dedication in subsequent phases of the subdivision by executing an enforceable contract with the City. The contract shall be approved as to form by the City Attorney. In addition, the developer shall dedicate a reversionary public access easement on the final plat of the proposed development where necessary to provide effective public access, maintenance, and use of any parkland to be dedicated.

*Table 4.13: Development Phasing for Parks and Open Space*

| <i>Number of Lots per Phase</i>           | <i>Acres of Parks or Open Space Required</i> | <i>Timing of Improvements</i> |
|-------------------------------------------|----------------------------------------------|-------------------------------|
| Phase 1: 1-100                            | Up to 1 (minimum size of 1 acre)             | Phase 2                       |
| Phase 2: 101-300                          | Up to 2                                      | Phase 3                       |
| Phase 3 through completion of development | Total as required herein                     | At time of platting           |

#### 4.18.4 Connectivity

The City of Ocean Springs finds and determines that an interconnected system of parks, trails, greenways, and bikeways provides a greater public benefit than isolated parks with access exclusively by automobiles. Such areas can provide form to neighborhoods, a common public gathering space, and an opportunity to protect natural areas.

- A. Greenways, also known as linear parks, shall be credited toward the minimum park and open space area requirements at a ratio of 1 acre for every 20,000 square feet provided, where:
  1. Such areas are aligned with a continuation of an area designated as a public greenway, linear park, or similar facility in a facilities' plan officially adopted by the City of Ocean Springs; and
  2. Such areas include sidewalks, trails, or similar facilities that align with such facilities in an abutting tract or, where abutting tracts are unimproved, conform to the specifications set forth in the facilities plan.

- B. Parks or open space shall be credited toward the minimum park and open space area requirements at a ratio of 1 acre for every 20,000 square feet provided, where:
  - 1. All lots within the proposed subdivision are within one-quarter ( $\frac{1}{4}$ ) mile of the park or open space; The park or open space area abuts an area zoned CMX-1(Neighborhood Corridor) or CMX-2 (Community Corridor).

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# Chapter 5. Infrastructure Standards

## 5.1 INFRASTRUCTURE STANDARDS

### 5.1.1 Generally

All sewers, drains, waterlines and conduits for private utility crossings, and any other underground structures within street right-of-way must be installed before streets, sidewalks or alleys are paved. Water, sewer and all other utility connections shall be provided for each lot to a distance of two feet beyond the curb line or sidewalk or to the edge of the right-of-way or utility easement, whichever is greater. Water, sanitary sewer and stormwater sewer systems and all other utilities will be kept from being under paved areas to the greatest extent possible. Except for limited and necessary crossings, private utilities, such as electricity, telephone, gas, cable television, etc., must not be located in utility easements separate from rights-of-way and easements used for the water, sanitary and stormwater sewer systems. The easements for private utilities should be located at the rear of the subdivision lots to the greatest extent possible.

Materials and equipment provided as a part of these subdivision regulations must be approved by the City prior to installation. The material and equipment must also match the manufacturer make and model of similar installations throughout the City as deemed necessary by the City. All utility pipe (stormwater sewer, sanitary sewers, water and private utility conduits and mains) must be of sufficient size to provide for expansions and extensions in the future, unless other provisions can be made to accommodate expansions and extensions without major disruptions to the streets, sidewalks and utilities.

## 5.2 STREETS AND ALLEYS

### 5.2.1 Standards

Public and private street improvements shall be provided in each proposed subdivision as prescribed below:

- A. The location, grade, width and character of all streets shall conform to the Comprehensive City Plan of the City of Ocean Springs, Mississippi, and shall be correlated with existing and planned streets and topographical conditions for public safety and convenience and in relation to the proposed use of the land to be served by such streets.
- B. In cases where the subdivision plat embraces or abuts any part of a major street, arterial street, highway or parkway, the following will apply:
  1. Residentially zoned subdivisions will be required to accomplish one of the following:
    - Include minor streets in additional right-of-way parallel to and along the side of the major street or highway which functions as a service drive for any lots facing toward the major street; or

- Have all lots along the major street or highway be double-frontage lots with no direct access to the major street.
2. Commercially or industrial zoned subdivisions will be required to accomplish one of the following:
    - Include minor streets in additional right-of-way parallel to and along the side of the major street or highway which would function as a service drive for any lots adjacent to the major street or highway unless a service drive already exists; or
    - Have a limited number of access points onto the major street or highway with the specific access locations and widths approved by the Planning Commission at the time of preliminary plat approval. Mississippi Department of Transportation must approve access points and widths along highways prior to the developer's request for Preliminary Plat approval.
- C. Proposed streets shall be designed to conform to the contour of the land so as to produce the required street grade and lots of usable character.
  - D. Minor streets shall be so laid out that their use by through traffic will be discouraged.
  - E. No new half-streets or half-alleys will be accepted unless there exists a dedicated or platted half-street adjacent to the tract to be subdivided, in which case the other half must be dedicated.
  - F. Streets designed to have one end permanently closed (cul-de-sac) shall provide, at the closed end, a turnaround with a minimum right-of-way of 50 feet and a minimum driving surface radius of 40 feet. No cul-de-sac shall exceed 750 feet in length unless a variance is recommended by the Planning Commission and approved by the Board of Aldermen after review and findings by the Planning Commission for verifiable concerns related to topography or design. However, no cul-de-sac shall be designed to have more than 24 lots fronting the street.
  - G. No dead-end-streets will be allowed.
  - H. Original Street names shall be used so as to avoid confusion with the names of existing streets in the City. Proposed streets in alignment with existing streets shall bear the names of existing streets.
  - I. Alleys shall be dedicated along the rear of all commercial and industrial lots unless, in the opinion of the Planning Commission, such alleys are unnecessary. Alleys are not required in residential areas but if desired, developers may submit a subdivision plan including alleys subject to approval of Planning Commission
  - J. Street grades shall not be less than 0.3% and, in special cases, subject to the approval of the Planning Commission and City Engineer, a 0.2% grade. Street grades shall not exceed the following:
    1. Arterial streets, major streets, parkways, and commercial and industrial streets, not greater than five percent.
    2. Collector streets or secondary streets, not greater than eight percent.

3. Minor streets and alleys not greater than 12%.
- K. All streets will have a minimum vertical clearance of 14 feet. There will also be a minimum of eighteen- inch clearance from the back of the curb to any obstructions along the shoulder of the street.
  - L. Street width shall be shown on the major thoroughfare plan, and where not shown therein shall be no less than the following (ROW and Pavement Width by Street Classification table):

*Table 5.1: ROW and Pavement Width by Street Classification*

| Street Classification                     | Right-of-Way Width (feet) | Pavement Width (back of curb to back of curb) (feet) |
|-------------------------------------------|---------------------------|------------------------------------------------------|
| Parkways and highways, including medians  | 120                       | 80                                                   |
| Major streets and arterial streets        | 100                       | 63                                                   |
| Secondary streets and collector streets   | 60                        | 27                                                   |
| Minor streets                             | 50                        | 24                                                   |
| Cul-de-sac streets, except at turn-around | 50                        | 27                                                   |
| Alleys serving business lots              | 25                        | 17                                                   |
| Alleys serving residential lots           | 15                        | 15                                                   |

- M. Should the developer elect to construct a street with medians, the following requirements shall be met:
  1. On secondary and minor streets with medians, the minimum street pavement width on each side of the median must be 16 feet back of curb to back of curb.
  2. On cul-de-sac turnarounds with medians, there must be a minimum pavement width of 25 feet from back of curb to back of curb between the median and the outside edge of the street.
  3. On major streets, the minimum street pavement width on each side of the median must be 30 feet.
  4. On collector street, the minimum street pavement width on each side of the median must be 16 feet.
- N. Street intersections shall be as nearly at right angles as practical. Acute angles at street intersections will not be accepted, and in no case will an angle of less than 60 degrees be permitted. Street centerline offsets shall be no less than 125 feet unless, in the opinion of the Planning Commission, less offset is acceptable.

- O. Streets that are proposed to intersect with a highway or major street shall include a deceleration and an acceleration lane constructed onto the highway or major street, unless determined unnecessary by the City Engineer and Planning Commission. Improvements shall meet MDOT standards.
- P. The minimum radii of curvature on the centerline shall be as follows:
  - 1. Major streets, highways and parkways, 400 feet.
  - 2. Secondary streets, 200 feet.
  - 3. Minor streets, 100 feet.
- Q. Between reversed curves there shall always be a tangent at least 100 feet long on major and secondary streets and 50 feet long on minor streets.
- R. Street corners for intersections of residential minor and cul-de-sac streets shall be rounded by a simple curve radius of not less than 25 feet. Minimum radii must be increased, subject to approval by the City, when the smallest angle of the intersection is less than 90 degrees or at intersections involving any streets with volumes or level of service greater than residential minor and cul-de-sac streets. Sight distances at intersections will be in accordance with the current American Association of Highway and Transportation Officials (AASHTO) Standards.
- S. Streets shall be graded by the developer to an approximate width in the center of the right-of-way to provide for a minimum of the required pavement width, including curbs and gutters, plus the additional width for sidewalks.
- T. A suitable hard-surface type of pavement shall be designed by the developer's engineer in accordance with current guidelines set forth by the Asphalt Institute, Mississippi Asphalt and Pavement Association, Portland Cement Association, and/or American Association of Highway and Transportation Officials (AASHTO) Mississippi Standard Specifications for Road and Bridge Construction, latest editions, applicable. The design shall be based on a traffic analysis period of at least 30 years. Subgrade soils will be sufficiently analyzed by a registered professional engineer in the State of Mississippi who has a fully functioning geotechnical laboratory and who routinely performs geotechnical investigations to determine the existing soil conditions, including the type of material, groundwater depth and strength of material.
- U. Subdivisions which are approved at Concept Plan will within (21 days) be classified by the City Engineer to whether the Concept Plan approved subdivision's roads are in areas of excellent soil conditions and/or poor soil conditions. After this determination, soil borings will be required at a minimum interval of every 500 feet in excellent soil condition developments and a minimum interval of every 250 feet in developments with poor soil conditions. Soil borings will also be required at every cul-de-sac with the soil boring taken at the center of the cul-de-sac. In addition, soil borings will be taken at minimum depths of eight feet below ground and will also be required to be taken at the main entrance of the proposed subdivision and at all low areas of the proposed road. The soils analysis shall be performed after the site has been cleared [and] grubbed. All soil boring locations shall be approved by the City Engineer.
- V. Prior to the proposed subdivision having preliminary plat approval, the pavement designs for streets, roads and alleys that are determined by the City Engineer, being located in regions of excellent soil conditions, shall consist of either of the following two pavement types or equal:



1. Flexible pavement design (asphaltic cement pavement system meeting a minimum structural number equal to 1.72) consisting at a minimum of:
    - i. A properly compacted minimum six-inch thick subgrade (minimum 98% Modified Proctor).
    - ii. A minimum 98% Modified Proctor 610-foot gradation limestone base six inches thick.
    - iii. Minimum surface course asphalt pavement of two inches thick. Materials for this work shall conform to material requirements for section 400 and section 700, Mississippi Standard Specifications for Road and Bridge Construction, latest edition.
    - iv. The subgrade and base shall be prepared and compacted to a minimum of one foot behind the back of curb.
  2. Rigid pavement design (Portland Cement Unreinforced Concrete Pavement System meeting structural number equal to 2.5) consisting at a minimum of:
    - i. A properly compacted subgrade (minimum 98) Modified Proctor).
    - ii. A minimum thickness of five inches of concrete. Concrete shall have a minimum 28-day strength of 4,000 psi, with a maximum slump of four inches. Materials and specifications for this work shall conform to requirements for section 500, Mississippi Standard Specifications for Road and Bridge Construction, latest edition. Slump tests shall be conducted by the developer on each load of concrete immediately before placed.
    - iii. The subgrade shall be prepared and compacted to a minimum of one foot behind the back curb.
- W. Prior to the proposed subdivision having preliminary plat approval, the pavement designs for streets, roads and alleys that are determined by the City Engineer being located in regions of poor soil conditions, shall consist of either of the following to two pavement types or equal:
1. Flexible pavement design (asphaltic cement pavement system shall have a minimum structural number equal to 3.80) consisting at a minimum of:
    - i. A 12-inch-thick compacted sand subbase compacted to 98% Modified Proctor, over a layer of geosynthetic fabric.
    - ii. A minimum 98% Modified Proctor 610-foot limestone base six inches thick.
    - iii. Properly compacted four-inch layer of asphalt pavement placed in two-inch lifts.
    - iv. The subbase shall have French drains which will be installed under all low points in the street and/or areas with a saturated subbase determined in the geotechnical investigations. The French drains shall flow to nearest curb inlet(s) or drainage system.
    - v. The subbase and base shall be prepared and compacted to a minimum of one foot behind the back of curb.
  2. Rigid pavement design (Portland Cement Unreinforced Concrete Pavement System meeting a minimum structural number equal to 4.30) consisting at a minimum of:
    - i. A twelve-inch compacted sand subbase, compacted to 98% Modified Proctor, over a layer of geosynthetic fabric.
    - ii. A six-inch sandy-clay base (Class 9 material) compacted to 98% Modified Proctor.

- iii. A minimum thickness of five inches of concrete.
  - iv. The subbase shall have French drains.
  - v. The subbase and base shall be prepared and compacted to a minimum of one foot behind the back of curb.
- X. All pavement construction will be in accordance with the current Mississippi Standard Specifications for Road and Bridge Construction. For concrete pavements, as well as curbs and gutters, a detailed joint plan will be provided in the construction plans, prior to preliminary plat approval, showing all joints to be in the pavement, curbs and gutters as it is to be laid out on the site.
- Y. In accordance with current Portland Cement Association recommendations, joint fillers will be placed in all construction and contraction joints unless premolded plastic strips are used.
- Z. Curbs and gutters are required as minimum standards along all public streets. They shall be of 3,500 pounds per square inch Portland Cement concrete and the curbs shall be poured integrally with the gutters. If the developer can demonstrate to the City Engineer that a grassed swale or other alternate drainage solution can provide equivalent stormwater management capacity, this stormwater solution may be approved as an alternative to curb and gutter.
- AA. Curb cut ramps must be provided at all street intersections as well as possible future crosswalk areas to meet ADA standards for universal access. The ramp width shall be four feet as a minimum, exclusive of the side slopes.
- BB. Density tests shall be performed at depths of six inches and 12 inches and shall be performed on all trench crossings and by dividing the base into 350 square yards or fraction thereof, but not less than one for each day laying of pavement. Compaction tests shall be performed in the presence of the developer's engineer and certified to the City meeting the specified compaction effort of section 18 of this ordinance. Where trenches run parallel to the roadway and under the pavement, divide the trench into 300-foot lots and perform at least one set of density tests for each 300-foot lot. All base material shall be proof rolled prior to placing the pavement shown in the developer's approval plans and specifications. Proof roll using a loaded dump truck or a similar heavy truck acceptable to the City Engineer. The developer's engineer and a City inspector will be present to witness and verify that the base is stable and that there is no visible movement. Should the base experience "pumping" and loss of bearing due to accumulated water beneath the subgrade or due to other reasons, the developer's contractor shall remove the affected soil to a sufficient depth and replace with dry fill material or allow the excess moisture to dissipate sufficiently to achieve the specified compaction without moving or "pumping."
- CC. Four samples and at least two concrete compression tests, one at seven and one at 28 days will be made for every 350 square yards of concrete placed or fraction thereof, but not less than one set from any day's work.
- DD. The location of water services (w) and sewer services (s) shall be stamped, cut, marked, or otherwise permanently engraved in the concrete curb, edge of pavement, or other location approved by City Engineer.

- EE. The centerline of the street pavement will also be the centerline of the right-of-way unless otherwise permanently and clearly marked.

### 5.3 ACCESS MANAGEMENT

No access connection shall be constructed on any public road without a permit issued by the City pursuant to this Section.

- 5.3.1 The maximum number of Driveways or Access points shall be according to the following:
  - A. Properties fronting all other roads shall meet the standards in the Maximum Number of Access Points table.

*Table 5.2: Maximum Number of Access Points*

| Lot Width<br>(Parcel of land under Single Unified<br>Ownership or Control) | Maximum Number of Access Points                              |
|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Less than 100 feet                                                         | 1                                                            |
| 100 to 200 feet                                                            | 2                                                            |
| More than 200 feet                                                         | 2 plus 1 for each additional 200 feet or<br>fraction thereof |

- B. There shall be a minimum distance of thirty-five (35) feet between any two (2) openings from a single parcel onto the same street.
- C. No point of access shall be allowed within forty (40) feet of the intersection of the right-of-way lines of any public street.
- D. Access ways or driveways for corner lots shall be located on the street with the lower functional classification.
- E. Where proposed development in a non-residential zoning district abuts two (2) streets and where that portion of any such street abutting the non-residential development also abuts any residential zoning district, access to the non-residential development shall be provided only from the street abutting the non-residential district.
- F. No curbs shall be cut or altered and no points of access or openings for vehicles onto a public street shall be established, without a permit issued by the City.
- G. Approval from Mississippi Department of Transportation or Jackson County is required for any access onto a road under their jurisdiction.
- H. Additional access points may be permitted, subject to the approval of the Director of Public Works.

### 5.3.2 Obstructions Prohibited

- A. Placing substances in streets and ditches. Except as otherwise provided, it shall be unlawful for any person to place or cause to be placed any obstruction, including debris or yard waste, on a street, gutter of any paved street or drainage ditch or drainage space.
- B. Obstructions-Generally. Upon notice of the Public Works Department or Building Inspector any person obstructing the streets or sidewalks, shall remove said obstruction.
- C. Travelled portions of sidewalks, streets and public thoroughfares.
  - 1. Prohibited. It shall be unlawful to place, maintain, build, erect, store or allow any mailboxes, newspaper receptacles, containers, signs, or other structures on or in the travelled portion of any street, sidewalk or other public thoroughfare, or adjacent thereto, in such a manner or place so as to constitute an obstruction or hazard to use by the public.
  - 2. Removal of obstruction. All mailboxes, newspaper receptacles, containers, signs, or other structures obstructing or otherwise constituting a hazard on those public rights-of-way and sidewalks as set forth in subsection (a) hereof, shall be removed within thirty (30) days after the effective date of this section, provided that the owner or occupant of the offending premises has been given at least fifteen (15) days notice in writing by the City of such violation.
- D. Posting of handbills, posters, etc.
  - 1. The placement of any handbills, posters or circulars upon any tree shall constitute a nuisance and is hereby declared to be unlawful.
  - 2. The placement of any handbills, posters, circulars, markings, signs or commercial or political advertising or displays upon any pole or post, tree, lamppost, fence, rock, wire, building, or other structure or device or by any other means upon any street, sidewalk, curb, gutter or any other part of a public right-of-way or public easement for ingress and egress shall constitute a nuisance and is hereby declared to be unlawful, excepting only such signs or other markings as may be placed thereon by any federal, state or local governmental entity.

### 5.3.3 Conversion of Private Streets to Public Streets

If the original construction of private subdivisions and communities and the related streets are not to be constructed in accordance with city standards, the conversion of private streets to public streets may be difficult and financially unfeasible. If a developer or homeowner association elects to convert private streets to public use, the infrastructure must be brought to current city standards with the burden of proof of adherence to said standards being the complete and total responsibility of the developers, homeowner's association, or the petitioner of such conversion. Such conversion may only take place upon recommendation by the planning commission and approval of the mayor and board of aldermen.

For existing development to become private:

- A. A Permit application must be submitted to the board of aldermen through the department of community development and planning containing signatures of all owners of privately-owned existing lots that would be part of the proposed private street subdivision;
- B. An applicant must purchase installed infrastructure and rights-of-way from the City of Ocean Springs, and establish a financial means to maintain the private streets and associated facilities in accordance with section 5.2 of this article. Such means must be reviewed and approved by the city; and
- C. An applicant must conform to all other provisions of this ordinance, other pertinent local ordinances, and applicable state laws regulating the abandonment of any section of local read systems, hearing and notices.

## **5.4 OTHER IMPROVEMENTS**

### **5.4.1 Fire hydrants**

Fire hydrants will be installed in the subdivision if there exists a six-inch water main in the proposed subdivision. Any fire hydrants installed shall have a maximum spacing of one thousand (1,000) feet with no area in the subdivision exceeding five hundred (500) feet from any hydrant. With approval of the board, spacing may be altered slightly to conform to location lot lines.

### **5.4.2 Street signs**

Street signs shall be paid for by the developer and installed by the City to properly identify all streets in the subdivision.

## **5.5 SIDEWALKS**

### **5.5.1 Required**

Sidewalks shall be constructed in all residential subdivisions and at all new commercial building locations, with said sidewalks being constructed in the street right-of-way in every case practicable. Double-frontage lots shall have sidewalks along all street frontages.

### **5.5.2 Standards**

- A. Placement of the sidewalks will be a minimum of three feet behind and parallel to the back of the street curbs to the greatest extent possible; however, placement may vary under conditions requiring a variance when such is deemed necessary by the City Building Official or the City Engineer.
- B. In residential districts sidewalks shall be at least four (4) feet wide, four (4) inches of thickness, have a 2,500-psi mix and abut a three-foot (3') parkway.
- C. In mixed-use, commercial or industrial zoned area sidewalks shall be a minimum six (6) feet wide, four (4) inches thick, have a 2,500-psi mix and may abut the street curb.
- D. Sidewalks shall be constructed to align with existing sidewalks on adjacent properties.

- E. Where a property or development borders more than one street, sidewalks shall be constructed along the entire frontage of all streets and handicapped access ramps will be constructed at the street intersections.
- F. Where the sidewalk intersects a driveway access point to the property or development, the sidewalk will not be required to cross the driveway, provided that appropriate handicapped access ramps are provided on either side of the driveway access.
- G. Sidewalk materials should blend with the natural landscape. Examples of acceptable finishes are broom finished concrete, colored brick pavers, or washed aggregate concrete, gravel or crushed stone. The use of asphalt, and cinders, is prohibited.
- H. All sidewalks will be required to have reinforcing wire mesh only in those sections or portions used for driveways.
- I. All sidewalks must have expansion joints placed at 25-foot intervals and at driveways, curbs or any other major abutting structures, and will have transverse contraction joints one inch deep every four feet longitudinally along the ramps and transition areas with flared sides as required by current federal and state standards. The maximum transverse slope for sidewalks will be one inch vertically across the four feet width, and maximum longitudinal slope will be one inch vertically to one foot horizontally.

#### 5.5.3 Completion

All sidewalks must be completed prior to any building or house receiving a certificate of occupancy; provided, however, that in the event a sidewalk cannot be constructed for good cause shown, a certificate of occupancy may be obtained by the posting of a cash bond with the City of Ocean Springs in the amount equal to twice the sidewalk cost of installation, as estimated in writing by the City.

- A. Three (3) years from approval of the final subdivision plat, the developer or person who provided the required warranty instrument for the subdivision for which sidewalks have not been installed, shall be required to do so, at their own expense.
- B. In the event sidewalks are not installed, as prescribed, the public works department shall be authorized to have sidewalks installed, the cost of which shall become a special assessment against the affected property. Subsequent to the expiration of the aforementioned three-year period, no building or certificates of occupancy may be issued for any lot for which a sidewalk has not been installed as herein provided, until such time as the aforementioned special assessment for sidewalks is paid in full.

#### 5.5.4 Damages

If any sidewalk is damaged during construction or other work on a lot, then the property owner(s) of that lot is responsible for repairs to the sidewalk to the satisfaction of the Building Official. Repairs must be made within 120 days of when the damage occurred. In the event that the sidewalk is not repaired as prescribed, the Department of Public Works shall be authorized to have the sidewalk repaired, the cost of which shall become a special assessment against the affected property. No certificate of occupancy will be issued for the building or house until such time as the sidewalk is repaired by the property owner, at his or her own expense, or the special assessment is paid in full.

### 5.5.5 Exceptions

In the event that it can be shown that the required sidewalks would be impractical to install or would serve no useful purpose, the requirements of this section may be waived in part or in entirety by the Board of Aldermen upon recommendation of the Planning Commission.

## 5.6 SCHOOL BUS LOADING AREAS

### 5.6.1 Required

Each subdivision with lots located in excess of 600 feet from a school bus route as established by the Ocean Springs School District shall designate school bus loading areas. These areas shall include the following:

- A. A concrete landing area connecting to sidewalks;
- B. A park bench and covered area; and
- C. Prior to final plat approval, the developer shall convey the area and an acceptable maintenance area surrounding the school bus stop to the City of Ocean Springs.

### 5.6.2 Variations

Variations from the bus stop construction plans of the City must be approved by the Planning Commission as part of the platting process.

### 5.6.3 Large Subdivisions

In subdivisions with more than 25 lots, additional or larger areas may be necessary, and based on the following table.

*Table 5.3: Bus Stops Required*

| Number of Lots   | Bus Stops Required                          |
|------------------|---------------------------------------------|
| 25 or fewer lots | 1                                           |
| 26-75 lots       | 2                                           |
| 76 or more lots  | To be determined by the Planning Commission |

### 5.6.4 Location

Locations should be arranged to minimize walking distances. Locations shall be approved by the Planning Commission during the preliminary plat stage, and constructed along with other improvements prescribed in this article.

## 5.7 WATER DISTRIBUTION SYSTEM

### 5.7.1 Required

All water systems shall be designed, constructed, inspected and tested in accordance with the applicable and current Ten State Standards (Recommended Standards for Water Works) by the Great Lakes, Upper Mississippi River Board of Public Health and Environmental Managers, except for more stringent requirements set forth by the appropriate Mississippi state authorities.

- A. The developer shall provide water services to every lot, entrance way, median, and other landscaped areas in the proposed subdivision and connect the proposed subdivision to the Ocean Springs Water Supply System. The developer will be responsible for any improvements required so that the existing water system can accommodate the increased demand placed upon it due to the new subdivision. No connections shall be made to city services prior to approval by the city in writing. The city shall be on-site during connection.
- B. The subdivision's water distribution system shall be designed to maintain a minimum static pressure of 40 pounds per square inch and a minimum dynamic pressure of 20 pounds per square inch with a minimum fire flow rate of 600 gallons per minute in residentially zoned developments and a minimum fire flow rate of 1,000 gallons per minute in commercially or industrially zoned developments.
- C. Prior to any construction of the water system element, approval from the Mississippi Department of Health shall be submitted to the Ocean Springs Water Superintendent and a copy submitted to the city engineer.
- D. Pipe sizes: All water mains should be designed based on hydraulic analysis using an appropriate friction coefficient to obtain the above pressure and flow rate requirement and shall meet or exceed the following:
  - 1. The maximum Hazen-Williams C value to be used is 120.
  - 2. The minimum main size should be eight inches regardless of the results of the hydraulic analysis, except for short dead-end lines less than 400 feet.
  - 3. The minimum main size supplying fire hydrants should be as determined by hydraulic analysis using fire flows, but not less than eight inches.
- E. Materials: All materials used shall be nontoxic and approved for use in potable water systems by AWWA, USEPA, Underwriters' Laboratories, National Sanitation Foundation, or other appropriate organization.
  - 1. Cast-iron, ductile iron, and steel pipes and fittings shall comply with the latest applicable standards issued by the American Water Works Association.
  - 2. PVC pipe shall be C900 class 150, DR 18 and bear the National Sanitation Foundation seal for potable water and meet the requirements of ASTM D 1784 class 12454A or 13454B compounds. The pipe shall meet the latest revision of the applicable AWWA or commercial standards.



3. All ductile iron pipe shall meet AWWA specification C-104 or C-110, C-150, and C-151 for appropriate applications.
  4. All materials used in the subdivision water system shall not contain any lead substances.
  5. All fire hydrants shall be three-way traffic models with a minimum 5¼-inch valve opening, one pumper nozzle (4½-inch pumper connection) and two hose nozzles (1½-inch connection). Water hydrant shall have National Standard Threads.
  6. Gate valves shall meet AWWA C-500. Valves shall be DD, NRS, IBBM with MJ ends.
  7. MJ fittings shall be compact ductile iron AWWA C-153. All MJ bells shall be equipped with EBBA MEGA-LUG retainer gland C-900 PVC or ductile/cast-iron pipe.
- F. Pipe installation should comply with generally accepted standards of good workmanship, including applicable AWWA and industry standards. Water mains and services shall include the use of metallic warning tape and copper tracer wire (12-gauge minimum) to identify the location of piping systems. Tracer wire shall terminate inside the valve box.
- G. Separation of water and sewer mains as well as water main crossings of surface water bodies and ditches shall be in accordance with the current standards of the appropriate Mississippi state authorities. Water mains shall be located on opposite sides of the street right-of-way from sewers where possible.
- H. Fire hydrants shall be located on rights-of-way at points of intersection with lot lines. Fire hydrants shall be located throughout the subdivision so that there is a hydrant within the following distances to any possible structure:
1. Five hundred feet for residentially zoned subdivisions.
  2. Three hundred fifty feet for commercially or industrially zoned subdivisions. This requirement however, is superseded by any more stringent standards in the current fire code adopted by the City of Ocean Springs.
- I. At every fire hydrant installation, a six-inch gate valve and box shall be installed between the main line and the fire hydrant.
- J. The proposed subdivision water system shall be designed so that all water users are individually metered. All water services shall be sized not less than one and one-half (1½) inches to provide adequate water pressure and volumes to accommodate irrigation systems or second meters.
- K. All services shall terminate in an approved meter box.
- L. A sufficient number of valves should be provided for line maintenance and repairs. Valve boxes shall be sized to extend for proper connection to system valves. The use of PVC risers is not allowed.
- M. Flushing hydrants and valves shall be installed on all dead-end lines, low areas, and in other places that might require flushing. Flushing hydrants and valves shall conform to city standards.

- N. "Looping" the water system shall be required unless determined to be not feasible or advantageous by the city engineer.
- O. Pressure leakage tests should be completed and conform to the current AWWA Standard C 600, section 4.
- P. Disinfection and bacteriologies testing shall be in accordance with the current standards as set forth by the proper Mississippi state authorities. Upon receipt, documentation shall be submitted to the city engineer.
- Q. Cross connections: There shall be no physical connections between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or any contaminants may be caused to enter the water system.
  - 1. An appropriate backflow prevention device should be installed on each service connection where an existing or potential health hazard exists or where a hazardous hydraulic condition may be allowed to exist.
  - 2. Prior to service being connected to the city's water system, all wells or water sources owned or used previously by the potential customer shall be physically disconnected from the plumbing to be supplied by the city's water system.
  - 3. The developer shall contact the city for approval prior to flushing system. When flushing system, meters provided by the city, shall be used to monitor water usage.
  - 4. Prior to construction, specifications for the construction materials and equipment shall be submitted for review by and approval of city personnel.

Regulations regarding the connection and permitting of Water Systems can be found in the City's Code of Ordinances, Ch. 23, Article III, Division 2.

## **5.8 SANITARY SEWER COLLECTION SYSTEMS**

### **5.8.1 Sewer Design**

All sewer systems shall be designed, constructed, inspected, and tested in accordance with the applicable and current Ten State Standards (Recommended Standards for Sewage Works) by the Great Lakes, Upper Mississippi River Board of State Sanitary Engineers, except for more stringent requirements set forth by the appropriate Mississippi state authorities.

- A. The Applicant shall provide sewer services to each lot of the proposed subdivision and connect to the Ocean Springs Sanitary Sewer System. The developer will be responsible for any improvements required so that the existing sanitary sewer system can accommodate the increased demand placed upon it due to the development of the new subdivision.
- B. Sanitary sewers shall be laid in all street right-of-way easements, with service connections installed to property lines and connections made to trunk sewer lines.
- C. The size and slope of the sewer lines shall be approved by the City. Gravity flow lines will have a maximum of 90-degree turn in direction of flow in any one manhole. Recommended standard for sewage works is a minimum diameter of eight inches for a gravity sewer (Sewer

Line Size by Slope Table). The minimum mean velocity, at peak flow, is to be not less than 2.0 feet per second, (calculated with an n value of 0.013.) The following minimum slopes shall be observed, although greater slopes are desirable.

*Table 5.4: Sewer Line Size by Slope*

| Sewer Size (inches) | Minimum Slope (ft./100 ft.) |
|---------------------|-----------------------------|
| 8                   | 0.40                        |
| 9                   | 0.33                        |
| 10                  | 0.28                        |
| 12                  | 0.22                        |
| 14                  | 0.17                        |
| 15                  | 0.15                        |
| 16                  | 0.14                        |
| 18                  | 0.12                        |
| 21                  | 0.10                        |
| 24                  | 0.08                        |
| 27                  | 0.067                       |
| 30                  | 0.058                       |
| 36                  | 0.046                       |

- D. All sewer pipe shall be manufactured and installed in accordance with the following specifications:
1. Polyvinyl chloride (PVC): Pipes shall conform to ASTM designation D-3034-SDR35 or equal and shall have a minimum wall thickness in accordance with ASTM 3034. Force main pipes shall conform to ASTM designation D-2241, 160PSI, (SDR 26). All joints shall be push-on type with the bell being formed integrally with the pipe. Elastomeric gaskets shall be factory installed on each bell by the manufacturer. All compounds used shall be in accordance with ASTM E-1784. All pipe shall be installed in accordance with ASTM D-2321.
  2. Ductile iron: All pipe shall meet AWWA specifications C-104, C-110, C-111, C-150, and C-151 for appropriate applications.
  3. Truss pipe: All pipe shall conform to ASTM designation D-2680-72 and shall be installed in accordance with ASTM D-2321.
  4. Cast iron: All pipe shall meet AWWA specifications C-101, C-106, C-110, C-111 for appropriate applications.
- E. Infiltration shall not exceed 100 gallons per inch diameter per mile per day.
- F. Sewer service clean out shall be capped and extended three feet above natural grade.
- G. At the location of each sewer service, an "S" shall be stamped or cut into the curb for locating service lines.

- H. Lift stations: All sanitary sewer lift stations shall be sized to accommodate future growth or the potential thereof.
  - 1. Lift Stations must be located at least 2 feet above the FEMA base flood elevation, and will not be permitted in a flood plain.
  - 2. Lift station elements shall be sized for peak flow and calculations provided at preliminary plat.
  - 3. Pumps for sanitary sewer lift stations shall be common City stock or as approved by the City.
  - 4. Lift station control panels shall conform to the City's most current specifications.
  - 5. All lift stations shall be enclosed in a wooden privacy fence minimum six feet in height and locking gate.
  - 6. Wet wells and valve boxes shall have a lockable aluminum access door
- I. Prior to construction, specifications for the construction materials and equipment shall be submitted for review by and approval of City personnel.
- J. No connection shall be made to City services without approvals by the City in writing. City personnel shall be present to inspect all connections to the City services systems

## **5.9 STORMWATER DRAINAGE COLLECTION SYSTEMS**

- A. A subsurface stormwater sewer system including drainage culverts, inlets, catch basins, junction boxes and all other necessary components, shall be installed by the developer throughout the proposed subdivision. The entire storm drainage system should be designed to carry not less than the stormwater from a rainfall expected to occur once in 25 years with a runoff factor calculated on the basis of topography and percolation test subject to the approval of the city and consistent with the city's current stormwater management plan.
- B. Areas subject to ponding or inundation must be indicated on the preliminary and final plats. Inasmuch as federal and Mississippi state law, regulations and procedures allow, provisions must be made to eliminate the ponding before the planning commission recommends approval of the plat to the mayor and board of aldermen.
- C. No property proposed to be subdivided within the City of Ocean Springs will be allowed to be filled, graded, cleared or contoured, nor shall any other action be taken thereon whereby the surface drainage from said property will be created, increased, redirected, rerouted, funneled, dispersed, or otherwise affected unless and until all requirements and provisions of this ordinance are fully complied with. Provided, however, if the property in question is less than 2,500 square feet in size or the amount of fill or grading involved is, in total, less than five cubic yards, the provisions of this section shall not apply unless such area will affect any natural drain.
- D. Prior to any work being done falling within the purview of these regulations, preliminary plat approval shall first be obtained from the Mayor and Board of Aldermen of the City of Ocean Springs, Mississippi.

- E. Should an applicant be aggrieved by the decision of the mayor and board of aldermen, he may appeal such decision to the Circuit Court of Jackson County, Mississippi, in the time and manner prescribed by law.
- F. The impact of development on the off-site upstream and downstream drainage will be calculated. Calculations will be provided prior to preliminary plat approval. Development shall in no way be an obstruction to natural or existing drainage. The city will determine how far upstream and downstream that the developer's engineer must evaluate the impact of the proposed subdivision's off-site drainage.
- G. The grading and drainage plan will show the existing and general proposed finished grading of each lot, as well as proposed finished floor elevation for each lot.
- H. Storm drainage improvements will consist of adequate pipes, catch basins and curb inlets, grassed swales, retention areas or other green infrastructure improvements as detailed in the State of Mississippi Manual, *Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas*. This manual is available for review at the City of Ocean Springs Building Department and is online at the Mississippi Department of Environmental Quality website. Corrugated metal will not be acceptable. Only existing natural drains that already run through the development may be reutilized in the overall subdivision drainage plan unless a special variance is granted by the mayor and board of aldermen after review and findings by the planning commission. However, swales, as defined in the Definitions of this Code, may be used where geography and soil conditions permit.
- I. Drainage of stormwater will not be allowed to cross the centerline of any street as it flows over the street pavement surface. Gutter flow lines must drain into a curb inlet or catch basin, and the use of flumes through the back of curbs will not be allowed.
- J. Catch basins and curb inlets will be spaced at an approximate distance to ensure that water in the gutter will not be more than eight feet into the street measured from the back of the gutter. Curb inlets shall not have more than a seven-inch vertical opening and shall not cause a hazard to pedestrians. Junction boxes, curb inlets and catch basin sizes and openings shall be designed to be of sufficient capacity to handle the planned amount of stormwater drainage and shall in no way cause a restriction to the amount of drainage going through the inlet or outlet pipes at that respective location.
- K. The outlet ends of culverts will terminate with a flared end section or headwall with a slope to the top of the bank above the outlet of a minimum of three feet horizontally to one foot vertically. The outlet ends of culverts will also have permanent erosion control and dissipaters as well as provisions to prevent sedimentation of downstream drainageways during subdivision construction and development on each lot.
- L. The stormwater sewer system design and plans shall include the following:
  - 1. The proposed finish invert elevations will be shown at the inlets, outlets, and at any changes in slopes.
  - 2. Catchbasin or curb inlet elevations will be shown.

3. Calculations will be provided by the amount of rainwater runoff, based on a 25-year flood storm frequency, and required sizes, slopes and actual capacity for all culverts and ditches to handle this runoff.
  4. Any storm drain system installed within the city's right-of-way must consist of reinforced concrete pipe.
  5. Existing and proposed ditch cross sections in natural drainage areas will be provided.
- M. Prior to construction, specifications for the construction materials and equipment shall be submitted for review by and approval of city personnel.
- N. Restrictions for materials used are as follows:
1. No corrugated plastic pipe (CPP) over twenty-four (24) inches in diameter shall be installed in any city right-of-way. All drainage pipes larger than twenty-four (24) inches in diameter must be reinforced concrete pipe (RCP).
  2. No corrugated plastic pipe regardless of diameter shall be installed under any city street.
  3. Corrugated plastic pipe twenty-four (24) inches in diameter and smaller may be installed in approved locations up to a maximum depth of five (5) feet measured from the finished surface to the bottom of the pipe. All pipes installed at depths greater than five (5) feet measured from the finished surface to the bottom of the pipe shall be reinforced concrete pipe.

(Ord. No. 2024-02, 04-02-2024)

## **5.10 STORMWATER MANAGEMENT**

### **5.10.1 General**

This ordinance applies to all lands within the corporate limits of the City of Ocean Springs. Stormwater Runoff is a major contributor to degradation and pollution of receiving waters. Discharges into a Stormwater Runoff system may occur because of stormwater runoff, spills, dumping, and/or improper connections to the stormwater system from developments, residential, industrial, commercial, or institutional establishments. Such discharges not only impact waterways individually, but geographically dispersed, small volume discharges can have a cumulative impact on receiving waters, which can adversely affect public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters.

- A. The purpose of these Stormwater Management regulations is to protect the environment, public health, safety, property and general welfare of the citizens of Ocean Springs, Mississippi, through the regulation of Stormwater Runoff and Illicit Discharges into the City Storm Drainage or any Separate Storm Sewer system, to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the City drainage system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. In the development of any site, the improvements shall not cause the discharge of rainwater in a manner that causes erosion or filling of the channel nor exceed its hydraulic capacity.

- B. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulations, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

#### 5.10.2 Objectives

The objectives of this ordinance are:

- A. To regulate or restrict the introduction of pollutants that may potentially enter the City Drainage System;
- B. To prohibit Illegal Connections and Discharges to any separate storm sewer system;
- C. To identify, define, and regulate erosion, sediment and detention controls related to stormwater runoff;
- D. To prevent discharges that may occur as a result of spills, inappropriate dumping or disposal, and/or improper connections to the City drainage system, whether from residential, industrial, commercial or institutional establishments;
- E. To provide the City of Ocean Springs with the authority to effectively manage stormwater runoff, non-conformance and illicit discharges, and to establish enforcement actions for those persons or entities found to be in noncompliance or that refuse to allow access to their facilities;
- F. To maintain after development, as nearly as possible, predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation and local flooding; and
- G. To establish legal authority to carry out inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

#### 5.10.3 Applicability

This ordinance shall apply to any and all water entering a storm drainage system generated on any developed or undeveloped lands throughout all of the corporate limits of the City of Ocean Springs unless explicitly exempted by an authorized enforcement agency. The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

#### 5.10.4 Responsibility for Administration

The Ocean Springs Building Department or designee shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

#### 5.10.5 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

#### 5.10.6 Policy

No owner of any parcel of land or property, whether with or without a structure thereupon, shall permit the erosion or escape of soil, sand, gravel, or similar material from said parcel onto any adjoining property, public street or into any drainage channel that receives rainwater runoff from said parcel in such quantities as to harm said adjoining property, public street, drainage channel, or stormwater drainage system.

- A. No person or persons, companies, corporations, partnerships or other entities shall take any action, whether of omission or Commission, that will or might result in erosion or impeding the natural or designed flow of surface stormwater drainage. This includes stormwater controls that are approved as temporary pre-construction protections, as well as permanent post-construction measures.
- B. All development shall be constructed and maintained so that adjacent upstream or downstream properties are not unreasonably burdened with surface water runoff or sedimentation. More specifically:
  - 1. No development may impede the natural flow of water from higher adjacent properties across such development causing unreasonable damage to the upstream properties.
  - 2. No development may collect and channel surface water to locations or accumulate volumes that cause unreasonable damage or erosion to downstream properties.
- C. The volume or rate of post development runoff shall not exceed the predevelopment runoff. The developer is free to choose the method to meet this standard, provided it is approved by the City Engineer.

#### 5.10.7 Erosion/Sediment Control Standards and Requirements

Any person subject to an industrial or construction activity National Pollution Discharge Elimination System (NPDES) stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Ocean Springs Building Department prior to the allowing of discharges to the City drainage system. Dumping excess cements and washing out cement trucks are included in this article.

- A. Prior to the final approval of the plat of any subdivision, or to commencement of construction upon any lot or parcel of land that meets the requirements outlined by the Land Disturbance Permit for Stormwater Management regulations of this UDC, the owners of the property being subdivided or upon which construction is being commenced shall, at such owner's cost, prepare a detailed drainage report and construction plan for the installation of all stormwater facilities required for such subdivision or lot. This plan will



include any off-site facilities required to convey stormwater to existing drains, channels, streams, detention ponds or to other points, all in conformity with the SWPPP on file.

- B. No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the City unless the plans for the proposed development include temporary and permanent erosion and sedimentation control measures such that siltation of downstream drainage ways are minimized.
- C. Design of all required improvements must include considerations for preservation of natural ground cover and desirable growth of shrubs and trees within the right-of-way and easements. Seeding, mulching and sodding of slopes, swales and other erodible areas must be included in the design plans as well as prevention of sedimentation in stormwater sewer systems and natural drainage areas during the development and construction on each lot of the subdivision.
- D. The above requirement shall be accomplished through a combination of the following practices, which are defined in the publication Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas prepared by the Mississippi Department of Environmental Quality (MDEQ), the Mississippi Soils and Water Conservation Commission (MSWCC) and the USDA Soil Conservation Service. This publication identifies BMPs acceptable to the City of Ocean Springs for the prevention, treatment and control of nonpoint sources of pollution. This manual is available for review at the City of Ocean Springs Building Department.
  - 1. Installation of structural BMPs before and during construction in order to reduce on-site soil erosion and provide temporary capture of sediment.
  - 2. Temporary and/or permanent revegetation of bare ground in order to stabilize disturbed soil at the earliest practicable date.
  - 3. Construction of on-site stormwater detention facilities by the landowner or developer in a manner such that detention ponds function as temporary sedimentation basins until permanent revegetation of the subject tract is accomplished.
  - 4. Other measures which may be necessary to control erosion and sedimentation on a site-by-site basis.

#### 5.10.8 Illicit Discharges

- A. It shall be unlawful for any person to allow discharges to the City stormwater runoff system that are not composed entirely of stormwater runoff, or to contribute to increased nonpoint source pollution and degradation of receiving waters.
- B. It shall be unlawful for any person to throw, deposit, empty, drain, discharge, or to permit to be thrown, deposited, emptied, drained or discharged into any creek, or upon its margins, slopes, banks, or stormwater drainage system within the city any garbage, rubbish, refuse, hair, ashes, cinders, fruit, vegetables, paper, rags, any animal carcass or waste, sewerage, excrement, urine, liquid, or semi-liquid waste from any industry, or any noxious substance or liquid. These non-stormwater discharges may occur due to spills, dumping and improper connections to the city separate storm system from residential, industrial, commercial or

institutional establishments. Non-stormwater discharges not only impact waterways individually. Geographically dispersed, small volume non-stormwater discharges can also have cumulative impacts on receiving waters. The impacts of these discharges adversely affects public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters. These impacts can be minimized through the regulation of spills, dumping and discharges into the city separate storm sewer system. Therefore, it is determined that the regulation of spills, improper dumping and discharges to the city storm system is in the public interest and will prevent threats to public health and safety, and the environment.

- C. No person shall, or allow others under its control, to throw, drain, or otherwise discharge or cause to be discharged into a storm drainage system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as follows:
  - 1. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
  - 2. Water line flushing performed by a government agency.
  - 3. Landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (must be de-chlorinated – typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
  - 4. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- D. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### 5.10.9 Illicit or Illegal Stormwater Connections

The construction, connection, use, maintenance or continued existence of any illicit or illegal connection to the City storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. The MDEQ Complaint Tracking System (CTS) shall serve as a tool to identify problem areas and target pollutants.

1. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to a storm drainage system, or allows such a connection to continue.
2. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the appropriate department or agency.
3. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to a storm drainage system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the local enforcement authority requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm drainage system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the local enforcement authority.

#### 5.10.10 Post-Construction Stormwater Controls

- A. It is prohibited to place fill material or construct impervious cover or construct or place any other structure on such person's property or perform any excavation or grading in a manner, which alters the flow of surface water across said property in a manner which damages any adjacent property.
- B. No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the City unless it can be demonstrated by the owner or developer of such property that the proposed development will not result in damage to any adjacent or downstream property. This will be certified by a professional engineer's submittal of sufficient data and calculations based upon the 2-year, 5-year, 10-year, 25-year and 50-year 24-hour storm events.
- C. The above requirement shall be accomplished through one or more of the following options:
  1. Design and construction of an on-site stormwater detention facility, or facilities, by the landowner or developer which limits the peak flood flows from the proposed development to the existing peak flood flows from the subject tract.
  2. Construction of, or participation in the construction of, off-site drainage improvements, such as storm inlets, storm sewers, culverts, channel modifications, land filling, and/or other drainage facilities such that the peak flood flows for fully-developed watershed conditions from the watershed area in which the proposed development is located will be sufficiently and safely passed without flooding of adjacent and downstream property and roadways. Because this option alone does not assist the City with maintaining pre-development run-off conditions, it must be used in conjunction with the first or third option outlined in this section.

3. Design and construction of the development by certified engineering data and calculations utilizing limited impervious cover, infiltration of runoff from impervious cover via flow through pervious areas, grass-lined swales or channels, bioretention areas or other green infrastructure solutions such that these measures result in a minimal increase in peak flood flows from the development.
4. All on-site stormwater detention facilities shall be designed to adequately and safely pass all stormwater inflows, including flood flows and runoff from upstream and adjacent properties that have natural and/or existing overland flows toward and onto the subject tract. The on-site stormwater detention facilities should not impound stormwater or cause backwater to inundate any upstream or adjacent properties in excess of existing conditions.

#### 5.10.11 Definitions

*Accidental Discharge.* A discharge prohibited by this ordinance, which occurs by chance, and without planning or thought prior to occurrence.

*Authorized Enforcement Agency:* Employees or designees of the agency designated to enforce this ordinance including the City of Ocean Springs, the Mississippi Department of Environmental Quality (MDEQ) and the U.S. Environmental Protection Agency (EPA).

*Best Management Practices (BMPs):* schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices designed to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Best Management Practices (BMPs) – Non-Structural:* A policy, practice or preventative action that involves operational planning and source controls designed to provide a proactive approach to stormwater management.

*Best Management Practices (BMPs) – Structural:* A physical device designed and constructed or manufactured to trap or filter pollutants from runoff, to reduce runoff velocities, or to minimize or prevent the impacts and effects of soil erosion caused by stormwater runoff.

*Clean Water Act:* The federal Water Pollution Control Act (33 U.S.C., 1251 et seq.), and any subsequent amendments thereto.

*Construction Activity:* Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbances. Such activities include but are not limited to clearing, grading, excavation and other construction related activities (e.g. stockpiling of fill material and demolition).

*City Drainage System (CDS):* Any City maintained or designated roadways, ditches, culverts, channels, or conduits intended to direct water flows.

*Dry Weather:* A period of 72 hours with less than 0.10 inches of rain.

*Dry Weather Field Screening:* Screening outfalls during dry weather to find illicit discharges. Most rainfall events carry pollutants to stormwater conveyances, but it is difficult to track and eliminate specific pollutant sources during wet weather without intensive monitoring and investigation. The best opportunity to find an illicit discharge is during dry weather, when rainfall runoff is not running through the conveyance systems(s) within the MS4. During dry weather, any flow in the conveyance system is potentially an illicit discharge because it is something other than rainfall runoff.

*Facility:* A structure, installation, or system that is designed to serve a particular purpose, service, or function.

*Green Infrastructure:* An approach to stormwater management that protects, restores, or mimics the natural water cycle using infiltration and/or evaporation.

*Hazardous Materials:* Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illegal Connections:* An illegal connection is defined as any of the following: Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the drainage system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, wash water, or any other such discharge, to enter the storm drain system and any connections to the storm drain system from any source, regardless of whether such pipe, open channel, drain, connection, or source had been previously allowed, permitted, or approved by an authorized enforcement agency.

*Illicit Discharge:* Any direct or indirect discharge into a stormwater drainage system that is not composed entirely of stormwater.

*Industrial Activity:* Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

*Larger Common Plan of Development or Sale:* A contiguous area where multiple separate and distinct construction activities are occurring under one plan. The plan in a common plan of development or sale is broadly defined as any announcement or piece of documentation or physical demarcation indicating that construction activities may occur on a specific plot.

*National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit:* A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC, 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Non-Stormwater Discharge:* Any discharge to the storm drain system that is not composed entirely of stormwater.

*Person:* Any individual, association, organization, partnership, firm, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State,

any interstate body or other legal entity, joint venture, public or private corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutant:* Any substance, which causes or contributes to pollution. Pollutants may include, but are not limited to paints, varnishes, solvents, petroleum hydrocarbons, automotive fluids, cooking grease, detergents (biodegradable or otherwise), degreasers, cleaning chemicals, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, discarded or abandoned objects, munitions, accumulations that may cause or contribute to pollution, any floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure including concrete/cement (this includes water from washing out cement trucks) and noxious or offensive matter of any kind or any other substance which has been or may be determined to be a pollutant.

*Pollution:* The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any substance or condition including but not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

*Premises:* Any parcel or portion of land whether improved or unimproved.

*Separate Storm Sewer System:* Any facility designed or used for collecting and/or conveying stormwater, including but not limited to streets or roads with drainage systems, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which are:

1. Owned or maintained by the City; and
2. Not part of publicly owned treatment works.

*State Waters:* Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, well, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State, which are not entirely confined and retained completely upon the property of a single person.

*Storm Drainage System:* Any one (1) or more of various devices used in the collection, treatment or disposition of storm, flood or surface drainage waters, including but not limited to any roads with drainage systems, natural and human-made or altered drainage channels, reservoirs, manmade structures and natural watercourses and/or floodplains for the conveyance of runoff, such as detention or retention areas, berms, swales, improved gutters, pumping stations, pipes, ditches, siphons, catch basins, inlets, and other equipment and appurtenances and all extensions, improvements, remodeling, additions and alterations thereof; and any and all rights or interests in such stormwater facilities.

*Stormwater/Stormwater Runoff:* Any surface flow, runoff, and/or drainage consisting entirely of water from any form of natural precipitation, which is not absorbed, transpired, evaporated or left in

surface depressions, and which then flows controlled or uncontrolled into a watercourse or body of water.

*Stormwater Pollution Prevention Plan (SWPPP):* A document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Swales:* A swale is a graded and engineered landscape feature appearing as a linear, shallow, open channel with trapezoidal or parabolic shape. The swale is vegetated with flood tolerant, erosion resistant plants.

*Structural Stormwater Control:* A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff, including but not limited to, the quantity and quality, the period of release or the velocity of flow.

*Treatment Train Approach:* The use of multiple BMPs to effectively sequence the management of stormwater runoff in addition to controlling sediment and erosion. For instance, the use of grassed swales for water conveyance to a retention/ detention basin is an example of a treatment train approach. In this example, a grass swale is not only useful for water conveyance, but also provides treatment via vegetative filtration and infiltration as the stormwater flows through the channel and the retention/ detention basin provides a means for runoff control.

*Wastewater:* means any water or other liquid other than uncontaminated stormwater discharged from a facility.

*Watercourse:* Any stream, river, drainage easement, that transverses property in the City of Ocean Springs.

#### 5.10.12 Private Utility Systems

- A. The following plans and information must be submitted to the city engineer prior to preliminary plat approval and should include:
- B. The location of transformers, junction boxes, etc., for electricity, telephone, television cable, gas and any other private utilities shall be shown in a separate utility easement outside of the right-of-way or easements for water, sanitary and stormwater sewer systems. These separate utility easements shall abut the right-of-way to the greatest extent possible.
  1. Street lighting plans in which lights will be placed approximately 300 feet apart so that the footcandle level is between 0.2 and 0.4 and the uniformity ratio is between 6:1 and 10:1. Prior to application for final plat approval, the developer must pay the appropriate electricity supplier for the material and installation costs of streetlights. Furthermore, the developer is responsible for all costs associated with the installation of private utilities and services in the subdivision. The city will not be responsible for electric charges in the vicinity of each light until authorization of the mayor is obtained.

2. All private utility crossings under the city rights-of-way or easements where the developer is to dedicate improvements to the city will be shown. Utility lines will be laid in conduits at these crossings. The conduits will be placed in these crossing locations prior to construction of the street, water line, sewer line or storm drainage system.
3. Electricity and gas, if applicable, must be installed throughout the subdivision with fully functional services to every lot prior to the scheduling of final engineering inspection.
4. Construction details (as-builts) shall include the locations of all utilities including electricity, and gas. Service connection location for each utility shall be properly identified for each lot on the as-builts.
5. The developer shall submit three additional blue copies identifying the locations of cable and telephone lines prior to the issuance of certificate of occupancies for ten per cent of the houses of the subdivision or development.

C. Easements for Private Utility Systems.

- D. Private utility system easements are required to abut the street right-of-way of all lots but are not to be dedicated to the City, except where, in the opinion of the Planning Commission, such easements are not necessary.

1. Property owners will be responsible for the maintenance and upkeep of these easement areas, as well as for removal and replacement of fences that are in the easement area and must be moved to allow utility work in the easement.
2. Where a subdivision is traversed by a drainage ditch, watercourse, natural channel or stream, there shall be provided an easement conforming to the limits of such watercourse plus additional width as necessary to accommodate future construction and maintenance as recommended by the City. This additional width shall be no less than ten feet measured from the top of each ditch bank.
3. No dedicated easement shall be less than 15 feet.
4. No new half-easement will be accepted unless there exists a dedicated or platted half-easement adjacent to the tract to be subdivided, in which case the half-easement must be dedicated.

5.10.13 Private Utility Easements (Electric, Telecommunications, TV)

- A. All electric, telephone, television and other communication lines, both main and service connections, servicing new developments shall be provided by underground wiring with easements or dedicated rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.
- B. Lots that abut existing easements or rights-of-way where overhead electric or telephone distribution supply lines and service connections have previously been installed may be supplied with electric service from the overhead lines, but the service connections from the utilities' overhead lines shall be installed underground where practicable. In the case of the existing overhead utilities, should a road widening, or the extension of service, or other



connection occur as a result of the subdivision and necessitate the replacement or relocation of such utilities, such replacement or relocation of such utilities, such replacement or relocation shall be underground.

#### 5.10.14 Other Improvements

- A. Fire hydrants.
- B. Fire hydrants will be installed in the subdivision if there exists a six-inch water main in the proposed subdivision. Any fire hydrants installed shall have a maximum spacing of one thousand (1,000) feet with no area in the subdivision exceeding five hundred (500) feet from any hydrant. With approval of the board, spacing may be altered slightly to conform to location lot lines.
- C. Street signs.
- D. Street signs shall be paid for by the developer and installed by the City to properly identify all streets in the subdivision.

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# Chapter 6. Supplemental Conditions for Specific Uses

## 6.1 PURPOSE AND FINDINGS

### 6.1.1 Generally

This chapter establishes additional standards, exceptions to standards, or alternative standards (e.g., screening, landscaping, and/or design standards) for particular uses. The purpose of this chapter is to:

- A. Provide supplemental standards for individual uses in order to protect surrounding property values and uses;
- B. Protect the public health, safety, and general welfare; and
- C. Implement the comprehensive plan.

### 6.1.2 Authorized

Accessory uses and structures are permitted in any zoning district, unless qualified as noted in this Chapter, but only in connection with, incidental to, and on the same lot with a principal use or structure which is permitted within such district.

### 6.1.3 Additional Standards and Regulations

This chapter provides supplemental regulations for certain uses, structures, and facilities. These regulations are in addition to the other applicable standards of this chapter. In some cases, the establishment of these standards streamlines the permitting process by permitting the use as of right in certain districts subject to the supplemental regulations rather than a case-by-case consideration for a conditional use permit. In other instances, the supplemental regulations do not streamline the process but address the unique development challenges of certain uses and structures whether permitted as of right or as a conditional use.

### 6.1.4 Compliance Mandatory

No supplemental use may be initiated, established, or maintained unless it complies with the standards set forth for such use in this chapter.

### 6.1.5 Regulations Supplement Other Code Regulations

The regulations of this chapter shall supplement the requirements of the base applicable and overlay zoning district regulations and the other applicable standards of this chapter. These standards are in addition to, and do not replace, the other standards for development set forth in this UDC unless otherwise provided. To the extent that there is a conflict between a standard in another chapter of the UDC and a standard in this chapter, the standard in this chapter governs unless otherwise indicated.

## 6.2 ACCESSORY USES AND STRUCTURES

### 6.2.1 Generally

- A. It is the intent of this section to regulate the installation, configuration and use of accessory structures and the conduct of accessory uses. Regulation is necessary in order to ensure that accessory uses and structures are compatible with the surrounding neighborhood and are consistent with the character and intent of the zoning district in which the accessory uses and structures are located.
- B. Accessory uses and structures are not permissible on lots or parcels that do not contain a principal use or structure.
- C. Accessory structures may be allowed in any zoning district, provided that they comply with the standards of the zoning district and that the following general standards are met, along with specific standards for the structure as provided in this UDC:
  - 1. All accessory structures shall be located on the same lot as the principal structure.
  - 2. All accessory structures shall be included in all calculations for parking space requirements, impervious surface ratio standards, stormwater runoff standards and lot coverage standards.
  - 3. All accessory structures, other than fences located in compliance with this UDC, shall comply with all site design requirements, with the exception of the side and rear yard setbacks. A single-story accessory building shall be located a minimum of five (5) feet from a side or rear yard line. An accessory building greater than one-story in height shall be located a minimum of ten (10) feet from a side or rear yard line.
  - 4. **Swimming pools shall be no closer to the reduced side and rear setbacks of 5 feet than from the edge of pavement of the pool surface or swimming deck.**
  - 5. Where an accessory structure or use is located on a corner lot, no variation from the applicable district's standard minimum side yard setback will be permitted on the street-facing side. No accessory buildings on a said corner lot shall project beyond the front yard line of the lot(s) abutting in the rear, nor shall an accessory building be erected, reconstructed, altered or enlarged less than ten (10) feet to the line of the abutting lot to the rear.
  - 6. Within a single family residential zoning districts, accessory buildings may occupy not more than forty (40) per cent of the total rear yard (excluding fences and walls). All other zoning districts may have any number of accessory structures, so long as such structures are located in compliance with the site design requirements of the zoning district and the applicable requirements of this section.
  - 7. There shall be no off-site signs pertaining to allowable accessory uses.
  - 8. The aggregate area of all permissible accessory structures and accessory use shall consist of no more than 40% of the size and area of the principal use.
  - 9. **Accessory structures shall be located in the side or rear yard when the lot size or configuration prohibit it.**

10. Directly serve the principal use or structure
11. Be customarily accessory and clearly incidental and subordinate to the principal use and structure;
12. An accessory use can be attached or detached from the principal unit.
13. Accessory structures can be residential, commercial, or industrial in zoning.

#### 6.2.2 Use Limitations

- A. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- B. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
- ~~C. All uses and structures accessory to single family detached dwellings shall cover no more than 25% of the area of the minimum required rear yard.~~
- D. C. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located.
- E. D. For the purposes of determining height, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure. **In flood zones the height shall be measured by the Base Flood Elevation.**

#### 6.2.3 Permitted Accessory Uses

Accessory uses and structures shall include, but are not limited to, the following uses and structures; provided that such use or structure shall be in accordance with the definition of Accessory Use in this UDC.

- A. Antenna structures;
- B. Accessory Dwelling Unit;
- C. Boats, recreational vehicles and utility or travel trailers, provided they are located within side or rear yards.
- D. Canopies, Galleries, Covered Walkways or Awnings, subject to the following:
  1. Canopies, galleries, covered walkways or awnings may be allowed to extend over a public sidewalk provided that the owner of the building shall:
    - i. Provide for a sidewalk of at least eight (8) feet in width;
    - ii. Not establish any obstructions within the public right-of-way; and
    - iii. Maintain sidewalks and landscaping, including the protection and maintenance of street trees and the maintenance of a clean sidewalk.
- ~~E. Garages or carports (noncommercial)~~

- F. Child's playhouse and child's play equipment.
- G. Doghouses, runs, pens, rabbit hutches, cages, and other similar structures for the housing of commonly accepted pets, but not including kennels.
- H. Dumpsters/Solid Waste Containers
  - I. Dumpsters, provided that they are screened as follows:
    - 1. All four (4) sides shall be screened.
    - 2. Screening may be in the form of evergreen trees and shrubs or a solid wooden or masonry fence. One (1) tree for each twenty-five (25) linear feet shall be required. Shrubs shall be planted in a double-staggered row to form a continuous hedge.
    - 3. Where screening is provided by landscaping, the access to the dumpster shall be a wooden or other opaque gate.
    - 4. Dumpsters shall be setback a minimum of thirty (30) feet from any property zoned or used for residential purposes.
    - 5. A dumpster located on properties on a designated Scenic Corridor shall be screened from view at ground level by pedestrian traffic and shall not be located on the side of the building abutting the scenic corridor.
    - 6. A dumpster for a business serving food shall be setback a minimum of fifty (50) feet from the any property zoned or used for residential purposes.
  - J. Fences and walls, subject to the following:
    - 1. ~~The maximum height for fences shall be six (6) feet, except as modified below.~~
    - 2. 1. Fences located along rear lot lines may be eight (8) feet.
    - 3. 2. The rear lot line fence or wall may be extended along or parallel to the side lot lines up to a line extended from the front face of a lawfully permitted principal building, parallel to the rear lot line and may cross the side yards and connect to the front face of the principal building.



4. **3.** Fences and Walls: A solid fence or wall may be built on any property line to a maximum height of ~~four (4)~~ **five (4.5) feet** in the required front yard setback and eight (8) feet within the required side and rear yards. ~~Permission may be granted for a solid fence or wall to a maximum height of eight (8) feet within the required front and street side yard setback, provided the following conditions are met: (a) a notarized statement from the adjoining property owners (property across public easements or streets shall be considered adjoining) must be filed indicating no objections to this fence; and (b) the request along with the notarized statements must be referred to the Building Official and the City Planner for approval. In incidents where a rear yard abuts a front yard(s), a solid wall or fence not exceeding eight (8) feet may be constructed within the required rear yard setback except along the area where the rear yard directly abuts a front yard(s). In these incidents a solid wall or fence may not exceed four (4) feet in height unless conditions (a) and (b) are met as specified above.~~
5. **4.** The front lot line fence may be extended along or parallel to the side lot lines up to a line extended from the front face of a lawfully permitted principal building, parallel to the front lot line and may cross the side yards and tie into the front face of the principal building.
6. **5.** No fence otherwise permitted by this section may be constructed or situated so as to obstruct the field of view sight triangle at any intersection so as to create a danger for drivers or pedestrians.
7. **6.** Fence and Wall Material:
  - i. Within Front Yard and Street Side Yard: Fences and walls shall be constructed of any combination of wood posts and planks, wrought iron, decorative metal materials, brick, stone, masonry materials, or products designed to resemble those materials. Chain link fencing is not allowed.
  - ii. Within Rear Yard and Interior Side Yard: Fences and walls may be constructed of any combination of wood posts and planks, wrought iron, decorative metal materials, chain link, brick, masonry materials, or products designed to resemble these materials.
  - iii. Chain link fences along rear yard, street side yard and interior side yard lot lines shall extend no closer to the front lot line than the front building line of the principal building on the nearest abutting lot or parcel.
8. **7.** The finished side of the fence shall face outward.
9. **8.** A permit is required prior to the construction of any fence.
10. **9.** Fences must at all times be in good repair as defined by the following standards:
  - i. Fences must be in a vertical position;
  - i. Rotten boards must be replaced;
  - ii. Support posts or footers must be solidly attached to the ground;
  - iii. Fence stringers must be securely attached to the support posts and fence stringer;
  - iv. Each fence must be securely attached to the support posts and fence stringer;

- v. Fence or wall surfaces must be painted, stained, treated or otherwise maintained so as to present a uniform appearance.
- 11. **10.** Barbed wire fences are prohibited in all zoning districts except the M1 district. Barbed wire strands may be used to enclose storage areas or other similar industrial or commercial uses where the strands are restricted to the uppermost portion of the fence and do not extend lower than a height of six (6) feet from the nearest ground level.
- 12. **11.** Electric current fences, other than those designed and installed for the containment of pet dogs and cats, are prohibited in all zoning districts except the M1 district.
- K. Garages private.
- L. Garage and yard sales, in R districts, shall be permitted not more than twice in any one calendar year and shall be limited to items not specifically purchased for resale.
- M. Gardening and composting.
- N. Home occupations
- O. Home child care facilities, except so far as consistent with State law:
  - 1. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation.
  - 2. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Chapter shall be allowed.
  - 3. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time.
  - 4. Hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
- P. Inoperative motor vehicles, provided such vehicles are kept within a fully enclosed building or structure or are kept completely screened or shielded from view.
- Q. Motor vehicle fuel storage tanks when accessory to a use other than a dwelling.
- R. Parking and loading spaces, off-street.
- S. Parking of one (1) commercial vehicle per dwelling unit in a residential district subject to the following limitations:
  - 1. No solid waste collection vehicle, tractor and/or trailer of a tractor-trailer truck, dump truck, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.

2. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.
- T. Porches, gazebos, belvederes and similar structures.
- U. Recreation, storage and service structures in a mobile home park.
- V. Residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel.
- W. Retaining walls, provided that such retaining wall does not adversely affect the natural flow of surface water or create any other adverse effect upon adjacent or adjoining properties. All retaining walls shall comply with the standards set forth in the Engineering Technical Manual.
- X. Statues, arbors, trellises, clotheslines, barbeque stoves, outdoor fireplaces, flagpoles, walls and hedges, Mailboxes, signs, gates and gateposts, basketball standards to include rim, net and backboard, and similar equipment.
- Y. Sheds, storage buildings and greenhouses, other than those located in a non-residential district, shall:
  1. Not be used for the storage of hazardous, incendiary or noxious materials;
  2. Not be located within any easement;
  3. Be located only in the rear yard or side yard behind the front line of the principal building;
  4. Not exceed fifteen (15) feet in height, measured to the peak of the Roof;
  5. Not exceed 30% of the area within the rear yard; and
  6. Be separated from any other building on the same Lot by a minimum of five (5) feet.
- Z. Solar collection systems, windmills, and other energy devices based on renewable resources.
- AA. Swimming pool, hot tub and bathhouse, private, subject to the following:
  1. Be located only in side or rear yards;
  2. Be completely surrounded with a wall or fence not less than four (4) feet in height and sufficient to prohibit unrestrained admittance to the pool area;
  3. Be located such that no overhead power lines will pass over the pool. As an alternative, the overhead power lines shall be enclosed in conduit and rigidly supported;
  4. Where a swimming pool is attached to the dwelling, the pool enclosure shall be considered a part of the principal structure and shall comply with all site design and building location requirements for the zoning district
  5. The nearest opening into unenclosed swimming pool shall be located no closer than five (5) feet from any side or rear lot line and
  6. Only swimming pools located in compliance with the setback requirements established for the principal building shall be eligible to be enclosed with a pool closure.

- BB. Tennis, basketball or volleyball court, and other similar private outdoor recreation uses.
- CC. Wireless telecommunications antennas or tower
- DD. Other telecommunications antennas or tower;
- EE. Any other building or use that is customarily incidental to the permitted principal use or principal building, as determined by the Planning Director;
- FF. **Bike Racks**
- GG. **Car wash vacuums and other cleaning devices**
- HH. **Outdoor dining**
  - II. **Docks private or public**
  - JJ. **Marinas private or public**
- KK. **Drive thru windows at restaurants**
- LL. **Loading docks**
- MM. **ATM Machine**
- NN. **Holding tanks**
- OO. **Outdoor Storage**

(Ord. No. 2022-10, October 4, 2022)

## **6.3 ACCESSORY DWELLING UNITS**

### **6.3.1 Purpose and Findings**

- A. Affordable housing and neighborhood stability are important public objectives of the City of Ocean Springs. In recent years, accessory dwellings have become an important method to permit families to remain in their homes by securing rental income, while at the same time providing affordable housing for the elderly, single-person households, students, and other types of households. Accessory dwellings are also known as “carriage houses,” “granny flats,” or “ECHO homes” (“elder cottage housing opportunities”).
- B. This section allows accessory dwelling units to provide the opportunity to develop small dwellings designed, in particular, to meet the special housing needs of single persons and couples of modest income. ~~This section allows and encourages the more efficient use of the existing housing stock to preserve historic structures and to provide an incentive for their maintenance.~~ Design standards are established to ensure that accessory dwelling units are located, designed, constructed, landscaped, and decorated in such a manner that, to the maximum extent feasible, the appearance of the principal building remains as a single-family detached dwelling. It is also the intent of these regulations to assure that the single-family character of the property will be maintained and that the accessory dwelling unit remains subordinate to the primary living quarters.

### 6.3.2 Accessory Dwelling Units in Detached Buildings

- A. Applicability. This section applies to any accessory dwelling unit that is located in a building that is not attached to the principal dwelling.
- B. Number Permitted. Only one accessory dwelling unit is permitted per lot. An accessory dwelling unit shall not contain more than two bedrooms.

### 6.3.3 Location

~~Separate detached garages and separate accessory units are not permitted on the same lot.~~ Accessory units may be created as a second story within detached garages if the height of the accessory unit and/or garage does not exceed the height of the principal structure on the lot.

### 6.3.4 Scale

The GFA of an accessory dwelling unit shall not exceed 50% of the principal building's floor area. The building footprint of the accessory dwelling unit shall not exceed 40% of the building footprint of the principal residence. The "building footprint" shall include patios but shall not include porches.

### 6.3.5 Building Design

- A. In order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence, the accessory dwelling unit shall have a roof pitch, siding, and window proportions as similar as practical to that of the principal dwelling.
- B. An accessory dwelling shall not exceed two stories or the height of the principal dwelling unit, whichever is less.
- C. No exterior stairway to the second floor is permitted at the front or side of the building.

### 6.3.6 Occupancy

- A. The total number of occupants in the accessory dwelling unit shall comply with the occupancy standards of the building code.
- ~~B. The property owner must occupy either the principal dwelling or the accessory dwelling as the permanent residence. The property owner shall not receive rent for the principal dwelling. For purposes of this section, "property owner" means the title holder and/or contract purchaser of the lot, and "owner occupancy" means that a property owner, as reflected in the title records, makes his/her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.~~
- C. ~~The property owner shall sign an affidavit before a notary public affirming that the owner occupies either the principal dwelling or the accessory dwelling. The Applicant shall provide a covenant suitable for recording with the recorder of deeds providing notice to future owners or long-term lessors of the subject lot that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling or the principal dwelling by the person to whom the certificate of occupancy has been issued. The covenant shall also~~

~~require any owner of the property to notify a prospective buyer of the limitations of this section, and to provide for the removal of improvements added to convert the premises to an accessory dwelling and the restoration of the site to a single family dwelling in the event that any condition of approval is violated.~~

#### 6.3.7 Parking

Parking spaces shall be located in the rear yard and behind the principal building.

#### 6.3.8 Utilities

The accessory dwelling shall be connected to the central water and sewer. ~~system of the principal dwelling.~~

#### 6.3.9 Accessory Apartments

The GFA of the accessory apartment shall not exceed 35% of the total floor area of the principal dwelling unit. ~~Occupancy of the accessory apartment shall not exceed one person per 400 square feet of GFA.~~

### 6.4 CONSTRUCTION MATERIALS AND SUPPLIES; REPAIR SHOPS FOR LARGE APPLIANCES OR EQUIPMENT

- A. Construction materials and supplies, with or without lumber yards and repair shops for large appliances or large equipment are allowable in the CH and M1 zoning district, subject to the standards of this zoning district and the standards of this section. Outdoor storage of materials and supplies is allowable, subject to the following standards:
  - 1. Storage areas shall be fully enclosed by a masonry, wooden or solid fence not less than six (6) feet and not more than eight (8) feet in height. The decorative side of the fence shall face outward.
  - 2. Storage areas shall not be used for retail sales.
  - 3. Properties abutting properties zoned or used for residential purposes shall provide ten (10) feet of buffer yard in addition to the buffer yard otherwise required.
  - 4. All outside areas used for display, storage or sale shall contain a dust-free surface.
  - 5. The buffer that is otherwise required shall be increased by 30%.

### 6.5 HOME OCCUPATIONS

#### 6.5.1 Purpose and Findings

- A. Establishes criteria for operation of home occupations in dwelling units within residential districts;
- B. Permits and regulates the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;

- C. Ensures that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
- D. Ensures that public and private services, such as streets, sewers, or water or utility systems, are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;
- E. Allows residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions, and criteria;
- F. Enables the fair and consistent enforcement of these home occupation regulations; and
- G. Promotes and protects the public health, safety and general welfare.

#### 6.5.2 Applicability

- A. This section applies to any occupation, profession, or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character of the dwelling unit. A home occupation is an accessory use to a dwelling unit.
- B. No home occupation, except as otherwise provided in this section, may be initiated, established, or maintained in the unit except in conformance with the regulations and performance standards set forth in this section. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes.

#### 6.5.3 Exempt Home Occupations

- A. The following activities are not subject to this section, provided that all persons engaged in such activities reside on the premises:
- B. Artists, sculptors, and composers not selling their artistic product to the public on the premises;
- C. Craft work, such as jewelry-making and pottery, with no sales permitted on the premises;
- D. Home offices with no client visits to the home permitted; and
- E. Telephone answering and message services.

#### 6.5.4 Permitted Home Occupations

The following home occupations are allowed in a residential setting provided they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level. A home occupation is permitted as an accessory use.

*Table 6.1 Permitted Home Occupations*

|                                                                 |                     |
|-----------------------------------------------------------------|---------------------|
| Accounting, tax preparation, bookkeeping, and payroll services; | Baking and cooking; |
|-----------------------------------------------------------------|---------------------|

|                                                                        |                                                                                                             |
|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| Child care;                                                            | Computer repair training;                                                                                   |
| Computer systems design and related services;                          | Computer training;                                                                                          |
| Drafting services;                                                     | Engineering, architecture, and landscape architecture;                                                      |
| Financial planning and investment services;                            | Fine arts studio (creation of individual works only, no mass production);                                   |
| Hair salon, barbering, hairdressing, and other personal care services; | Information and data processing services, computer processing and data preparation and processing services; |
| Computer-related services;                                             | Insurance sales;                                                                                            |
| Interior decoration (no studio permitted);                             | Legal services;                                                                                             |
| Mail order business (order taking only, no stock in trade);            | Musical instruction, voice, or instrument;                                                                  |
| Musical instrument tuning and repair;                                  | Offices for professional, scientific, or technical services or administrative services;                     |
| Photographic services;                                                 | Professional services, including practice of law;                                                           |
| Real estate services and appraisal;                                    | Tailoring (e.g., dressmaking and alterations)                                                               |
| Teaching of crafts and incidental sale of supplies to students         | Tutoring.                                                                                                   |

#### 6.5.5 Prohibited Home Occupations

The following uses are not permitted as home occupations in residential zoning districts:

*Table 6.2 Prohibited Home Occupations*

|                                                                                        |                                        |
|----------------------------------------------------------------------------------------|----------------------------------------|
| Medical/dental office;                                                                 | Motor vehicle and engine repair;       |
| Furniture refinishing;                                                                 | Gymnastic facilities;                  |
| Recording studios;                                                                     | Outdoor recreation activities;         |
| Medical/cosmetic facilities for animals, including animal care or boarding facilities; | Machine shop/metal working;            |
| Retail sales;                                                                          | Commercial food preparation;           |
| Contractors shops;                                                                     | Mortuaries;                            |
| Medical procedures;                                                                    | Body piercing and/or painting, tattoos |
| Any other use not in accordance with the spirit and intent this section and the UDC.   | Physical therapy or psychotherapy      |

#### 6.5.6 Performance Standards

The following performance standards shall apply to all home occupations:



- A. The use shall be clearly incidental and secondary to residential occupancy.
- B. The use shall be conducted entirely within the interior of the residence.
- C. No more than one nonresident employee shall be permitted.
- D. Not more than six clients per day (limit one visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between 8:00 AM and 8:00 PM.
- E. Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation.
- F. Music, art, craft, or similar lessons are permitted (12 or fewer clients per day).
- G. Child care (maximum of six or fewer children) is permitted.
- H. Public facilities and utilities shall be adequate to safely accommodate equipment used for home occupation.
- I. Storage of goods and materials shall be inside and shall not include flammable, combustible, or explosive materials.
- J. Parking shall be provided only in the driveway.
- K. Outside storage of heavy equipment or material shall be prohibited.
- L. No truck or van with a payload rating of more than 1 ton shall be parked on the site or in front of the site on a regular basis.
- M. Mechanized equipment shall be used only in a completely enclosed building.
- N. Electronically amplified sounds shall not be audible from adjacent properties or public streets.
- O. No generation of dust, odors, noise, vibration, or electrical interference or fluctuation shall be perceptible beyond the property line.
- P. Deliveries and pickups shall be those normally associated with residential services, shall not block traffic circulation, and shall occur only between 8:00 AM and 8:00 PM, Monday through Saturday.
- Q. Signs shall: (1) be limited to one sign of 4 square feet in area; (2) be mounted flush against the wall of principal dwelling unit; and (3) not be illuminated.

#### 6.5.7 Outdoor Storage

Outdoor storage shall comply with the following standards:

- A. Storage shall be limited to materials related to the business and shall not involve any hazardous materials;
- B. Outdoor storage areas shall comply with this Chapter and shall not occupy an area of land exceeding 80 square feet;

- C. Materials shall not be stacked to a height exceeding 4 feet and shall not be visible from the public right-of-way or an adjacent lot or parcel zoned or occupied for residential use; and
- D. Any screening required to comply with this subsection shall use wood or masonry fencing or a vegetative hedge.

#### 6.5.8 Accessory Buildings and Home Occupations

Where a home occupation is conducted in an accessory building, such accessory building shall not exceed the lesser of the following:

- A. The square footage of the footprint of the dwelling; or
- B. 2,000 square feet.

#### 6.5.9 Employees

- A. Nonresident employees may work in the home occupation as follows:
  - 1. Up to 1,000 square feet of floor area: one nonresident employee; and
  - 2. 1,000 square feet and over of floor area: two nonresident employees.
- B. For the purpose of this subsection, “floor area” refers to the GFA of the entire dwelling unit and not the floor area devoted to the home occupation.

#### 6.5.10 Unsafe Home Occupations

If any home occupation has become dangerous or unsafe; presents a safety hazard to the public, pedestrians on public sidewalks, or motorists on a public right-of-way; or presents a safety hazard to adjacent or nearby properties, residents, or businesses, the Planning Director shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken, directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall take the necessary corrective steps or measures but, in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Planning Director may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Planning Director, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation.

### 6.6 PUBLIC NUISANCES

#### 6.6.1 Purpose

To protect the inhabitants of the City of Ocean Springs by requiring property to be kept in a clean state and to prohibit the accumulation of weeds, litter, refuse, junk, abandoned motor vehicles, abandoned equipment, abandoned household appliances, and the like, the improper storage of commercial vehicles, prohibiting litter and refuse, prohibiting the storage of inoperable, derelict or unsightly junk vehicles, motor vehicle, equipment, boat barge, water craft, household appliance, machinery or similar items is declared to be a public nuisance and is prohibited.

- A. That the storage or parking other than overnight of any commercial vehicle, commercial trailer, commercial equipment, or any other movable structure, vehicle or thing in any kind designed or utilized for commercial purposes in an area zoned residential is hereby prohibited as being a public nuisance.
- B. It shall be unlawful for an owner or occupant of a lot or parcel of land to permit or suffer the excess accumulation of litter or refuse upon such lot or parcel. It shall be the duty of every occupant of a building or parcel of land to keep the premises clean and to remove there from all litter and refuse, except that in the case of motels, hotels, boardinghouses, multifamily residences and similar places the owner or lessee of the entire structure or complex shall have the duty to keep all common areas such as hallways, porches, lobbies, yards, parking lots, sidewalks, and similar places clean and free of litter and refuse, the violation of this Section being hereby found to be a public nuisance.
- C. Except in the operation of lawful junkyards and automobile salvage yards that are in compliance with all applicable laws and ordinances, it shall be unlawful and a public nuisance for any person to have or to place outside of a building upon a lot or parcel of land owned or occupied by him, or upon a creek, river, bayou, bay ditch or other stream or body of water, or upon the land of another person (unless done with his consent and stored within a building), any derelict, unsightly, inoperable or junk vehicle, motor vehicle, equipment, boat, barge, water craft, household appliance, machinery or similar item, except while removing and lawfully disposing thereof.

## **6.7 MANUFACTURED HOMES**

### **6.7.1 Purpose and Findings**

Manufactured homes provide a viable and affordable housing option for a segment of the City's population. This housing option is provided in areas predominately of agricultural and forest use with minimal requirements consistent with the state code. This option is also provided under certain design criteria in more residentially developed areas where they will not conflict with developments planned for site-built dwellings. The purpose of this section is to:

- A. Achieve orderly development of manufactured home and recreational vehicle parks;
- B. Promote and develop the use of land to assure the best possible community environment in accordance with the Comprehensive Plan;
- C. Protect and promote the health, safety, and general welfare;
- D. Accommodate an important source of affordable housing for the community;
- E. Protect neighborhood character;
- F. Obtain sufficient distances between the manufactured home stand on its lot and obstructions on adjoining land to assure privacy, adequate natural light and air, and convenient access to the unit; and
- G. Provide for circulation around the unit for such uses of the yard spaces as are considered essential to the manufactured home.

### 6.7.2 Applicability

This section applies to manufactured home land-lease communities, as defined in Chapter 7 of this UDC.

### 6.7.3 Siting standards

Manufactured homes may be placed on lots with a zoning land use classification that allows single-family dwellings if such lots do not have a manufactured home combining district zoning classification, provided that the design, siting and construction of such homes comply with the following standards to ensure high quality residential neighborhoods:

- A. Plans, elevations and a copy of the manufacturer's set-up manual shall be submitted to the Building Department prior to the issuance of a placement permit.
- B. Unit must meet all setback requirements of the zoning district when placed on a lot.
- C. The unit must have been manufactured within six (6) years of the date of the application for the installation.
- D. All components of the towing system, such as tongue, hitch, axles and wheels must be removed.
- E. The foundation must meet the current local, state and federal standards, and in no case shall it be less than required by the manufacturer, and in every case there must be a continuous perimeter block or concrete foundation stemwall which shall be a minimum 28 inches in height measured from the top of the footing to the top of the stemwall, not including the mudsill, and all footings must have a frost depth not less than 24 inches.
- F. The blocking and tie down apparatus must meet the current local, state and federal standards, but in no case may it be less than required by the manufacturer.
- G. Corrugated or ribbed metal exterior siding with a galvanized or gloss finish is prohibited
- H. The exterior siding or covering material must extend over the top of the foundation or perimeter cover (skirting).
- I. All main structures must have a pitched roof of no less than 3:12 and must be roofed with shingles, tiles or colored corrugated or ribbed steel roofing of number 30 galvanized steel gauge, or heavier.
- J. The finished floor of the unit must be 12 inches or more above the surrounding ground level; provided, however, the requirements of this section are superseded to the extent this section conflicts with applicable state law or regulation. A variance from the requirement of this section may be permitted due to the topography of the lot upon which the unit is located.
- K. Unit must be aesthetically compatible with surrounding development when installation is complete.
- L. Unit must be multi-sectioned (double-wide or larger).
- M. Unit must be used only for residence purposes.

- N. Unit must be registered as real property, registered with the County Assessor and taxed as real property.

#### 6.7.4 Other provisions

- A. Mobile homes now established on any lot, tract, or parcel of land within the City, and not permitted under the provisions of this chapter, are declared a nonconforming use.
- B. A mobile home of nonconforming use may be replaced with a new or improved mobile home within forty-five days of removing the original unit.
- C. Nothing contained herein shall be deemed to prohibit the storage of a recreational vehicle on the premises of its owner when not used for dwelling or sleeping purposes; however, such storage will not be allowed in the required front yard area.
- D. Upon recommendation by the Planning Commission and concurrence by the Board of Aldermen, a mobile home may be allowed to be utilized as a temporary residence at a residential construction site for a nonrenewable period of up to one hundred twenty days.
- E. No manufactured homes or mobile homes will be allowed in any area where covenants, conditions and restrictions state they are prohibited.

### 6.8 OUTDOOR DISPLAY

#### 6.8.1 Applicability

This section applies to the display of retail goods in parking areas, sidewalks, and other locations outside of an enclosed building. This section does not apply to farmers' markets or produce stands where permitted by the applicable zoning district.

#### 6.8.2 Permitted

- A. Outdoor display of retail goods, wares, and merchandise are permitted as accessory uses in CMX-2, C-H and M1 districts if expressly permitted pursuant to a site plan. No such outdoor display is permitted unless the site plan shows the location, area, and boundaries of the outdoor display.
- B. Retail goods may be displayed on public or private sidewalks in the CMX-1 district provided that:
  - 1. The goods are located entirely under an awning or canopy that complies with this UDC. If no awning or canopy is present, the goods may be displayed on an area abutting and not more than 3 feet from the storefront; and
  - 2. The display shall conform to the streets and right-of-way management ordinances.
- C. Such outdoor display must be customarily incidental to a principal use in the district in which the outdoor display is permitted. Only the business or entity occupying the principal use or structure shall sell merchandise in the outdoor display areas.

- D. Such outdoor display is permitted in any yard, subject to a minimum setback of 20 feet from an adjoining property line.
- E. Outdoor display shall be appropriately screened from view along any property line abutting a residential zoning district. To the extent that buildings on the premises are located in order to screen views from adjacent streets and properties, such buildings may be considered to be part of the required screening in lieu of landscaping, fences, walls, and enclosures.
- F. The height of displayed merchandise shall not exceed the height of any fence or wall in the buffer or 6 feet, whichever is less.
- G. All outdoor displays must be located on the same lot as the principal use.
- H. Areas used for such display shall be furnished with an all-weather hard surface of a material such as bituminous or Portland concrete cement.
- I. Merchandise shall not be placed or located where it will interfere with pedestrian or building access or egress, required vehicular parking and handicapped parking, aisles, access or egress, loading space parking or access, public or private utilities, services or drainage systems, fire lanes, alarms, hydrants, standpipes, or other fire protection equipment, or emergency access or egress.
- J. Outdoor display areas shall not be located on any parking spaces needed to comply with the minimum parking ratios.
- K. Outdoor display areas shall be considered part of the floor area of the principal use or structure for purposes of computing the minimum number of parking spaces required.

## **6.9 OUTDOOR STORAGE**

### **6.9.1 Purpose and Findings**

This section establishes regulations for permanent storage areas that are C-H and M1 districts. Storage incidental to construction activities is permitted in all zoning districts.

### **6.9.2 Applicability**

This section applies to commercial outdoor storage, with the exception of salvage operations and salvage yards, including contractors' yards, building supply sales, natural resource materials sales and storage, scrap metal storage and paper and rag storage.

### **6.9.3 Standards**

Storage yards shall be enclosed by a non-climbable fence or wall at least 6 feet in height and appropriate landscaping buffer.

## **6.10 SEXUALLY ORIENTED BUSINESSES**

### **6.10.1 Purpose and Intent**

It is the purpose of this article to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this article have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene materials.

### **6.10.2 Classification**

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

### **6.10.3 License Required**

- A. It shall be unlawful for a person to operate a sexually oriented business without a valid license issued by the Director.
- B. An application for a license must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- C. The Applicant must be qualified according to the provisions of this article and the premises must be inspected and found to be in compliance with the law by the health department, fire department, and Building Official.

- D. If a person who wishes to operate a sexually oriented business is an individual, that person must sign the application for a license as Applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as Applicant. If a corporation is listed as owner of a sexually oriented business, each individual having a 20% or greater interest in the corporation must sign the application for a license as Applicant.
- E. The fact that a person possesses other types of state or City permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business license.
- F. Applications for a license, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Director or the Director's designee during regular working hours. Application forms shall be supplied by the Director. The intended operator shall be required to give the following information on the application form:
  - 1. The name (including all aliases), street address (and mailing address, if different), and Mississippi driver's license number of the Applicant and the intended operator;
  - 2. The name (including all aliases) and street address (and mailing address, if different) and state of issuance and driver's license number of the owner(s);
  - 3. Written proof that the Applicant/operator is at least 18 years of age;
  - 4. All residential addresses of the Applicant/operator and owners for the past ten years;
  - 5. The Applicant's/operator's height, weight, color of eyes and hair;
  - 6. The business occupation or employment of the Applicant/operator and owner for ten years immediately preceding the date of application;
  - 7. Whether the Applicant/operator and/or owner previously operated in this or any other county, City, or state under an adult oriented establishment license or similar business license; whether the Applicant/operator or owner has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the Applicant/operator or owner operated that was subject to the suspension or revocation;
  - 8. All criminal statutes, whether federal or state, or City ordinance violation convictions, forfeiture of bond and pleading of nolo contendere on all charges, except minor traffic violations of Applicant/operator or owner;
  - 9. Fingerprints and two portrait photographs at least two inches by two inches of the Applicant/operator;
  - 10. The address of the adult-oriented establishment to be operated by the Applicant/operator;
  - 11. The name under which the establishment is to be operated and a general description of the services provided;
  - 12. The address and legal description of the tract of land on which the establishment is to be located;



13. If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the license is sought; and
  14. If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the license). If the expected startup date is to be more than ten days following the date of issuance of the license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.
- G. The application shall be accompanied by the following:
1. Payment of the application fee in full;
  2. If the establishment is a Mississippi corporation, a certified copy of the articles of incorporation, together with all amendments thereto;
  3. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state together with all amendments thereto;
  4. If the establishment is a limited partnership formed under the laws of Mississippi, a certified copy of the certificate of limited partnership, together with all amendments, thereto;
  5. If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto; if the establishment is a domestic or foreign limited liability partnership or limited liability company, a certified copy of the certificate of formation and the qualification documents, together with all amendments thereto;
  6. Proof of the current fee ownership of the tract of land on which the establishment is to be situated, in the form of a copy of the recorded deed;
  7. If the persons identified as the fee owner(s) of the tract of land in paragraph (f) are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment;
  8. Any of the items (b) through (g), above shall not be required for a renewal application, if the Applicant states that the documents previously furnished the Director with the original application or previous renewals thereof, remain correct and current.
- H. The application shall contain a statement under oath that:
1. The Applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and,
  2. The Applicant has read the provisions of this article.

- i. A separate application and permit shall be required for each sexually oriented business.

#### 6.10.4 Issuance of License

- A. The Director shall approve the issuance of a license to an Applicant within 30 days after receipt of an application, unless one or more of the following is found to be true:
  - 1. An Applicant is under 18 years of age;
  - 2. An Applicant or an Applicant's spouse is overdue in his payment to the City of taxes, fines, or penalties assessed against him, or imposed upon him in relation to a sexually oriented business;
  - 3. An Applicant has failed to provide information reasonably necessary for issuance of the permit and or license, or has falsely answered a question or request for information on the application form;
  - 4. An Applicant is residing with a person who has been denied a license by the City to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months;
  - 5. The premise to be used for the sexually oriented business has not been approved by the health department, fire department, and Building Official as being in compliance with applicable laws and ordinances;
  - 6. The license fee required by this article has not been paid;
  - 7. An application of the proposed establishment is in violation of, or is not in compliance, with any of the provisions of this article;
  - 8. Applicant/operator or the spouse of the Applicant/operator has been convicted of or pled guilty to a crime involving any of the following offenses as described in MCA 1972, Title 97:
    - i. Prostitution.
    - ii. Aiding and abetting of prostitution.
    - iii. Distribution or wholesale distribution of obscene materials or performances or unlawful sexual devices.
    - iv. Dissemination of sexually oriented material to persons under 18 years of age.
    - v. Enticement of a child under the age of 14 for purposes of prostitution.
    - vi. Seduction of a child under the age of 18, which child is of previously chaste character.
    - vii. Touching, rubbing, or handling a child under the age of 14 years for the purpose of gratifying the lust, or indulging in the depraved licentious sexual desires of the person accused.
    - viii. The intentional and knowing placing of sexually oriented materials upon public display, or knowingly and intentionally failing to take prompt action to remove such a display from his/her property in his/her possession after learning of its existence.
    - ix. Exploitation of children.
    - x. Incest.
    - xi. Indecent exposure.
    - xii. Rape.

- xiii. Assault with intent to forcible ravish.
- xiv. Sexual battery.
- 9. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- 10. The health department, fire department, and Building Official shall complete their certification that the premise is in compliance or not in compliance within 20 days of receipt of the application by the Director. The certification shall be promptly presented to the Director.
- 11. In the event the Director determines that an Applicant is not eligible for a license, the Applicant shall be given notice in writing of the reasons for the denial within 45 days of the receipt of its application by the Director, provided that the Applicant may request, in writing, that such period be extended for an additional period of not more than ten days at any time before the notice is issued in order to make modifications necessary to comply with this article.
- 12. An Applicant may appeal the decision of the Director, regarding denial to the Board of Aldermen by filing a written notice of appeal with the City Clerk within 15 days after the Applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing, setting out fully the grounds for such appeal and all arguments in support thereof. The Director may submit a memorandum in response to the memorandum filed by the Applicant on appeal to the Board of Aldermen. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Board of Aldermen shall vote to either uphold or overrule the Director's decision. Such vote shall be taken within 21 calendar days after the date on which the City Clerk receives the notice of appeal. However, all parties shall be required to comply with the Director's decision during the pendency of the appeal.

#### 6.10.5 Inspection

An Applicant or licensee shall permit representatives of the police department, health department, fire department, building/planning department, or other City or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the laws at any time it is occupied or open for business.

#### 6.10.6 Expiration of License

- A. Each license shall expire one year from the date of issuance and may be renewed only by making an application. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.
- B. When the Director denies renewal of a license, the Applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Director finds that the basis of

denial of the renewal license has been corrected or abated, the Applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

#### 6.10.7 Suspension

The Director shall suspend a license for a period not to exceed 30 days if it is determined that the licensee, or an employee of a licensee has:

- A. Violated or is not in compliance with any section of its ordinance;
- B. Become impaired or intoxicated through the use of alcoholic beverages, while on the sexually oriented business premises;
- C. Refused to allow an inspection of the sexually oriented business premises as authorized by this article;
- D. Knowingly permitted gambling by any person on the sexually oriented business premises;
- E. Licensee has been convicted or has allowed an employee to work who has been convicted of any crime set out in this article.

#### 6.10.8 Revocation

- A. The Director shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.
- B. The Director shall also revoke a license if it is determined that:
  - 1. A licensee gave false or misleading information in the material submitted during the application process;
  - 2. A licensee or an employee has knowingly allowed possession, use or sale of controlled substances, or consumption of an alcoholic beverage on the premises;
  - 3. A licensee or an employee has knowingly allowed prostitution on the premises;
  - 4. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  - 5. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in, or on, the licensed premises;
  - 6. A licensee is delinquent in payment to the City or state for any taxes or fees past due;
  - 7. The owner or operator of the licensed establishment knowingly allowed a person under 18 years of age to enter an establishment;
  - 8. That there was a change of owner or operator for which a transfer application was not timely filed; or
  - 9. Licensee has been convicted, or has allowed an employee to work who has been convicted of any crime set out in this article.

- C. When the Director revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the Applicant may be granted a license, if at least 90 days have elapsed since the date the revocation became effective.

#### 6.10.9 Transfer of License

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

#### 6.10.10 Location Restrictions

Sexually oriented businesses shall be permitted in the M-1 zoning district, provided that;

- A. The sexually oriented business may not be operated within 300 feet of:
  - 1. A church, synagogue or regular place of religious worship;
  - 2. A public or private elementary or secondary school;
  - 3. A boundary of any residential district;
  - 4. A public park;
  - 5. A licensed day-care center; or
  - 6. Another sexually oriented business.
- B. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- C. For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day care center.
- D. For purposes of subsection (c) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

#### 6.10.11 Additional Regulations for Adult Motels

- A. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours, creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this section.

- B. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, rents, or sub rents a sleeping room to a person, and within ten hours from the time the room is rented rents or sub rents the same sleeping room again.
- C. For purposes of subsection (b) of this section, the terms "rent" or "sub rent" mean the act of permitting a room to be occupied for any form of consideration.

#### 6.10.12 Regulations Pertaining to Adult Cabarets and/or Adult Theaters

- A. A person who operates or causes to be operated an adult cabaret and/or adult theater shall comply with the following requirements:
- B. All dancing shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
- C. No dancing shall occur closer than ten feet to any patron.
- D. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer.
- E. No patron shall directly pay or give any gratuity to any dancer and no dancer shall solicit any pay or gratuity from any person.
- F. Employees who are serving beverages or food to, or who in any other way interact with patrons, may not be nude or semi-nude.

#### 6.10.13 Exterior Portions of Sexually Oriented Businesses

- A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this article.
- C. It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color.
- D. Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

#### 6.10.14 Persons Younger than Eighteen Prohibited from Entry; Attendant Required

- A. It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times

during such sexually oriented business' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of 18 years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 years of age unless such attendant asked for and was furnished:

1. A valid operator's, commercial operator's, or chauffeur's driver's license; or
2. A valid personal identification certificate issued by the State of Mississippi reflecting that such person is 18 years of age or older.

#### 6.10.15 Hours of Operation

Sexually oriented businesses may not be open for business before 10:00 a.m. or after 12:00 midnight Mondays through Saturdays, on any Sunday, or legal holiday.

#### 6.10.16 Consumption of Alcoholic Beverages

No alcoholic beverages may be consumed in or anywhere on the premises of any sexually oriented business.

#### 6.10.17 Exemptions

It is a defense to prosecution under this article that a person appearing in a state of nudity did so in a modeling class operated:

- A. By a proprietary school, licensed by the State of Mississippi; a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

#### 6.10.18 Notices

- A. Any notice required or permitted to be given by the Director or any other City, office, division, department or other agency under this article to any Applicant, operator, or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application which has been received by the Director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Director or his designee shall cause it to be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to the Director by any person under this article shall not be deemed given until and unless it is received in the office of the Director.
- C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Director in writing of any change of residence or mailing address.

#### 6.10.19 Penalties

In addition to any other penalties or relief provided herein, any person, firm, corporation or other entity violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined a minimum of \$250.00 and/or sentenced to serve 20 days in jail, or both. For conviction of any second or subsequent offense, the person, firm, corporation, or other entity shall be fined up to \$1,000.00 and/or sentenced to serve 30 days in jail, or both.

Each day such violation is committed or permitted to continue shall constitute a separate offense.

#### 6.10.20 Injunction

A person who operates, or causes to be operated, a sexually oriented business without a valid license, or otherwise violates this article is subject to a suit for injunction as well as prosecution for criminal violations.

### 6.11 LAND DISTURBANCE/ STORMWATER FACILITIES

#### 6.11.1 Monitoring of Discharges and Inspecting Properties and Facilities

**Applicability.** This section applies to all properties that create stormwater discharges associated with the use of the property.

##### A. Access to Properties and Facilities

1. The designated Building Department official shall be permitted to enter and inspect properties and facilities subject to regulation under this ordinance at reasonable times and as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
2. Property owners and facility operators shall allow the City of Ocean Springs Building Official access to all parts of the premises for the purposes of inspection, sampling, photographing, videotaping, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
3. The Building Department shall have the right to set up on any permitted property such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
4. The Building Department has the right to require a discharger to install monitoring equipment as necessary, and perform monitoring and make the monitoring data available to the Building Inspector. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.



5. Any temporary or permanent obstruction that does not allow safe and easy access to the property to be inspected and/or sampled shall be promptly removed by the owner at the written or oral request of the Building Department or authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the owner.
6. Unreasonable delays in allowing the Building Department or authorized enforcement agency access to a permitted property is a violation of a stormwater discharge permit and of this ordinance. A person who is the owner of property with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted property for the purpose of conducting any activity authorized or required by this ordinance.
- B. If the Building Department or authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

#### 6.11.2 Requirement to Prevent, Control and Reduce Storm Water Pollution by the Use of Best Management Practices (BMPs)

The Building Department directs developers to follow the guidelines of this ordinance and the *Mississippi Handbook for Erosion Control and Stormwater Management on Construction Sites and Urban Areas* in the selection Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drainage system or watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMP's to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliant with the provisions of this section. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

All post-construction BMPs and landscaping designed for the control or management of stormwater runoff and the control of erosion or sediment shall be maintained and cannot be developed for any other use which would limit or cause to limit the use of the improvements. Responsibility and maintenance of these improvements shall follow the Ownership of the property. Each property owner shall be liable within the contents of his deed for the maintenance of the improvements and must

sign a Post-Construction Maintenance Agreement with the City. A special note to this effect shall appear on any final plat of subdivision.

Post-construction BMPs in place and operational prior to the adoption of this ordinance shall be subject to execution of a maintenance agreement between the property owner and the city. In these instances, adoption and approval of the maintenance agreement shall follow the same procedures established herein for new construction or development.

#### 6.11.3 Watercourse or Easement Protection

Any person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### 6.11.4 Notification of Spills

In the event of a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity, or operation, or responsible for emergency response for a facility, activity, or operation has information of any known or suspected release of pollutants or non-stormwater materials from that facility or operations which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the City storm drainage system, State waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of a discharge .

In the event of recognition of such a release of hazardous materials said person shall immediately notify the authorized enforcement or emergency response agencies of the occurrence, either in person, by phone, or facsimile no later than 24 hours, of the nature, quantity and time of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Ocean Springs Board of Aldermen or authorized enforcement agency within three business days of the phone notice.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. Failure to provide notification of a release as provided above is a violation of this ordinance.

#### 6.11.5 Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Anyone who has violated or continues to violate the provision of this Ordinance, may be subject to enforcement actions outlined in this section or may be restrained by

injunction or otherwise restricted in a manner provided by law. Whenever the Board of Aldermen finds a violation of this ordinance has occurred, the Board of Aldermen may order compliance by written notice of violation.

- A. The notice shall contain:
  - 1. The name and address of the alleged violator;
  - 2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
  - 3. A statement specifying the nature of the violation;
  - 4. A description of the remedial measures necessary to restore compliance with this ordinance and time schedule for the completion of such remedial action;
  - 5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
  - 6. A statement that the determination of violation may be appealed to the Board by filing a written notice of appeal within thirty (30) days of service of notice of violation.
- B. Such notice may require:
  - 1. The performance of monitoring, analyses, and reporting;
  - 2. The elimination of illicit connections or discharges;
  - 3. That violating discharges, practices, or operations shall cease and desist. Depending on severity of the violations, offending person(s) may be given as little as 24 hours to clean up sediments, pollutants, etc., and an additional 24 hours to put stormwater controls in place. Otherwise, a stop work order may be issued.
  - 4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
  - 5. Payment of a fine or costs to cover administrative, remediation, and/or abatement costs; and
  - 6. The implementation of source control, pollution prevention practices, or treatment BMPs.
- C. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### 6.11.6 Violations Enforcement

In the event a violation constitutes an immediate danger to public health or public safety, the Board or its designated agent is authorized to enter upon the subject private property, without giving prior notice, to conduct an inspection and take any and all measures necessary to abate the violation and/or restore the property. Owners of properties with post-construction BMPs will be given written notice of the violation and a first opportunity to correct the problem before the city takes action.

After abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The Board is authorized to seek costs of the abatement as outlined in this section. The property owner may file an appeal within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the appropriate authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation.

#### 6.11.7 Penalties and Prosecution

- A. Civil: In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the local permitting authority shall deem appropriate, after the permitting authority has taken one or more of the actions described above, the local permitting authority may seek any legal or equitable remedy available under the law. The authorized enforcement agency may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.
- B. Criminal: Violations of this ordinance shall be deemed a misdemeanor. The local permitting authority may issue a citation to the alleged violator requiring such person to appear before the appropriate court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the County jail for 60 days, or both. Each violation and each day upon which any violation shall continue, will constitute a separate offense.
- C. Criminal Prosecution: Any person that has violated or continues to violate this ordinance shall be guilty of a misdemeanor and subject to criminal prosecution to the fullest extent of the law.
- D. Injunction: If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- E. Alternative Action: In addition to any other remedy, the authorized enforcement agency may impose upon a violator alternative compensatory action; such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

#### 6.11.8 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. The local enforcement authority may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

#### 6.11.9 Violations Deemed A Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and environment, is declared and deemed a nuisance, and may be summarily abated by injunctive or other equitable relief as provided by law, or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

#### 6.11.10 Suspension of Access to Storm Drainage System(s)

- A. Suspension due to Illicit Discharges in Emergency Situations
- B. The Board may, without prior notice, suspend discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the Waters of the United States, or to minimize danger to persons.
- C. Suspension due to the Detection of Illicit Discharge
  - 1. Any person discharging to the City drainage system in violation of this ordinance may have their access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its city drainage system access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
  - 2. A person commits an offense if the person reinstates access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.
- D. Appeals

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be filed with the Board of Aldermen. A Hearing on the appeal before the Board of Aldermen shall be set by the Board with at least ten (10) days' notice to the violator.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an unsuccessful appeal, then representatives of the authorized enforcement agency may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

## **6.12 TELECOMMUNICATIONS TOWERS AND ANTENNAS**

### **6.12.1 Generally**

- A. It is the intent of the City to allow telecommunications towers and/or antennas in compliance with state and federal regulations. It is further the intent of the City to protect the public health, safety and welfare through regulating the placement and design of allowable telecommunications towers. The regulations in this section are designed to meet the following purposes:
  - 1. To protect residentially zoned areas and residential development from potential adverse impacts of telecommunications towers that are placed in inappropriate locations;
  - 2. To minimize visual impacts of telecommunications towers through site design requirements, location requirements and innovative camouflage techniques, in accordance with acceptable engineering and planning principles; and
  - 3. To allow telecommunications towers that meet state, federal and local requirements for location, site design and appearance.
- B. Telecommunications towers proposed within the City shall provide for collocation consistent with state and federal regulations.

### **6.12.2 Applicability**

All telecommunications towers and antennas proposed to locate in the City shall be subject to the regulations in this section.

### **6.12.3 Requirements for Telecommunications Towers and Antennas**

- A. All telecommunications towers and antennas shall be maintained in good condition and in accordance with all standards in this section. No additions, changes or modifications shall be made except in conformity with the standards of this section.
- B. In the event that a telecommunications tower or antenna is abandoned, the owner of the telecommunications tower or antenna shall restore the property to its condition prior to the installation of the tower or antenna. Restoration shall be completed no later than six (6) months after abandonment.

### **6.12.4 Design Requirements for Telecommunications Towers**

The following site design and appearance regulations apply to telecommunications towers that are installed on the ground. Where the provisions of the underlying zoning district differ from the following provisions, the following provisions apply:

- A. All telecommunications towers shall be located in a manner that minimizes the effect on environmental resources.
- B. A new telecommunications tower shall be permissible only if the Applicant demonstrates that collocation is not available.

- C. Setbacks required by this section shall be measured from the closest aspect of the base of the tower to the property line of the parcel on which it is located.
- D. Telecommunications towers shall be setback a minimum of fifty (50) feet from front, side and rear property lines of the parcel.
- E. A new telecommunications tower shall be located a minimum of 1,500 feet from any existing telecommunications tower.
- F. The maximum height of telecommunications towers shall not exceed 150 feet. The measurement of telecommunications tower height shall include the tower, antennas and base pad and shall be measured from the finished grade at the tower pad location.
- G. Telecommunications towers shall not be artificially lighted except to assure human safety as required by the federal aviation administration.
- H. Structural design
  - 1. Telecommunications towers shall be monopole structures.
  - 2. Telecommunications towers shall be designed to accommodate collocators. The number of collocators shall be included in the design specifications.
  - 3. Telecommunications towers shall include one (1) emergency generator of sufficient size to accommodate the needs of all collocated antennas. The application for the tower shall include documentation to ensure that future collocators shall be required to use the existing generator.
  - 4. Telecommunications towers shall be constructed in accordance with the standards in the latest edition of the following publications:
    - i. Construction standards for telecommunications towers, published by the electronic industries association.
    - ii. "Minimum Design Load for Buildings and Structures," published by the American Society of Civil Engineers.
    - iii. "Guide to the Use of Wind Load Provisions," published by the American Society of Civil Engineers.
  - I. A fence, not less than six (6) feet nor to exceed eight (8) feet in height, shall be installed to enclose the tower. The fence shall be installed to accommodate landscaping located outside the fence. The fence may be wooden, masonry or vinyl. Wooden or masonry fences shall be painted to blend with the surrounding environment. Vinyl fences shall be of a color to blend with the surrounding environment. The decorative side of all fences shall face outward.
  - J. Existing vegetation shall be retained to the maximum extent possible, except for exotic invasive vegetation. Exotic invasive vegetation shall be removed and replaced with landscape materials that comply with this UDC
- K. Landscaping requirements

1. Telecommunications towers shall be required to provide landscaping outside the fence enclosing the tower and at the property line of the Parcel. Perimeter landscaping shall be required only on property lines that are within 150 feet of the base of the telecommunications tower. Where landscaping is provided at the property line of the parcel, a recorded easement shall be provided to ensure the continued provision and maintenance of the landscaping.
  2. All landscape materials shall comply with the provisions in this UDC for trees, plants and shrubs.
  3. Plants shall be selected in consideration of the site soils, moisture and salt conditions. All plant materials shall be evergreen.
  4. Trees for perimeter landscaping shall be selected pursuant to this UDC. Six (6) trees per 100 linear feet are required. At least two (2) species of trees shall be used.
  5. Perimeter landscaping is intended to provide an opaque screen between adjacent properties and the telecommunications tower. Trees shall be planted in a double-staggered row and placed in an irregular pattern so as to appear more natural. Tree spacing may vary, but shall not exceed an average of fifteen (15) feet, center to center.
  6. The minimum tree size shall be twelve (12) feet high at the time of installation. Tree trunk caliper shall be appropriate to the selected species natural growth habits.
  7. Shrubs shall be required outside the fence. Shrubs shall be selected pursuant to this UDC.
  8. Minimum shrub size shall be thirty-six (36) inches high at the time of installation.
  9. Shrubs shall be planted in irregular groups. Staggered rows of shrubs are encouraged to produce a more natural appearance. There shall be a minimum of twenty-five (25) shrubs planted per 100 linear feet of fence.
  10. Existing on-site vegetation may be counted toward meeting the minimum requirements for vegetation.
  11. There shall be no Irrigation system required. However, a watering plan shall be provided to ensure that all installed vegetation will thrive and will be well established one (1) year after installation. Any materials that die shall be replaced within six (6) months.
- L. An access driveway shall meet the following standards in addition to other applicable standards of this UDC:
1. Where the tower enclosure is smaller than the entire parcel, a recorded easement shall be provided to ensure continuing availability of access across the parcel to the tower enclosure.
  2. The access drive shall be designed to provide adequate turn-around space and may be designed as a hammerhead or T-type turn-around.
- M. One (1) Parking Space shall be provided.
1. The space shall be paved.
  2. The space shall be a minimum of ten (10) feet wide and eighteen (18) feet long.



3. Where the tower enclosure is smaller than the entire parcel, an easement or recorded agreement shall be required to ensure that the parking space is provided and maintained.
4. Where parking for other purposes exists on the parcel in excess of the minimum parking requirements, one (1) space may be dedicated to use by the telecommunications tower. The availability of this parking space shall be ensured through a recorded agreement.
- N. The telecommunications tower shall be designed and painted to resemble natural objects, such as trees that are typical of the surrounding area or shall be completely screened from view by incorporation into a principal building. All portions of the telecommunications tower shall be screened by architectural features matching that of the principal Building.

#### 6.12.5 Design Requirements for Antennas Installed on Existing Above-ground Structures

The following site design and appearance regulations apply to one (1) or more Antennas that are installed on existing Buildings or structures. Where the provisions of the underlying zoning district differ from the following provisions, the following provisions apply:

- A. The maximum height shall not exceed 150 feet. The measurement of height shall include the existing building or structure, any structure to support the antennas. Height shall be measured from the finished grade of the building or structure on which the antennas are located to the uppermost point of the building or structures, support structure or antenna.
- B. Antennas attached to or supported by, an existing building or structure shall not impose any undue stress on the building or structure. Structures to support antennas on existing buildings shall be constructed in accordance with the standards in the latest edition of the following publications:
  1. Construction standards for Telecommunications Towers, published by the Electronic Industries Association.
  2. "Minimum Design Load for Buildings and Structures," published by the American Society of Civil Engineers.
  3. "Guide to the Use of Wind Load Provisions," published by the American Society of Civil Engineers.
- C. The structure and antenna shall be screened with architectural elements or integrated into architectural elements. Examples of appropriate stealth techniques include elements such as chimneys, spires, steeples or cupolas. Screening or other elements may be proposed, so long as the result is an integration of the antenna and any supporting structure into the existing building design features.

### 6.13 TEMPORARY USES AND STRUCTURES

#### 6.13.1 Generally

Temporary uses and structures include outdoor sales, festivals, portable storage units and temporary structures during construction activities. The following temporary uses may be authorized subject to issuance of a temporary permit pursuant to this UDC.

### 6.13.2 Temporary Uses during Construction

Certain uses and structures are allowable during construction activities. The following uses are allowable and subject to review and authorization by the Building Official:

- A. Temporary offices may be located on a construction site to be used for administrative functions during construction. Temporary construction offices shall have the name of the construction company printed on a maximum of four (4) feet by eight (8) feet sign permanently affixed on the outside of the building. In addition, the proposed construction building must meet tie down requirements for mobile structures and have a contract for sewage pump-out. Construction buildings shall be removed within thirty (30) days of completion of the construction site for which it is permitted. Temporary offices may be located within required yards provided that the location does not constitute a safety hazard to the public or a nuisance to surrounding properties
- B. On-site outdoor storage of equipment and construction materials and on-site portable storage units containing equipment and construction materials shall be allowed during the period of construction.
- C. One (1) on-site manufactured home for the use of security personnel, a caretaker or for the temporary residence of the owner/builder. The manufactured home shall be removed within two (2) weeks following issuance of a certificate of occupancy for the project under construction.
- D. Portable toilet facilities provided that they are located no closer than thirty (30) feet to any property lines.
- E. Construction and demolition debris dumpsters, which are not required to be screened.
- F. Temporary offices to be used for sales functions or sales offices, allowing for the sale, resale or marketing of dwellings, structures or property within the development in which it is located or adjacent developments under the same control.
- G. On-site temporary use of structures and equipment for the building of roads, public utilities and government projects.

### 6.13.3 Special Events and Community Events

All activities must be permitted uses in the applicable zoning district. A special event shall comply with all provisions of this UDC.

- A. Parade permit. All persons who shall hold a parade, gathering, assemblage, protest or conduct any picketing or other activity which shall prohibit, impede, or restrict vehicles and/or pedestrian traffic upon the public thoroughfares shall not do so without obtaining in writing a permit to be issued by the Board of Aldermen. The Board of Aldermen shall not issue such a permit unless it shall appear from the evidence presented at said hearing that the public interest would best be served by the issuance thereof.

#### 6.13.4 Roadside and Parking Lot Vendors

- A. Roadside and parking lot vendors are permissible on lots containing an operating business in the CMX-2 and M1 districts subject to the standards of this section.
- B. All proper State and local permits are required.
- C. The Applicant shall have written permission of the property owner and all business owners on the lot to conduct sales.
- D. The Applicant shall have written permission of the owner or operator of the operating business for customers and employees of the roadside vendor to use the restrooms of the operating business(es).
- E. The Applicant shall possess a valid occupational license unless exempted by state law.
- F. Roadside and parking lot vendors shall not be located within:
  - 1. Any required setback or buffer area;
  - 2. The public right-of-way;
  - 3. Any required parking space;
  - 4. Any driveway or access way or in such a manner as to block a driveway or access way; or
- G. Any designated fire lane or in such a manner as to block a fire lane;
- H. Roadside and parking lot vendors shall provide parking spaces.
- I. Parking spaces shall be provided in addition to any required parking serving the operating business.
- J. One (1) additional parking space shall be provided for every 200 square feet of sales area.
- K. Handicapped parking and access shall be provided according to the standards set forth in this UDC.

#### 6.13.5 Temporary portable storage containers

Temporary portable storage containers shall be allowed in any yard on lots containing a dwelling, subject to all of the following:

- A. On lots developed with single family detached dwellings, temporary portable storage containers shall be permitted for a period not to exceed 30 consecutive days within a 6-month period. However, in cases where a dwelling unit has been damaged by casualty, a temporary portable storage container may be allowed for longer time periods.
- B. On lots developed with single family attached or multiple family dwellings, temporary portable storage containers shall be permitted for a period not to exceed seven (7) consecutive days within a six (6) month period, however, in cases where a dwelling has been damaged by casualty, a longer period may be permitted.

- C. No portable storage unit placed on a residential premises shall exceed eight (8) feet in width, twenty (20) feet in length and nine (9) feet in height.
- D. No portable storage unit shall be placed on unimproved or vacant property or in any required open space, landscaped area, on any street, sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation or vision at street intersections, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.

|                   |                                                     |            |
|-------------------|-----------------------------------------------------|------------|
| <b>Chapter 7.</b> | <b><i>Rules of Construction and Definitions</i></b> | <b>312</b> |
| <b>7.1</b>        | <b>RULES OF CONSTRUCTION</b>                        | <b>312</b> |
| <b>7.2</b>        | <b>DEFINITIONS</b>                                  | <b>312</b> |

# Chapter 7. Rules of Construction and Definitions

## 7.1 RULES OF CONSTRUCTION

- A. Words, phrases, and terms defined in the UDC shall be given the meanings set forth below. Words, phrases, and terms not defined shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- B. The text shall control captions, titles, and maps.
- C. The word “shall” be mandatory and not permissive; the word “may” is permissive and not mandatory.
- D. Words used in the singular include the plural; words used in the plural include the singular. Words used in the present tense include the future tense; words used in the future tense include the present tense.
- E. Within the UDC, sections prefaced “purpose” and “findings” are included. Each purpose statement is intended as an official statement of legislative purpose or findings. The “purpose” and “findings” statements are legislatively adopted, together with the formal text of the UDC. They are intended to be the legal guide to the administration and interpretation of the UDC and shall be treated in the same manner as other aspects of legislative history, intent, purpose, findings and intent.
- F. In interpretation and application, the provisions of this document are considered minimal in nature. Whenever the provisions, standards, or requirements of any other applicable chapter or section of the UDC are greater, or any other City Ordinance more restrictive, the latter shall control.
- G. In computing any period of time prescribed or allowed by this Chapter, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is a weekend or City-recognized holiday, in which event the period runs until the next working day.

## 7.2 DEFINITIONS

The following are definitions of specialized terms and phrases used in the UDC.

*100-year Floodplain* is the land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year, and the area designated as a Federal Emergency Management Agency Zone A, AE or AH on the Flood Insurance Rate Maps. See area of special flood hazard, flood or flooding, and floodplain.

*100-year Frequency Rainstorm* is the rainstorm having an average statistical frequency of occurrence in the order of once in 100 years, although the rainstorm may actually occur in any year.

*A Zone* - SEE APPENDIX A.

*AE Zone* – SEE APPENDIX A.

*Abandonment* is the discontinuance of a nonconformity voluntarily for a period of 12 months with an intent to abandon, or the commission of an overt act of substantial discontinuance for a period of 12 months with or without voluntary intent.

*Abut or Abutting* means having property lines in common, or meeting at a point.

*Access Corridor or Access Easement* is a designated area on which an approved road or driveway may be constructed.

*Accessory Use* is a use incidental to and customarily associated with a specific principal use located on the same lot, tract or parcel. Permitted examples may include a detached garage, a dwelling unit attached to the main dwelling, a detached freestanding dwelling unit or unit that is located over a garage. An accessory use may be attached or detached from the main structure.

*Accessory structure (appurtenant structure)* means a structure, which is located on the same parcel of property as the ~~principle~~ **principal** structure and the use of which is incidental to the use of the ~~principle~~ principal structure. Accessory structures should constitute a minimal initial investment, ~~may not be used for human habitation,~~ **be ancillary to the principal structure**, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**Accessory Dwelling Unit means a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home such as an apartment over the garage a tiny house (on a foundation) in the backyard or an apartment that is attached to the principal structure.**

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter or height of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any addition shall be considered new construction. If the addition is more than 50% of the market value of the structure, then the addition and the existing structure and now new construction.

*Additional use:* A use permitted after public notice and hearing and recommended by the planning commission and approval by the mayor and board of aldermen.

*Adjacent* means two or more properties, lots, or parcels which abut or touch at a point, even if separated by a road or street, right-of-way, railroad line, trail, public lands, arroyo, stream, river, canal, lake, or other body of water.

*ADT (Average Daily Traffic):* The average number of vehicles per day (24 hours) that pass over a given point of a street. The ADT for a subdivision shall be calculated using the Trip Generation Manual published by the Institute of Transportation Engineers (ITE). Trip generation rates from other sources may be used if the applicant can show these sources better reflect the local conditions.

*Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines,

projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

*Adult bookstore or adult video store* means a commercial establishment which is customarily not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age as a prevailing practice, and as one of its principal business purposes offers for sale or rental, 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, video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other substantial or significant business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store, so long as one of its substantial or significant business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas". A principal business purpose need not be a primary use of an establishment, so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

*Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (a) Persons who appear in a state of semi-nudity; or
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- (d) Persons who engage in lewd, lascivious or erotic dancing or lewd, lascivious or erotic performances that are intended for the sexual interests or titillation of an audience or customers.

*Adult motel* means a hotel, motel or similar commercial establishment which:

- (a) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specific anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproduction; or
- (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

*Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions, are regularly



shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

*Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

*Adverse Impact or Effect* is a negative change in the quality of the City, communities, affected areas or adjacent land, resulting from an adverse impact or effect originating from a use of land, buildings or structures upon the enjoyment of property, aesthetic values, environmentally sensitive lands, floodplains, floodways, streams, wetlands, hillsides and steep slopes, wildlife or vegetation habitats and habitat corridors,, air and water quality, public facilities and services, transportation capacity, health and safety, historical, architectural, archaeological, or cultural significance of a resource and effecting global warming, overutilization of nonrenewable energy and lack of sustainability.

*Advertising sign or structure*: Any sign, device, or structure of any character whatsoever, including statuary, placed for outdoor advertising purposes on the premises. The area of an advertising structure or sign shall be determined as the area of the largest cross-section of such structure or sign.

*Advisory Base Flood Elevation Maps (ABFE)* means an official of a community on which FEMA has delineated the updated estimated one 1% elevations (ABFE). Also referred to as Advisory Flood Elevation (AFE).

*Advisory Flood Hazard Area* means that portion subject to inundation as shown on the ABFE maps as the ABFE inland limit.

*AH zone* is an area of 100-year shallow flooding where depths are between 1 and 3 feet (usually shallow ponding), base flood elevations are shown.

*Alteration*, as applied to a building or structure, means a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

*All weather surface*: Any surface which will support the type of vehicular traffic intended for its use and properly drained to prevent ponding.

*Antenna*: Transmitting and/or receiving device used for personal wireless services that radiates or captures electromagnetic waves, including directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips, excluding radar antennas, amateur radio antennas, and satellite earth stations.

*Antenna support structure*: A building or structure, other than a tower, greater than thirty (30) feet in height used for location of telecommunication facilities.

*Antiquated Subdivision* is a subdivision, partition or division of land into lots, parcels, or building sites including but not limited to premature subdivisions that were recorded prior to the adoption of land development regulations by the City requiring governmental planning and regulatory approval pursuant to the state enabling act, and that has two or more contiguous or non-contiguous vacant undeveloped

lots, parcels, or building sites, or lacks: adequate public facilities and services as defined in the UDC; adequate street right-of-way or street access; drainage easement right-of-way; adequate park, recreation or open space area; an overall grading and drainage plan; or lacks adequate subdivision grading both on or off the public right-of-way.

*AO Zone* is an area of 100-year shallow flooding where depths are between 1 and 3 feet (usually sheet flow on sloping terrain), flood depths are shown.

*Apartment house or multiple family dwelling:* Any single detached dwelling unit designed for and occupied by three (3) or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels and flats, but not including auto or trailer courts or camps, hotels, motels, or resort-type hotels. It is intended that apartment units be occupied as permanent dwelling units (minimum of thirty (30) days' duration) as opposed to hotel or motel facilities which are intended as temporary abiding place of transients.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance. SEE ALSO APPENDIX A.

*Applicant* is a person, including any governmental entity, seeking subdivision or development approval, a building permit, a refund, a waiver or a credit, whichever is applicable.

*Appurtenance* is an accessory or ancillary building, object, structure, fence, street furniture, fixture, vending machine, fountain, public artwork, bicycle rack or similar feature.

*Architecturally Integrated* means a facility, building or structure that is visually integrated into the landscape, support structure or existing vertical infrastructure by means of height, color, texturing, architecture, treatment, massing, placement, size, design, and/or shape.

*Area of Shallow Flooding* – SEE APPENDIX A.

*Area of special flood hazard* – SEE APPENDIX A.

*Automobile junk area or graveyard:* An open area other than a street or alley or place used for the dismantling or wrecking of used automobiles or the storage, sale or dumping of dismantled or wrecked automobiles or their parts.

**Automobile Repair: General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service.**

*B and X zones (shaded)* are areas of 500-year flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by levees from the base flood.

*Base Density* is the total number of permitted dwelling units computed by dividing the minimum lot size by the gross acreage for conventional subdivisions, or the maximum density applied to gross acreage for cluster or conservation subdivisions.

*Base Flood Elevation (BFE)* – SEE APPENDIX A.

*Base Flood* – SEE APPENDIX A.

**Bed and Breakfast:** A private single-family residence of historic significance authorized to rent one or more bedrooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to breakfast guests only, except that other food may be provided to guests in attendance of certain commercial activities such as guided tours, weddings, receptions, parties, and other large gatherings as may be authorized via issuance of special events permit, as provided by ordinance

**Berm** - An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses.

*Best Management Practices (BMPs)* is an effective integration of stormwater, sewer and water , environmentally sensitive land preservation and mitigation systems, with appropriate combinations of landscape conservation, enhancement, structural controls, pervious and impervious cover, swales, storm and rainwater capture, filtration, treatment and reuse, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices that provide an optimum way to convey, store, and release run-off, sewer and water ,and protect environmentally sensitive lands, in order to reduce peak discharge, remove pollutants, and enhance a sustainable environment.

*Billboard:* An outdoor advertising structure which advertises a use, product, or service not necessarily found on the premises.

*Block:* Block is a tract of land, frequently consisting of multiple lots, created by a subdivision, site plan, family transfer or parcel division, bounded by highways, streets, roads or by public parks, cemeteries, railroad rights-of-way, bicycle, equestrian and pedestrian trails, open space, walls, sewer, water, or irrigation ditches, pipes or culverts, streams, waterways, or the boundary lines of an adjacent City or other City.

**Boat Manufacturing:** A manufacturing facility devoted to the production of boats, marine engines, or marine equipment.

**Boat Repair:** A business that focuses on the repair or maintenance of boats, marine engines, or marine equipment.

**Boat Sales:** Premises on which new or used boats, marine engines, or marine equipment displayed for sale, lease, or rental.

**Boat Storage** An enclosed or partially enclosed structure designed for the use and storage of private watercraft and marine equipment.

*BOD (denoting biochemical oxygen demand):* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

*Bond* is a form of surety instrument in an amount and form satisfactory to the City Attorney. All bonds shall be approved by the City Attorney whenever security is required by the UDC.

*Breakaway wall* – SEE APPENDIX A.

**Brewpub** - A drinking establishment that produces and serves up to 5,000 barrels of fermented malt beverages annually for consumption on premises in hand-capped or sealed containers in quantities up to one-half barrel or 15½ gallons sold directly to the consumer. Wholesaling shall be permitted only where authorized by state law. This use type is subject to other limitations imposed in relevant state statutes.

*Buffer area*: An area which acts as a separation area between two (2) or more non-compatible districts.

**Buffer, Riparian**: An area of trees and other vegetation adjacent to a stream, river, or shoreline that is managed to maintain the integrity of the water body, to reduce pollution, and to provide food, habitat, and thermal protection for fish and wildlife Buffer Strips are roads, open spaces, landscaped areas, fences, walls, berms, railroad right-of-way, or any combination of thereof used to physically separate or screen one use of property from another, so as to visually shield, or block noise, vibration, odor, lights or other nuisances.

*Buffer Yards* are the open space area requiring installation of landscaping and screening materials between zoning districts and between buildings, structures or active uses. No construction or active land use is permitted within a buffer yard.

*Buildable Area* is the portion of land upon which buildings, structures or equipment may be placed, limited by floodplain, wetland area, slope or other terrain constraints requiring buffer zones and setbacks as set forth in the UDC.

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

*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.

*Building*. Any building, structure, or any part thereof, built for shelter or enclosure of persons, animals, or chattels, including but not limited to churches, houses, hotels, fences, surfacing, and boundary walls, and any part of any such building or structure when subdivided by division walls or party walls extending to or above the roof and without openings in such separate walls. (The term "building" shall be construed as if followed by the words "or any part thereof.") As it relates to Floodplain Management, SEE APPENDIX A.

*Building Line* is a line on a plat between which line and a street no part of a principal building may be erected, except as specifically permitted by these regulations.

**Baat Manufacturing** - A manufacturing facility devoted to the production of boats, marine engines, or marine equipment.

**Bat Repair** - A business that focuses on the repair or maintenance of boats, marine engines, or marine equipment.

**Boat Sales - Premises on which new or used boats, marine engines, or marine equipment displayed for sale, lease, or rental.**

**Boat Storage - An enclosed or partially enclosed structure designed for the use and storage of private watercraft and marine equipment.**

**Book or Media Show - A retail store that sells books and other media. This does not include the sale of sexually-oriented media.**

**Brewpub - A drinking establishment that produces and serves up to 5,000 barrels of fermented malt beverages annually for consumption on premises in hand-capped or sealed containers in quantities up to one-half barrel or 15½ gallons sold directly to the consumer. Wholesaling shall be permitted only where authorized by state law. This use type is subject to other limitations imposed in relevant state statutes.**

C and X (unshaded) zones: Are areas determined to be outside the 500-year floodplain.

**Carport: An open-sided shelter for an automotive vehicle, usually formed by a roof projecting from the side of a building.**

**Car Wash or Auto Detailing: An establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Automatic car wash establishments are further defined under the two following categories:**

- 1. Full service: An establishment featuring a conveyor system to move vehicles through the wash cycle. This type of car wash may include sales of gasoline, oil and other vehicle related merchandise. On-site attendants are required. Building size is limited by lot size, parking requirements, building and landscape setbacks or other site characteristics.**
- 2. Self service: An establishment featuring a car wash system where vehicles are manually driven through a wash cycle, or washed manually using a wand or other hose. Incidental interior cleaning and exterior drying are performed by vehicle operator. This type of car wash does not have an on-site attendant and there is no gasoline, oil or other merchandise for sale.**

Cannabis Cultivation Facility is a business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area.

Cannabis Disposal Entity means a business licensed and registered by the Mississippi Department of Health that is involved in the commercial disposal or destruction of medical cannabis.

Cannabis processing facility is a business entity that is licensed and registered by the Mississippi Department of Health that:

- (i) Acquires or intends to acquire cannabis from a cannabis cultivation facility;
- (ii) Possesses cannabis with the intent to manufacture a cannabis product;

- (iii) Manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
- (iv) Sells or intends to sell a cannabis product to a medical cannabis dispensary, cannabis testing facility or cannabis research facility.

*Cannabis research facility* is a research facility licensed and registered by the Mississippi Department of Health that acquires cannabis from cannabis cultivation facilities and cannabis processing facilities in order to research cannabis, develop best practices for specific medical conditions, develop medicines and provide commercial access for medical use.

*Cannabis testing facility* is an independent entity licensed and registered by the Mississippi Department of Health that analyzes the safety and potency of cannabis.

*Cannabis transportation entity* means an independent entity licensed and registered by the Mississippi Department of Health that is involved in the commercial transportation of medical cannabis.

*Cemetery*: A place for the burial of the human dead; usually a large park-like enclosure, laid out and kept for the purpose of interment.

*Certificate of Appropriateness*. A document evidencing the approval of the Historic Preservation Commission for work proposed by an applicant.

*Certificate of Occupancy*: A document issued by the Building Official pursuant to the Building Code that allows the occupancy and use of building(s) and structure(s) and certifying that said building(s) and structure(s) and use(s) have been constructed and will be used in compliance with all applicable municipal codes.

*Child Care Facility*: A facility that provides shelter and personal care for no more than 12½ hours during any part of a 24-hour day to six or more children under 13 years of age who are not related to the operator(s) of the facility. This includes day nurseries, day care centers, and other facilities that fall within the scope of this definition. Exempt from this use are childcare facilities that operate for no more than two days a week and whose primary purpose is to provide respite for the primary caregiver of the child or to provide temporary care during other scheduled or related activities and organized programs that operate for three or fewer weeks per year such as, but not limited to, vacation bible schools and scout day camps. Also exempt are membership organizations affiliated with a national organization that charge an annual membership fee, do not receive monthly, weekly, or daily payments for services, and are certified and in compliance with the national association's minimum standards for operation. Examples of such uses include, but are not limited to, the Boys and Girls Club of America and the YMCA. Child Day Care Facilities must be compliant with relevant Mississippi Statutes and Building Codes, including licensure requirements.

**Cinema: A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances. This can also include an open lot or part of an open lot and auxiliary facilities devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis to patrons seated in automobiles or on outdoor seats.**

*City*. The City of Ocean Springs as represented by its local governing board. For all intents and purposes of this article, the terms "city" and "board" shall be interchangeable.

**City Clerk: The City Clerk of the City of Ocean Springs.**

*Clear Vision Area* is the triangular area adjacent to the intersection of any road within which no obstruction may be placed that blocks the sight lines for vehicular traffic.

*Cluster Development* is a development or subdivision that concentrates lots and structures on a portion of a parcel so as to allow the remaining land to be used for recreation, open space, agriculture and/or preservation of environmentally sensitive areas. It is a form of development that allows a reduction in lot area or yards, where there may or not be an increase in the number of lots permitted from what would be permitted under conventional subdivision for the entire gross area of the development, where the dwelling units on a site are determined by density levels instead of minimum lot size, and where dwelling units are gathered together on smaller lot sizes than authorized by right in the zoning district to create open space, or a site for environmental mitigation.

*Cluster* is a group of cultural, historical, architectural, or archaeological resources with compatible buildings, objects, artifacts or structures geographically or thematically relating to and reinforcing one another through design, setting, materials, workmanship, congruency, and association.

*Coastal Barrier Resources System (CBRS)* – SEE APPENDIX A.

*Coastal high hazard area* – SEE APPENDIX A.

*College or University:* A public or private, non-profit institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions. Trade or vocational schools are a different use type.

*Combined sewer:* A sewer receiving both surface runoff and sewage.

**Common Area or Open Space: An open space area within or related to a development site that is designed and intended for the shared use or enjoyment of residents, occupants, and owners of the development.**

*Common Ownership* is ownership by the same person, corporation, business, sole proprietorship, firm, trust, entity, partnership, or unincorporated association, or ownership by different persons, corporations, businesses, sole proprietorships, firms, trusts, partnerships, entities, or unincorporated associations, in which a person, stockholder, partner, associate, beneficiary, trustee, or a member of the family owns an interest in each corporation, business, sole proprietorship, firm, trust, partnership, entity, or unincorporated association that has an interest in the land, buildings or structures.

*Compatible or Compatibility* is determined by characteristics of different uses, activities, or design that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass, and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access, and parking impacts. Other important characteristics that affect

compatibility are landscaping, lighting, noise, odor, and architecture. Compatibility does not mean “the same as;” rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development. The fact that development is not within the same zoning district or has different area and use characteristics does not make it incompatible.

*Community flood hazard area (CFHA)* – SEE APPENDIX A.

*Community floodplain management map* – SEE APPENDIX A.

*Community rating system (CRS)* – SEE APPENDIX A.

**Comprehensive Plan: A statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body. As used in this Chapter, the term refers to the most recently adopted Comprehensive Plan of the City of Ocean Springs.**

*Complete Application* is an application for development approval that has been submitted to the Planning Director in the required format and includes all required submittals and initiates the time period for review.

*Concealing fence:* A fence, wall, live shrubbery, or other material approved by the planning commission which visually prevents, on a perpetually maintained basis, an area so enclosed from being viewed from without by a maximum of twenty (20) per cent visibility.

**Conditional Use: A use that may be appropriate in a particular zoning district, but because of its nature, extent, and external effects, requires special use-specific standards and special consideration of its location, design, and methods of operation before it is allowed in the district.**

**Conditional Use Permit: A permit for development of a conditional use that is reviewed and decided by the City Council in accordance with Section 2.18-6 Conditional Use Permit approval criteria.**

*Conditions of Approval:* Is a discretionary use permitted in a zoning district that must comply with all of the conditions, requirements and standards set forth in the particular zoning district and in the general requirements of the UDC before for approval is granted.

**Condominium: A building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all the unit owners on a proportional basis. A condominium is considered a multifamily dwelling that is owner-occupied or rented for a minimum of 30 days or more.**

**Conference or Training Center: A facility designed to accommodate less than 500 persons and used for conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.**

*Connectivity* is the joining of local or connector streets through subdivisions and built up areas without dead ends or cul-de-sacs, forcing through traffic to utilize arterial streets, roads or highways.



*Construction* is the act of adding an addition to an existing building or structure; the erection of a new principal or accessory building or structure on a lot or property; the addition of walks, driveways, or parking lots; or the addition of appurtenances to a building or structure.

Contiguous lots, tracts or parcels are contiguous when at least one boundary line of one property touches a boundary line or lines of another property. Contiguity includes touching at a point.

*Construction plans:* The engineering drawings showing types of materials and construction details for the physical structures and facilities, excluding dwelling units to be installed in conjunction with the development of the subdivision.

*Country club or yacht club:* A facility providing recreational and related services to members and their guests only, characterized by substantial land and improvement commitment to such facilities as golf courses, tennis courts, swimming pools, club-houses or the like.

**Convenience Store: A retail establishment which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline is not offered for sale. Fast food may be offered, but only as a secondary activity of a convenience store. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.**

*Critical Exposure Zone:* All land lying within one thousand (1,000) feet of the shoreline of the Mississippi Sound, as hereinafter defined, and all land north of the aforesaid area less than twelve and five-tenths (12.5) feet above mean sea level (MSL), and all lands, waters, and bottoms within jurisdictional limits lying south of and within one mile of the shoreline of the Mississippi Sound is hereby designated a Critical Exposure Zone. The shoreline referred to herein shall be the mean high tide line of the Mississippi Sound, together with straight lines across the mouths of bays, estuaries and rivers flowing into or connecting with said Sound.

**Cross Access: Vehicular access provided between the vehicular use areas of two or more adjacent development sites or parcels that is intended to allow travel between the sites without the use of a street.**

**Cul-de-sac: A short, local street having one end open to traffic and being permanently terminated at the other end by a circular bulb that allows vehicles to turn around without having to stop and back up.**

*Cumulative Impact* is the impact of a series of development projects taken together to measure the joint and several impacts on the level of service and capacity of a public facility, or environmental impact.

*Day Care Center* is a place where six (6) or more children are left for care a part of the twenty-four (24) hours of the day, for which remuneration is received.

*Demolition.* The complete or constructive removal of a building on any site.

*Demolition by neglect.* Neglectful maintenance of any historic building or building structure which results in deterioration of a historic landmark or building which is within an historic district.

*Density* is an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

*Density, Gross* is the number of dwelling units divided by the total land area subject to an application for development approval, stated as dwelling units per acre.

*Density, Net* is the number of dwelling units divided by the net developable area. The “net developable area” means the land area of the site after deducting unbuildable areas, including road rights-of-way, buffers, open space, and environmentally sensitive areas, stated as dwelling units per net acre.

*Design Enhancements* are uniquely crafted and decorative artwork in a variety of media that are an integral part of eligible capital improvement projects, and are produced by professional craftspeople, or craftspeople in collaboration with an architect, landscape architect, or professional engineer. Art work shall be permanent, whether functional, or nonfunctional.

**Design Guidelines: A document prepared by the Architectural and Historic Review Commission that sets out guidelines the Commission uses to assess the conformity of proposed development associated with historic districts, historic landmarks, and historic landmark sites to the city's historic preservation policies and standards.**

*Designated Landscape Areas* are areas on a lot or parcel in which plants shall be preserved or installed to meet the landscape, buffering, or re-vegetation requirements of the Code, including but not limited to, roadway or parking lot buffers, re-vegetation and buffering of cuts, fills, retaining walls and structures on steep terrain and ridgetops. Areas dedicated to recreational playfields or to the production of food crops such as vegetable gardens or orchards are not included.

*Developable Area* is gross land area available for development within a lot, parcel or tract, net of all rights-of-way, easements, dedications, mitigation and open space reservations.

*Development Approval* means written authorization, such as approval of a subdivision application or issuance of a building permit, or other forms of official action required in order to initiate development.

*Development Permit* is any development order granting development approval of an application approved by the City under the UDC.

**Development Review Committee: A committee of city staff made of representatives from city department commonly involved with various elements of development, and that is responsible for review and making recommendations or decisions on certain development applications.**

*Discretionary Approval* is the approval of a development application in which an official or official body of the City exercises legislative, administrative, or quasi-judicial authority involving the exercise of discretion and which is subject to a public hearing.

*Drainage System* is all streets, gutters, inlets, swales, storm sewers, channels, streams, or other pathways, either naturally occurring or man-made, which carry and convey storm water during rainfall events.

*Driveway* is a private roadway providing access to a road or highway from a building, structure, or a shared driveway.

*Dwelling, single-family:* A building designed to be exclusively occupied by one family.

*Dwelling, single-family attached* is two dwelling units within a single structure, each owned in fee simple and located on individual lots that are joined along a single lot line.

*Dwelling, Two-family* is a building that consists of two separate family units, sometimes referred to as a *Duplex dwelling*. There are two allowable configurations, one-story structures with one dwelling unit next to the other or two stacked dwelling units, one on top of the other. Both units face and are entered from the street.

*Dwelling or Dwelling Unit* is an approved structure or portion of a structure that is designed, occupied or intended to be occupied, or has been previously used, as living quarters for a family and includes facilities for cooking, sleeping and sanitation; but not including recreational vehicles, travel trailers, hotels, motels, boardinghouses. Dwelling or dwelling unit includes single-family, two-family, townhouse, and multi-family dwelling; manufactured home and mobile home.

*Dwelling, multi-family:* A building designed for occupancy for three (3) or more families living independently of each other.

*Dwelling, Townhouse* is a one-family dwelling, in a row of at least three but not more than six such units, in which each unit fulfills the following requirements: 1) has its own front and rear access to the outside, 2) no unit is located over another, 3) each unit is located or capable of being located on a separate lot, and 4) each unit is attached but separated from any other unit by one or more vertical, common party wall(s), as described in the adopted building code.

*Earthworks.* Any subsurface remains of historical, archaeological, or architectural importance or any unusual ground formations of archaeological significance.

*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.

*Elevated building* means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, posts, piers, pilings, or columns.

*Elevation Certificate* is a certified statement that verifies a building's elevation information as related to the National Flood Insurance Program (NFIP).

*Employee:* means a person who works or performs, or provides services in connection with a commercial establishment, irrespective of whether said person is paid by a salary or wages, or is an independent contractor, provided such person has a substantial or consistent relationship with the business of, or entertainment/services provided by, the commercial establishment. "Employee" includes, but is not limited to, performs, managers and assistant managers, stock persons, tellers, sales representatives, demonstrators and operators.

*Encroachment* means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Establishment* means and includes any of the following: (a) The opening or commencement of any sexually oriented business as a new business; (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; (c ) The addition of any sexually oriented business to any other existing sexually oriented business; or (d) The relocation of any sexually oriented business.

*Executive Order 11988 (Floodplain Management)* issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified Special Flood Hazard Areas, unless there is no practicable alternative.

*Existing Construction* any structure for which the “start of construction” began before September 11, 1970.

*Existing Manufactured Home Park or Subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community before September 11, 1970.

*Exterior features.* The architectural style, general design, and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures and natural features such as live trees.

- (1) Signs are controlled by the UDC of the City of Ocean Springs as now existing or hereinafter amended.
- (2) Trees are controlled by Tree Ordinance of the UDC as now existing or hereinafter amended regarding trees.

*Family* is one or more persons occupying a dwelling and living together as a separate housekeeping unit in one or more rooms with complete living facilities, including kitchen facilities or equipment for cooking or provisions for same, and including a room or rooms for living, sleeping, bathing, and eating. Only for the purposes of defining "single-family," "two-family," and "multi-family" residences in this UDC, the term "family" may also mean a household of not more than four (4) persons, excluding domestic help, who need not be related by blood, marriage, or adoption, living together in a single housekeeping unit. Individuals not related by blood, marriage, or adoption occupying a group home for the handicapped, boarding house, lodging house, hotel, club, fraternity or sorority house, or other similar business type establishments requiring membership dues, transfer payments, rent, or other compensation, in exchange for lodging, do not constitute a household for purposes of this UDC.

*Financial Guarantee* is a guarantee of performance, in cash, letter of credit or surety bond that is required to be deposited pursuant to the UDC.

*Five-Hundred Year Flood* – SEE APPENDIX A.

*Flood or flooding* – SEE APPENDIX A.

*Flood Insurance Rate Map (FIRM)* – SEE APPENDIX A.

*Flood Insurance Study (FIS)* – SEE APPENDIX A.

*Floodplain Management* – SEE APPENDIX A.

*Floodplain Management Regulations* – SEE APPENDIX A.

*Floodplain* – SEE APPENDIX A.

*Flood-proofing Certificate* – SEE APPENDIX A.

*Floodway Fringe* – SEE APPENDIX A.

*Floodway* – SEE APPENDIX A.

*Floor Area Ratio (FAR)* is the ratio of the total building floor area in square feet to the total land area in square feet, based upon a 1:0 ratio, constituting a one-story building or structure occupying 100% of the underlying land.

*Floor Area* is the sum of the gross horizontal areas of all floors of a structure, including interior balconies and mezzanines, measured from the exterior face of exterior walls or from the centerline of a wall separating two structures. Floor area includes the area of roofed porches having more than one wall and of accessory structures on the same lot. Stairwells and elevator shafts shall be excluded.

*Food-handling establishment:* A buffet, lunchroom, lunch counter, restaurant, café, dining room, hotel, bakery, soda fountain, soft drink stand, grocery store, meat market, packing house, poultry market, fish market, hamburger stand, ice cream wagon, lounge, bar, and every other public place where food is processed, served, prepared, sold, or given to the public for consumption, or where eating and drinking utensils are washed, cleaned or sterilized, or reused in any way or use by the public in said food-handling establishment.

*Freeboard* – SEE APPENDIX A.

*Frontage:* That edge of a lot bordering a street.

*Frontage Street* is a street to be constructed by the developer or any existing street where development shall take place on both sides.

*Functionally dependent use* – SEE APPENDIX A.

*Garage apartment:* A dwelling unit attached to a private garage.

*Garage, private:* An accessory building or a part of a main building used for storage purposes for one or more automobiles.

*Garage, public:* Any building other than a private garage, available to the public for the care, servicing, repair, or equipping of automobiles or where such vehicles are parked or stored for remuneration, hire or sale.

*Garage, storage:* A building or portion thereof, other than a private garage, used exclusively for parking or storage of self-propelled vehicles, but with no other services provided except facilities for washing.

*Group home for the handicapped:* A dwelling shared by four (4) or more handicapped persons, excluding resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling them to live as independently as possible in order to reach their maximum potential. As used herein, the term “handicapped” shall mean having:

1. A physical or mental impairment that may substantially limit one or more of such person’s major life activities so that such person is incapable of living independently;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment. However, “handicapped” shall not include any person currently using, or involved in any program of recovery from, the use of or addiction to alcohol or a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term “group home for the handicapped” shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

*Habitable Structure* is a structure that has facilities to accommodate people for an overnight stay, including, but not limited to, residential homes, apartments, condominiums, hotels, motels, and manufactured homes, and which does not include recreational vehicles.

*Hardship* (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Aldermen require that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

*Hazardous Materials* is any hazardous chemical or extremely hazardous substance as defined and listed in the Federal Emergency and Community Right to Know Act, 40 CFR Part 300, vol. 51 No. 221, and Title 29 CFR, as periodically amended. Hazardous materials include but are not limited to the following hazardous substances and wastes: explosives; blasting agents; solid waste; compressed gases; flammable and combustible gases, liquids and solids; organic peroxides; oxidizers; pyrophoric materials; water reactive solids and liquids; unstable reactive materials; cryogenic fluids; highly toxic and toxic materials; radioactive materials; corrosives; carcinogens; irritants; sensitizers and other health hazards.

*Height, Building* is the vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof. In no case shall the highest part of a gable, gambrel, hip, shed, or similarly pitched roof extend more than five (5) feet above the specified maximum building height. **However, if a structure is located within an area of special flood hazard subject to regulations in the City’s Flood Damage**

**Prevention Ordinance, the height of the structure shall be measured from the base flood elevation (BFE) applicable at the structure's location.**

*Highest adjacent grade:* means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

*Historic district.* An area designated and approved by the city through an ordinance which contains a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events, or aesthetically by plan, or physical development, and which meets at least one of the following criteria:

1. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or city; or
2. Is identified with historic personages or with important events in national, state, or local history; or
3. Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials, or craftsmanship; or
4. Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized or who influenced his or her age.

*Historic resources.* As recognized by the National Register of Historic Places, historic resources consist of separate and aggregate buildings, districts, structures, sites, and objects.

*Historic Site.* The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structures. Example: Battlefields, Indian mounds.

*Historic structure:* means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

*Home Occupation* is an occupation which is customarily incident to the main use of the premises as a dwelling place, and is conducted by a member of a family residing in the dwelling, and in connection with which there is kept no stock in trade nor commodity to be sold upon the premises, provided that no person is employed other than a member of the immediate family residing on the premises; providing, further that no mechanical equipment shall be used which will be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, fumes and/or excessive traffic. None of the materials required in the

home occupation shall be permitted to be stored outside the home or garage. The operation of beauty culture schools, beauty parlors, or barbershops shall not be considered home occupations.

*Homeowners' Association* is a corporation organized and existing under the Laws of the State of Mississippi that owns and maintains in perpetuity the physical facilities, structures, signs, roads, systems, areas or grounds held in common and other improvements within a Subdivision.

**Hotel or Motel: Hotel, motel, and condotels are to be considered synonymous uses. They are a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or a boarding/rooming house. Such uses may include kitchenettes, microwaves and refrigerators for each guest unit. Shall have common amenities for guests such as pool, work out room, lobby and a staffed maid service.**

*Hydrologic and/or Hydraulic Engineering Analysis* – SEE APPENDIX A.

*Immediate Family* is a husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, step grandson, granddaughter, step granddaughter, nephew and niece, whether related by natural birth or adoption.

*Impervious Cover* are roads, parking areas, buildings, pools, patios, sheds, driveways, private sidewalks, and other impermeable construction covering the natural land surface, including, but not limited to, all streets and pavement within the subdivision. "Percent impervious cover" is calculated as the area of impervious cover within a lot, tract, or parcel or within the total site being developed divided by the total area within the perimeter of such lot, tract, parcel, or development. Vegetated water quality basins, vegetated swales, other vegetated conveyances for overland drainage, and public sidewalks shall not be calculated as impervious cover.

*Improvements*: This term refers to street pavement, sidewalk pavement, landscaping, pedestrian way pavement, green spaces, water mains, storm drains, sanitary sewers, utility lines, signs, monuments, streetlights, and other similar items.

*Improvement Guarantee* is a security instrument, including, but not limited to, a payment or performance bond, a letter of credit, deposit of cash or a cashier's check into an escrow fund or other sufficient surety, accepted by the City to ensure that all public and nonpublic improvements required as a condition of approval of a development project will be completed in compliance with the plans and specifications of the development as approved in the development order.

*Infrastructure, private*: Any water, sewer, and/or drainage structure, roadway, parkway, sidewalk, off-street parking area, or other facility for which a non-governmental entity will assume responsibility for maintenance and operation.

*Infrastructure, public*: Any water, sewer, and/or drainage structure, roadway, parkway, sidewalk, off-street parking area, or other facility for which the city will assume the responsibility for maintenance and operation, or which will affect an improvement for which local government responsibility is established.



*Junk:* The term is defined to mean and shall include scrap, iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old cotton or used machinery, used tools, used appliances, used fixtures, used utensils, used boxes or crates, used pipe or pipe fittings, inoperable vehicles or their parts, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing conditions; subject to being dismantled for junk.

**Liquor Store: A store selling alcoholic drink for consumption elsewhere.**

*Landmark.* An improved parcel of ground with a building, structure and/or object, designated by the commission and approved by the city through an ordinance, which possesses particular historic, architectural, or cultural significance by meeting at least one of the following criteria:

1. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county, or city; or
2. Is identified with historic personages or with important events in national, state, or local history; or
3. Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship; or
4. Is representative of the notable work of a master builder, designer, artist or architect whose individual ability has been recognized or who influenced his age.

*Landmark Site.* An unimproved or improved parcel of ground, designated by the Historic Preservation Commission and approved by the city through an ordinance, in which the physical location possesses particular historic, architectural, or archaeological significance by meeting at least one of the criteria associated with a *landmark* (see above) or the additional criteria below:

- A. Has yielded, or may be likely to yield, information important in prehistory or history.

*Live/Work Building* is a dwelling unit that contains, to a limited extent, a retail or office component. A live/work building is located on its own lot with the commercial component limited to the ground level.

*Local Governing Board.* (Abbreviated as "board.") The mayor and board of aldermen of the City of Ocean Springs. For all intents and purposes of this article, the terms "board" and "city" shall be interchangeable.

*Lot:* A plot of land of not less than the minimum dimensions established by this ordinance, occupied or capable of being occupied by a single building for any use as defined in this ordinance.

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

*Lot, corner:* A plot of land located at the intersection of and abutting on two (2) or more streets.

*Lot depth:* The average horizontal distance between the front lot line and the rear lot line.

*Lot, double-frontage:* A lot, other than a corner lot, which has frontage on more than one street.

*Lot frontage:* That dimensions of a lot or portion of a lot abutting on a street.

*Lot, interior:* A lot other than a corner lot.

*Lot lines:* The lines bounding a lot as defined herein.

*Lot of record:* A lot, the plat of which has been recorded in the office of the chancery clerk of Jackson County.

*Lot width:* The width of a lot at the front building line.

*Lowest adjacent grade* means the elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system. As it relates to Floodplain Management, SEE APPENDIX A.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the non-elevation provisions of this Code. As it relates to Floodplain Management, SEE APPENDIX A.

*Maintenance Guarantee* is a security instrument required by a City to ensure that public or nonpublic improvements will be operated, maintained, and repaired for a period of time following construction of the improvement as specified in a development order.

*Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Manufactured Home* (44 CFR 59.1 definition / FEMA) means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a "recreational vehicle."

*Manufactured housing* (24 CFR 3280.3 and 3285.5 definitions / HUD) means "...a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities."

*Map Panel Number* – SEE APPENDIX A.

*Mass* is the size, height, symmetry, and overall proportion of a structure in relation to the original style and/or to surrounding structures.

**Medical cannabis dispensary is an entity licensed and registered with the Mississippi Department of Revenue that acquires, possesses, stores, transfers, sells, supplies or dispenses medical cannabis, equipment used for medical cannabis, or related supplies and educational materials to cardholders.**

*Mitigation* means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

*Mixed-Use Building* is a structure with a vertical mixture of uses. The upper floors may be used for office, residential, lodging, storage, or parking; the ground floor (lot frontage at the street level) may be used for retail or office.

*Monopole tower*: A telecommunication tower consisting of a single pole or spire self-supported by a permanent foundation, constructed without guy wires and ground anchors.

*National Flood Insurance Program (NFIP)* – SEE APPENDIX A.

*National Geodetic Vertical Datum (NGVD)* – SEE APPENDIX A.

*Native Vegetation* is plant species with a geographic distribution indigenous to the applicable life zone in Ocean Springs. Plant species which have been introduced by humans are not native vegetation.

*Nonconforming Lot or Parcel* is a lot or parcel (subdivided or un-subdivided) that was lawfully established or commenced prior to the adoption or amendment of the City's land development regulations and that fails to meet the current requirements for area, height, yards, setback, or use generally applicable in the district because of a change in the applicable zoning district regulations, annexation, condemnation of a portion of the lot, or other governmental action.

*Nonconforming Site* is a lot, parcel, or development site that was lawfully established but that does not comply with the area, height, yards, setback, or other bulk standards of the SUDC.

*Nonconforming Structure* is a building or structure that was lawfully erected prior to the adoption or amendment of the City's land development regulations but that no longer complies with all the regulations applicable to the zoning district in which the structure is located.

*Nonconforming Use* is the use of a structure or land that was lawfully established and maintained, but which does not conform with the use regulations or required conditions for the district in which it is located by reason of adoption or amendment of the UDC.

*Nonconformity* is a nonconforming use, sign, lot, parcel, building, site, or structure.

*Nudity or state of nudity* means the appearance of a human bare buttock, anus, male genitals in a discernible turgid state, female genitals, even if completely and opaquely covered. It also means the exposure to view of bare female breasts or the employment of any device or covering intended to give the appearance of or simulate a female breast.

*Nuisance* is anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

*Object.* A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. Examples: statues and fountains.

*Ocean Springs Floodplain Management Map* means that map produced and adopted by the community utilizing any base flood elevation and floodway data available from a federal, state, or other sources.

*Ordinary Repair and Maintenance* is work, the purpose and effect of which is to correct any deterioration or decay of or damage to a building, object, or structure, and to restore it as nearly as practicable to its condition prior to the deterioration, decay, or damage.

*Outdoor Storage* is keeping, in an unroofed area, of any goods, junk, material, or merchandise in the same place for more than 24 hours.

*Overhang:* That portion of a roof or other structural appendage which projects out past the main building wall of the structure.

*Owner of Record* is the means the persons having legal and equitable title to the property as recorded in the real property records of Ocean Springs.

*Owner of Record, Historic Resource.* The owner of an historic resource reflected on the current county or city tax roll.

*Parcel* is an area of land not dedicated for public or common use capable of being described with such definiteness that its location and boundaries may be established and includes but is not limited to lots.

*Parking Lot* is an off-street, ground-level open area for the temporary storage of motor vehicles. Does not include an area used exclusively for the display of motor vehicles for sale as part of an automobile dealership.

*Parking space:* A space located on private or public property sufficient in size to store one standard size automobile.

**Pawn Shop: A pawnbroker's shop, especially one where unredeemed items are sold to the public.**

*Perennial Plant* is a plant whose root remains alive more than 2 years.

**Personal Services: A business establishment such a barbershop, beauty parlor, tanning salon, nail care store or similar personal service shop, but not including a massage therapy establishment, tattoo or body piercing parlor.**

*Planting Area* is any area designed for landscaped material installation in accordance with this ordinance.

**Plat, final: The final map of all or a portion of a subdivision that shows all boundaries of lots, rights-of-way, easements, and open space parcels, and that is reviewed and decided by the Board of Alderman.**

**Plat, Preliminary: A map of a Major Subdivision that shows the general layout and design of lots, streets, stormwater management, utilities, open space, and other subdivision elements, and that is reviewed and decided by the Board of Alderman.**

*Police Power* is the inherent, delegated, or authorized legislative City power for purposes of regulation to secure health, safety, and general welfare and to prevent public nuisances.

*Pre-FIRM Construction* means construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**Principal Structure: Principal use means the primary purpose or purposes for which a building or lot is used.**

## **PROFESSIONAL SERVICES**

A room or group of rooms used for conducting the affairs of a business, profession, or service industry. Examples of professional services offices include offices for lawyers, accountants, engineers, architects, doctors, dentists, and similar professions.

**Real Estate Office: A business that arranges the sale, renting, or management of homes, land, and buildings for their owners.**

*Recreational Vehicle* means a vehicle that is:

- A. Licensed and titled as an RV or park model (not a permanent residence);
- B. Built on a single chassis;
- C. Has 400 square feet or less when measured at the largest horizontal projection;
- D. Has no attached deck, porch, or shed;
- E. Has quick-disconnect sewage, water, and electrical connectors;
- F. Designed to be self-propelled or permanently towable by a light duty truck, and:
- G. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Redevelopment* means:

- A. The demolition or removal of the principal structure or more than 50% of the impervious surface of a site;
- B. Whenever any change in the current number of parking spaces exceeds 50%, provided that the change increase or decreases the number parking spaces by 5 or more spaces;
- C. When additions or renovation costs total a minimum percentage of 50% of the cost of the original structure; or
- D. When the increased gross floor area to the original structure exceeds a minimum of 25% of the original structure.

*Repair* means the reconstruction or renewal of any part of an existing building. For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences. As it relates to Floodplain Management, SEE APPENDIX A. The term does not apply to:

- A. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Building Official and which are solely necessary to assure safe living conditions, or:
- B. Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”, or:
- C. Any improvement to a building.

*Repetitive Loss* – SEE APPENDIX A.

*Residence*: Is the place where an individual makes their home for their convenience and normal living where that individual can be traced, located, identified for all legal and contractual obligations, whether or not it is owned by him/her or he/she is permanently dwelling there.

*Restrictive Covenant*: Is a real covenant creating restrictions applicable to development within a subdivision.

**Retail Sales: Retail sales tracks consumer demand for finished goods by measuring the purchases of durable and non-durable goods over a defined period of time.**

*Right-of-Way*: Is the property that is publicly owned or upon which a governmental entity has an express or implied property interest (e.g., fee title or easement) held for a public purpose. Examples of such public purpose include, by way of example and not by limitation, a highway, a street, sidewalks, drainage facilities, a crosswalk, a railroad, a road, an electric transmission line, an oil or gas pipeline, a water main, a sanitary or storm sewer main, shade trees, trails, parks, recreation areas, scenic vistas or for any other special use. The usage of the term “right-of-way” for subdivision platting or site plan purposes means that every right-of-way established and shown on a final plat or site plan is separate and distinct from the lots or parcels adjoining the right-of-way, and is not included within the dimensions or areas of such lots or parcels. Rights-of-way involving maintenance by a public agency shall be dedicated to the appropriate public agency by the owner of the land on which the right-of-way is established.

*Riparian* is land that contains or abuts a swamp, bayou, spring, stream, river, natural wetlands, and natural animal habitats associated with water or natural wetlands, or tree and vegetation areas associated with water or natural wetlands.

*Scale* is the relationship of a building or structure to its surroundings with regard to its size, height, bulk, and/or intensity.

*Security* is a letter of credit, surety bond or cash escrow provided by the Applicant to secure conditions imposed in a development order.

*Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*. (Abbreviated as "Secretary's Standards.") A federal document delineating ten (10) standards and numerous guidelines for the sensitive rehabilitation and preservation of historic buildings. The

Secretary's Standards shall be used as the guideline for judging all applications for a certificate of appropriateness.

*Setback, front* is the distance between the front wall of a building, excluding roof overhangs of less than 42 inches, steps and stoops, and the street line nearest to the building. Establishes the minimum required yard and governs the placement of structures and uses on the lot.

*Sexual encounter center* means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (b) Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity or semi-nudity.

*Sexually oriented business* means an adult arcade, adult bookstore, or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

*Short-term rental*: Any dwelling or condominium or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or other compensation for a period of less than thirty (30) consecutive days. For the purposes of House Bill No. 1836 (1998) regarding a tax levy on lodging rentals, "short-term rental" means any establishment engaged in the business of furnishing or providing rooms intended or designed for dwelling, lodging or sleeping purposes to transient guests and which are known in the trade as such. The term "short-term rental" does not include any hospital, convalescent or nursing home or sanitarium, or any facility associated with a hospital providing rooms for medical patients and their families.

*Sidewalk* is the portion of a street between the curb lines or lateral lines of a roadway and the adjacent property lines, which is improved and designed for or is ordinarily used for pedestrian travel.

*Single Family Detached House* is a dwelling unit on its own lot, detached from structures on adjoining lots.

**Sight Triangle: A triangular area at each corner of intersecting roadways, or at the intersection of a roadway and driveway, within which the structures and vegetation are regulated to ensure safe sight distance for drivers of vehicles approaching the intersection. A sight triangle is measured from the point where the extended curb or edge-of-pavement line of a roadway meets the extended curb or edge-of-pavement line of the intersecting roadway or the edge of the driveway, to a point a certain distance along the initial roadway curb or edge-of-pavement line, and then diagonally to a point a certain distance along the curb or edge-of-pavement line of the other roadway or the edge of the driveway.**

**Slug: Any discharge of water, sewage, or industrial wastes which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operations.**

*Small Commercial Building* is a single-use, one-story structure with either office or retail use.

*Special Flood Hazard Area (SFHA)* – SEE APPENDIX A.

*Spot Zoning* is rezoning of a parcel of land to benefit the owner for a use that is incompatible with surrounding land and inconsistent with the goals, objectives, land uses, policies and strategies of the Ocean Springs Comprehensive Plan, or other applicable area, specific or community plan, and does not further the comprehensive zoning plan, intent, purposes and findings of the UDC.

*Sprawl* is low density development, poorly designed, constructed in a leap frog manner in areas with inadequate public facilities and services, often on environmentally sensitive, farm or ranch lands, automobile dependent, consisting of isolated single family residential lots or neighborhoods requiring excessive transportation trip lengths, contributing to air pollution and global warming, and creating negative fiscal impact on City revenues and costs.

*Stabilization* is the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, or structure while maintaining the essential form as it exists at present.

*Start of construction* (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. As it relates to Floodplain Management, SEE APPENDIX A.

*Story* is that part of a building included between the surface of one floor and the surface of the floor next above, or, if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four (4) feet above the curb level, or the average elevation of the finished grade along the front of the building, were it set back from the street.

*Story, half* is a space under a sloping roof that has the line of intersection of the roof and the exterior wall face not more than three (3) feet above the floor level and in which space the possible floor area with headroom of five (5) feet or less occupies at least forty (40) per cent of the total floor area of the story directly beneath.

*Street, arterial*: A street with traffic signals at important intersections and stop signs on side streets, and which collects and distributes traffic to and from collector streets.

*Street, collector*: A street which carries traffic from minor streets to the major street system. These streets include the principal entrance streets of residential developments and the primary circulating streets within such developments. Total traffic volume should not exceed 3000 ADT.



*Street, minor:* A street of limited continuity, having primary function of providing service and access to abutting properties, and not designed or intended to carry large traffic volumes, but having sufficient width for occasional parking. Total traffic volume should not exceed 1500 ADT.

*Street, private:* A platted right-of-way that is privately owned and maintained which affords principal means of vehicular access to property abutting thereon and provided limited local traffic circulation among adjacent lots.

*Street, stub:* A portion of a street for which an extension has been proposed or approved.

*Streetscape* is the general appearance of a block or group of blocks with respect to the structures, setbacks from public rights-of-way, open space, and the number and proportion of trees and other vegetation.

*Structure.* Anything constructed or erected that requires location on the ground (excluding swimming pools, fences, and walls used as fences). As it relates to Floodplain Management, SEE APPENDIX A.

*Substantial Alteration* is an alteration where the work area exceeds 50% of the aggregate area of the building or structure.

*Substantial Damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Sustainable Design and Improvement Standards* are standards requiring utilization of green construction and neighborhood development materials and techniques for residential and non-residential development equivalent to the minimum of either the BUILD GREEN NM Bronze Level ANSI Standard ICC 700 (2008) (for residential projects only), approved by the Build Green NM Advisory Board, or the LEED-NC, LEED-EB, LEED-CS, LEED-CI, LEED-H and LEED-ND at the Silver Standard or greater, to achieve sustainability, green development, renewable energy, reduction of greenhouse gases, environmental benefits and low utility costs, using federal, state and City tax credits, tax deductions, Loan And Grant Incentives And City Regulation.

*Substantial Improvement* means any combination of reconstruction, rehabilitation, alteration, or other improvement of a structure taking place during ten-year period in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the structure. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The costs for determining substantial improvement include the costs of additions. This term includes structures, which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed.

This term does not apply to:

- a. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, provided that said code deficiencies

were not caused by neglect or lack of maintenance on the part of the current or previous owners, or;

- b. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Taking* is an economic burden imposed upon an owner which prevents a realization of all or substantially all reasonable use and value of the property taken as an entirety, including all land in common ownership.

*Telecommunication facilities*: Any commercial equipment associated with the transmission/reception of wireless telecommunications.

*Telecommunication tower*: A guyed, monopole or self-support/lattice tower, constructed as a freestanding or guyed structure, containing one or more antennas used in the provision of commercial wireless service.

**Text Amendment: An amendment to the language of this Ordinance or any ordinance that is reviewed and decided by the Board of Alderman in accordance Section 2.15.1.**

**Townhouse: A one-family dwelling, in a row of at least three such units, in which each unit has its own front and rear access to the outside, no unit is located over another and each unit is attached, but separated from any other unit by one or more vertical, common fire-resistant walls that extend through the roof line so as to create separate roofs for each townhouse.**

*Tidal marsh*: Any area which is under water or so saturated with moisture that normal activity is prohibited for at least six (6) months out of every year. In these areas the soil material is composed principally of brown, partly decomposed marsh grass over mineral soil material.

**Trade or Vocational School: A public or private school offering vocational or trade instruction to students and that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes and meets the state requirements for a vocational training facility. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.**

*Traditional Neighborhood Development* is an approach to land use planning and urban design that promotes the building of pedestrian friendly neighborhoods with a mix of uses, housing types and costs, lot sizes, density, architectural variety, a central meeting place such as a town square, a network of narrow streets and alleys, interconnected streets and defined development edges.

*Transfer of ownership or control of a sexually oriented business* means and includes any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

*Trip Generation* is the origin, destination and number of trips for the entire day and the AM and PM peak periods, including the rates and units used to calculate the number of trips based on most current published ITE standards or equivalent methodology.

*Unreasonable Hardship* is an economic burden imposed upon an owner which prevents a realization of all or substantially all reasonable use and value of the property taken as an entirety, including all land in common ownership.

*V Zone* means the portion of the SFHA that extends from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high-velocity wave action from storms or seismic sources.

*VE Zone* – SEE APPENDIX A.

*Vacation*: Is the act of rescinding all or part of: a recorded subdivision plat; street; right-of-way or land including revocation of legal fee simple dedications and grants of easements.

**Variance: A permit authoring a deviation from this Ordinance's dimensional standards and certain development standards where strict application of the standard creates a hardship due to circumstances particular to a parcel, and that is reviewed and decided by the Board of Zoning Adjustment.**

**Vehicle Repair: Means the repair, rebuilding, and reconditioning of motor vehicles, including collision service, painting, and leaning of vehicle**

*Vehicular Use Area*: Is any ground surface area, excepting public rights-of-way, used by any type of vehicle whether moving or at rest for the purpose of, including but not limited to, driving, parking, loading, unloading, storage or display, such as, but not limited to, new and used car lots; activities of a drive-in nature in connection with banks, restaurants, filling stations, grocery and dairy stores; and other vehicular uses.

**Veterinary Clinic: A facility for the medical care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.**

*Violation*: Means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

*Visually Compatible*: Is the harmonious relationship between the scale and design of buildings as defined in the appropriate Chapters of this document. The design, arrangement and location of buildings or other created or natural elements of the urban and rural environment that are sufficiently consistent in scale, character and siting with other buildings or created or natural elements in the area or neighborhood to avoid abrupt or severe differences.

**Warehouse: A facility characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and others, but not involved in manufacturing or production.**

*Water Surface Elevation* – SEE APPENDIX A.

*Watercourse* – SEE APPENDIX A.

*Wetland:* Is land that has a predominance of hydric soil; is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and under normal circumstances supports a prevalence of that vegetation.

*X zone (shaded)* – SEE APPENDIX A.

*X zone (unshaded)* – SEE APPENDIX A.

*Yard:* Means an open space area on a lot, between a lot line and the nearest principal building or structure, required by the UDC to be unoccupied and unobstructed either on, above or below ground level, except as specifically permitted by these regulations.

*Yard, front:* Is a space across the full width of a lot extending from the front line of the main building to the front street line of the lot. The front yard of an irregularly shaped lot shall be determined when the initial Building Permit is issued.

*Yard, rear:* Is a space extending across the rear of a lot measured between inner side yard lines and being the distance between the rear lot line and the rear line of the principal 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.

*Yard, side:* Is a space between the building and the side line of the lot unoccupied and unobstructed by any portion of a structure from the ground upward, except as specifically permitted by these regulations, and extending from the front line of the principal building to the rear line of the principal building.

(Ord. No. 2020-06, § V, 2-18-20) / (Ord. No. 2022-05, §3, 07-05-22) / (Ord. No. 2024-02, 04-02-24)

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# Chapter 8. Signs and Outdoor Advertising Standards

## 8.1 DEFINITIONS

As used in this article the words and phrases listed below shall have the meaning as shown:

*A-frame sign:* A double-faced, back to back sign attached at the top and separated at the bottom to form an open triangle front and back.

*Abandoned sign:* A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessee, owner, product or activity conducted or product available on or off the premises where such sign is displayed and which has existed as such for a period of six (6) months or more.

*Advertising bench:* A bench, such as a park bench, for the use of the public which bears a commercial message and is not located on the premises which is being advertised.

*Anchor tenant, major:* Store or stores having a minimum of twenty-five thousand (25,000) square feet of floor space, and located within a shopping center.

*Anchor tenant, minor:* Store or stores having a minimum of fifteen thousand (15,000) square feet of floor space and located within a shopping center.

*Animated sign:* Any sign which includes action or motion, either electronic, mechanical or optical.

*Awning:* A temporary shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

*Background area:* The entire area of a sign on which copy could be placed as opposed to the copy area, when referred to in connection with wall signs.

*Banner sign:* Any sign possessing characters, letters, illustrations, or ornamentations, or designed so as to attract attention by scenic effect, including pennants, with or without characters, or other devices applied to cloth, paper, fabric, or like kind or material, either with or without frame, and which is not of permanent construction.

*Big box retailer:* A commercial retail establishment planned and designed with common parking or using a common name, or both, and the total building square footage is one hundred twenty-five thousand (125,000) square feet or greater. A big box retailer shall allow only one occupant to have direct exterior access.

*Billboard:* A freestanding, super structure sign with large panels designed to carry outdoor activities.

*Building code:* The current building code adopted by the City of Ocean Springs.

*Building face:* All window and wall area of a building in one plane or elevation.

*Building frontage:* That side of a building which faces and is parallel to or most nearby parallel to a public street. The linear feet of the frontage is determined by measuring along the width of the outside

wall of the building from side to side. There can be only one building frontage for each street upon which a building faces.

*Building sign:* A sign giving the name of a building itself, as opposed to the name of occupants or services.

*Business identification sign:* A sign bearing the name, trademark, or symbol of a business situated on a particular parcel of land.

*Canopy sign:* A sign which is mounted on a permanently roofed shelter covering a sidewalk, driveway, awning, mansard roof, or other similar area, which shelter may be wholly supported by a building or it may be wholly or partially supported by columns, poles, or braces extended from the ground.

*Changeable copy sign (manual):* A sign on which copy is changed manually in the field, i.e. reader boards, with changeable letters or changeable pictorial panels.

*Changing sign (automatic):* A sign, such as an electronically or electrically controlled time, temperature, and date sign, or message center or reader board, where different copy changes are shown.

*Construction sign:* A sign identifying the architects, engineers, contractors, and other persons involved in a construction project as well as the project itself.

*Copy:* The wording or other message of a sign, either in permanent or removable form.

*Copy area:* The area of the smallest geometric figure which encompasses the actual copy of a sign. For wall sign, the copy area limits refer to the message, not to the illuminated background.

*Directional sign:* Any sign which serves solely to designate the location or direction of a place or area.

*Electrical sign:* Any sign containing electrical wiring which is attached to or intended to be attached to an electrical energy source.

*Electronic message center (EMC):* A changeable message display that utilizes light emitting diodes (LEDs) to display information for outdoor signage.

*Erected:* Attached, altered, built, constructed, reconstructed, enlarged, or moved and shall include the painting of wall signs, but does not include copy changes on any sign equipped for changeable copy.

*Exempt sign:* Any sign designated to exempt from the permit requirements of this ordinance.

*Face of sign:* The entire area of a sign on which copy could be placed.

*Flags:* A piece of fabric or distinctive design that is used as a symbol, with or without characters, or, as a signaling device and is displayed hanging free from a staff or halyard to which it is attached by one edge.

*Flag sign or feather sign:* A piece of fabric or distinctive design that is attached by one edge to a ground mounted staff, and is displayed as an identification or advertising device for a business, its products, merchandise or services. Distinct from a flag that is commonly recognized as a symbol of a nation, state, political subdivision, or nonprofit entity.

*Flashing sign:* Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent

light source. Automatic changing signs, such as time, temperature, and date signs or electronically controlled message centers are classified as "changing signs" not "flashing signs."

*Freestanding sign:* A ground sign or a sign erected on a permanently set pole or poles, mast, or framework that is not attached to any building.

*Garage sale sign:* A temporary sign announcing a garage, yard, rummage, or like sale.

*Height of sign:* The vertical distance from the lowest point on the surface of the roadway on the nearest public street to the topmost point on the sign or its supporting structures, if any. If the nearest roadway is a bridge or overpass, or is at a level lower than the ground upon which the sign is located, then the height shall be measured from the ground.

*Identification sign:* An on-site sign that displays no more than the name, street address, crest, insignia, or trademark, occupation or profession of an occupant of the site or the name of any building on the site.

*Illuminated sign:* Any sign which emanates light either by means of exposed tubing or lamp on its surface, or by means of illumination transmitted through its face or faces.

*Indexing:* Turning and stopping action of the triangular vertical sections of a multi-prism sign designed to show three (3) messages in the same area.

*Indirectly illuminated sign:* Any sign which reflects light from a source externally directed upon it, for example, by means of floodlights, gooseneck reflectors, or externally mounted fluorescent light fixtures.

*Individual letter sign:* Any sign made of self-contained letters that are mounted on the face of a building, top of a parapet, roof edge of a building or on top of or below a marquee.

*Institutional bulletin board:* An on-site sign containing a surface upon which is displayed the name of a religious institution, school, library, or community center, and the announcement of its services or activities.

*Integral sign:* Signs as for churches, temples, or names of public buildings, dates of erection, monument citations, commemorative tablets and other similar signs when carved into stone, concrete or other building material, or which are made of bronze, aluminum, or other permanent material of construction and made an integral part of the structure to which they are attached.

*Interior lot line:* A lot line other than one fronting on a public street.

*Maintain:* To permit a sign, sign structure, or any part of either to continue to exist at a particular place, or to repair or refurbish a sign, sign structure, or any part of either.

*Marquee sign:* Any sign attached to or constructed in or on a marquee.

*Message:* The copy of a sign.

*Multiprism sign:* A sign made with a series of triangular vertical sections that turn and stop, or index, to show three (3) pictures or messages in the same area.

*Nameplate sign:* A nonelectric sign identifying only the name and occupation or profession of the occupant of the site on which the sign is situated. If the site includes more than one occupant,



nameplate refers to all names and occupations or professions as well as the name of the building and directional information.

*Nonconforming sign:* Any sign that had been lawfully erected and maintained prior to the effective date of this section and which does not conform to the applicable regulations of this section.

*Nonelectrical sign:* Any sign that does not contain electrical wiring or is not attached or intended to be attached to an electrical source.

*Off-site sign:* A sign which relates to a product, service, place, activity, person, institution or solicitation conducted or located on premises other than those on which the sign is located.

*On-site sign:* A sign which pertains to the property on which it is situated.

*Owner:* Any person who holds fee simple title to, is lessee of, or who lawfully occupies and uses a parcel of real property.

*Parapet:* That portion of a building wall that rises above the roof level.

*Portable sign:* Any sign not permanently attached to the ground or a building and which is designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be moved on a trailer, wheeled carriage or other nonmotorized mobile structure, and is not a temporary sign as defined herein below. A portable sign which has its wheels removed shall still be considered a portable sign.

*Private traffic directional sign:* A sign that directs vehicular or pedestrian traffic onto a site or within a site.

*Projecting sign:* A sign, other than a wall sign, which is attached to and projects from a building face. The area of double-faced projecting signs is calculated on one face of the sign only, which shall be the larger if different in size.

*Protected trees:* All trees protected by the current tree ordinance and amendments thereto.

*Public right-of-way width:* The perpendicular distance across a public street, measured from property line to property line.

*Public service information sign:* Any sign intended primarily to promote items of general interest to the community, such as time, temperature, and date, atmospheric conditions and the like.

*Public signs:* Signs of a noncommercial nature and in the public interest erected by or upon the order of a public officer in the performance of his duty, such as safety signs, memorial plaques, signs of historic interest, signs designating hospitals, libraries, schools, airports, and other institutions or places of public interest and concern.

*Public warning signs:* Any sign which warns the public of possible danger or informs the public of certain restrictions such as "Beware of the Dog" or "No trespassing" or "No Dumping."

*Real estate sign:* Any sign pertaining to the sale, lease, or rental of land or buildings.

*Roof line:* The top edge of the roof or the top of a parapet, whichever forms the top line of the building silhouette.

*Roof sign:* Any on-site sign erected upon, against or directly above a roof or on top of or above the parapet of a building and which are not canopy signs.

*Rotating sign:* Any sign or portion of a sign that revolves, but not including multiprism indexing signs.

*Scintillating sign:* A sign with moving parts and/or lights, except a message center sign. A scintillating sign shall also include a sign which has "chasing action" or "scintillating action". "Chasing action" is the action of a row of lights commonly used to create the appearance of motion, the effect of which is obtained by turning a sequence of lights off at timed intervals so that a group of shadows appear to flow in one direction. "Scintillating action" is that effect which gives the appearance of twinkling lights with such lights blinking on and off in a random manner.

*Seasonal or holiday signs:* Signs, such as Christmas decorations, used for a holiday and installed for a limited period of time.

*Shopping center:* A group of commercial establishments planned and designed with common parking or using a common name, or both, and the total building square footage is fifty thousand (50,000) to one hundred thousand (100,000) square feet. For the purpose of this sign ordinance, a shopping center shall require a minimum of two (2) occupancies physically separated. At least two (2) occupancies shall be required to have separate exterior access.

*Shopping center, major:* A group of commercial establishments planned and designed with common parking or using a common name, or both, and the total building square footage is greater than one hundred thousand (100,000) square feet. For the purpose of this sign ordinance, a major shopping center shall require a minimum of two (2) occupancies physically separated. At least two (2) occupancies shall be required to have separate exterior access.

*Shopping center, minor:* A group of commercial establishments planned and designed with common parking or using a common name, or both, and the total building square footage is greater than twenty-five thousand (25,000) square feet but less than 50,000 square feet. For the purpose of this sign ordinance, a minor shopping center shall require a minimum of two (2) occupancies physically separated. At least two (2) occupancies shall be required to have separate exterior access.

*Sign* is a device, fixture, surface, or structure of any kind, made of any material, displaying letters, numbers, words, text, illustrations, symbols, forms, patterns, colors, textures, shadows, merchandise or lights; or any other illustrative or graphic display designed, constructed, or placed on the ground, on a building, architectural projection, wall, post, or structure of any kind, in a window, or on any other object for the purpose of advertising, identifying or calling visual attention to any place, structure, firm, enterprise, profession, business, service, product, commodity, person, or activity whether located on the site, in any structure on the site or in any other location. The term "placed" includes constructing, erecting, posting, painting printing, tacking, nailing, gluing, sticking, sculpting, casting, or otherwise fastening, affixing, or making visible in any manner. The term does not include a religious symbol on a place of worship.

*Sign area or size:* The total area of the space enclosed by one continuous line, connecting the extreme points or edges of a sign. This does not include the main supporting sign structure, but does include all other ornamental attachments, inner connecting links and general background. Sign area for a back to back or V-type sign shall consist of only the area of one face.

*Sign structure:* Any structure which supports, has supported, or is capable of supporting a sign, including supports, frame, and decorative cover.

*Site:* Any lot or unplatted parcel or any combination of contiguous lot or unplatted parcels of land with its appurtenances and buildings having a unity of use and ownership.

*Special event sign:* Any sign or display which advertises an event such as a fair, special or annual city-wide event.

*Special sales and promotion sign:* Limited to pennants, banners, streamers, and air/gas filled figures for grand openings, anniversaries and special events.

*Streamers:* A series of small flags or pennants attached on a narrow strip of cloth, paper, fabric, plastic, or like kind of material and which is not of permanent construction.

*Subdivision or apartment complex sign:* A permanent sign that identifies a subdivision which is located within the subdivision, usually at its entrance or entrances.

*Temporary sign:* A sign that is not permanently affixed to the ground or building, including, but not limited to, sandwich signs, sidewalk signs, curb signs, balloons, posters stapled to posts, posters or the like posted, nailed or staled to an object, or similar signs.

*Under-canopy sign:* A sign that is situated beneath a permanent roofed shelter covering a sidewalk, driveway, awning, mansard roof, or other similar area, which shelter may be wholly supported by a building or it may be wholly or partially supported by columns, poles, or braces extended from the ground.

*Unlawful sign:* A sign that is in violation of this ordinance and does not have the status of a nonconforming sign.

*Unsafe sign:* Any sign which, because of its location, coloring, illumination, or animation, interferes with or has the potential to interfere with a motorist's view of general vehicular traffic, pedestrian traffic, intersectional traffic, traffic control devices, traffic directional signs, or causes confusion with law enforcement or emergency vehicles, or any sign which, because of its construction or state of repair, is likely to fall, be blown down, or cause possible injury to passerby.

*Wall sign:* Any sign attached to and parallel with any wall, including signs painted or printed thereon. For the purpose of this ordinance a fence under the roof of a building's perimeter shall be considered as an exterior wall.

- A. Any signage mechanically attached to the outside of this fence shall be permitted as a wall sign.
- B. Any signage mechanically attached to the inside of this fence (and which cannot be read from the outside) shall be considered indoor advertising which is exempt from this ordinance.

(Ord. No. 2019-16, § I, 9-03-19)

## **8.2 EXEMPT SIGNS**

The following signs are exempt from the permit requirements of this ordinance:

- A. Signs not exceeding one square foot in sign area and bearing only property numbers, post box numbers, names of occupants, or other similar site identification matter of a non-commercial nature.
- B. Temporary on-site real estate signs, provided such signs in residential districts shall not exceed twelve (12) square feet of sign area and have no more than one advertiser per street side not to exceed a total of two (2) signs per lot. In all other districts the sign area shall not exceed

sixty (60) square feet. They shall be immediately removed once their purpose has been achieved but not later than ten (10) days thereafter.

- C. Any political sign erected on a site by the owner or with the owner consent, provided that any such sign shall not be erected more than ninety (90) days before the election or referendum it pertains to or, if a series thereof, the first of such, and provided further that it shall be removed within (5) days after such election or referendum, or, if a series thereof, after the last of which the message of the sign pertains to provided further that any such sign to be erected on residentially zoned land shall not be larger than eighteen (18) by twenty-four (24) inches.
- D. Signs painted on or attached to vehicles solely for identification purposes and limited to operable vehicles. Not included is any vehicle permanently used for signage purposes.
- E. One construction sign per construction project not exceeding twenty (20) square feet of sign area in residential districts and forty (40) square feet of sign area in all other districts. Such signs shall be erected not more than thirty (30) days before the beginning of construction for which a valid building permit exists, they shall be removed within thirty (30) days after completion of the project.
- F. Nonelectrical signs of no more than four (4) square feet of sign identifying restrooms, public telephones, and similar matters.
- G. Memorial signs or tablets for names of building, dates of erection, and other commemorative matters when cut into a masonry surface or inlaid so as to be a part of the building or when constructed of bronze or similar material and securely affixed to the building or structure it pertains to.
- H. Public signs and warning signs.
- I. Nameplate signs in commercial, industrial, and special use districts that are not more than four (4) square feet in sign area which are fastened directly to and mounted flat against the building or structures to which it pertains.
- J. Religious symbols, commemorative plaques of historical agencies, provided that they shall not be more than four (4) square feet in sign area and shall be mounted flat against the building or structures to which they pertain.
- K. Signs having not more than four (4) square feet of sign area pertaining to drives or events of civic, philanthropic, educational, or religious organizations, provided that said signs are posted only during said drive or not more than thirty (30) days before an event and they shall be removed not more than ten (10) days after the event.
- L. One on-site sign per street frontage having not more than thirty-two (32) square feet of sign area per sign identifying churches, schools, clubs, golf courses, country clubs, cemeteries, and similar uses.
- M. One sign per subdivision entrance or one sign per apartment complex entrance. Sign shall not exceed twenty-four (24) square feet of sign area and not more than six (6) feet in height.
- N. Seasonal, holiday and special event signs for no more than thirty (30) days before the season or holiday, which signs are to be removed within ten (10) days after such season, holiday or special event. These signs may be tacked, tied, posted or hooked to "private property" in a

safe, secure and presentable manner and must comply with the rest of section 8.3 (Prohibited Signs).

- O. Garage sale signs not exceeding four (4) square feet in sign area which shall only be placed on the site of such sale.
- P. Flags of non-commercial and non-advertising display to include but not be limited to flags of national, state, religious, fraternal, or similar display. One corporate flag is permitted as exempt.
- Q. A-frame signs not to exceed six (6) square feet per face and only exhibited during business hours and limited to one sign per tenant.

### **8.3 PROHIBITED SIGNS**

The following signs are prohibited within the city:

- A. Any sign, other than one which is nonconforming within the terms of this ordinance, which fails to meet the requirements of this ordinance.
- B. Any sign which is tacked, tied, or posted to any hydrant, protected tree, lamppost, utility pole, fence, post, rock, or building unless otherwise authorized herein.
- C. Any sign not complying with the requirements of the standard building code in effect at time of its erection.
- D. Any sign that is hung or supported from another sign and which is not built as an integral part thereof.
- E. Temporary signs except such as are exempt from permitting requirements.
- F. Any sign, which is animated by means of beaming, flashing, scintillating, blinking or traveling lights. Public service information signs are not subject to this prohibition.
- G. Any sign placed wholly or partially on or encroaching upon the space above a street right-of-way or any other public property unless otherwise authorized herein.
- H. Abandoned signs.
- I. Unsafe signs.
- J. Unlawful signs.
- K. No person shall park any motor vehicle or trailer on a public street or on public property or on private property so as to be visible from a public street, which has attached thereto or located thereon any sign. This is not to be construed to prohibit normal vehicle signs attached to or painted thereon identifying the owner or business or activity such vehicle is used in.
- L. Bench signs on private property.
- M. Signs which purport to be or are an imitation of or resemble an official traffic sign or signal.

- N. Any sign which is attached to or placed against a building in such a manner as to prevent ingress or egress through any door or window, or any sign which obstructs or is attached to a fire escape.
- O. Any portable sign as defined herein to include portable message board signs, unless otherwise authorized.
- P. Any sign on public property, excepting only signs placed upon such property by a governmental entity.
- Q. Any device designed solely to attract attention by projecting light beams.

### **8.3 PERMITS, FEES, INSPECTION, ETC.**

- A. Except as otherwise provided in this ordinance, it shall be unlawful for any person to erect a sign in the city, or cause the same to be done, without first obtaining a sign permit for each such sign from the building official as required in this ordinance. This shall not be construed to require a permit for change of copy on a sign, nor for the repairing, cleaning, and other normal maintenance of a lawful sign or sign structure so long as the sign or sign structure is not modified.
- B. An application for a sign permit shall be filed with the building official on a form provided by him which shall contain the following information along with any other relevant information required by the building official:
  - 1. Name and address of the owner of the sign.
  - 2. Name and address of the owner of the site where the sign is to be located.
  - 3. A sketch showing the position of the sign in relation to other buildings, structures, and signs on the site.
  - 4. If requested by the building official, a drawing of the sign showing dimensions, type of construction, attachment method to the ground or building, and any related information asked for.
  - 5. Name of the person erecting the sign.
  - 6. Such other information as the building official may require to ensure compliance of said sign with this ordinance and any other law of the city.
  - 7. If deemed necessary by the building official, the following signs may require certification by a registered engineer. Such signs so deemed shall be designed, signed and certified by a Mississippi registered engineer experienced in structural engineering, certifying the integrity of the structure and its foundation, and certifying it meets or exceeds all wind loads as set forth by the current building code. Sufficient data shall be submitted to enable the building official to determine whether the sign complies with this Code.
    - i. Signs over twelve (12) feet high, including billboards on-site or off-site.
    - ii. Signs with unusual structural features.

- C. The building official shall issue a permit for the erection of a sign when the application is properly prepared and filed if the applicant for the sign meets the requirements of this ordinance and any other applicable ordinance of the city, and when all required fees have been paid. If the application is for an electrical sign a separate electrical permit shall be required plus the fee therefor.
- D. The work under a sign permit must be begun within three (3) months of its issue date and must be completed no more than six (6) months after the permit issue date, otherwise the permit shall lapse.
- E. The building official may, in writing, revoke a sign permit if it was issued on the basis of a misrepresentation of fact, fraud, or for failure to comply with the terms of the permit, or for a violation of this ordinance. If a sign permit is denied or revoked by the building official, he shall give written notice thereof to the applicant or permittee, together with a brief written statement of the reasons for the denial or revocation. This action shall constitute a decision of the building official, he shall give written notice thereof to the applicant or permittee, together with a brief written statement of the reasons for the denial or revocation. This action shall constitute a decision of the building official which may be appealed as other decisions.
- F. All billboards and freestanding, on-site signs shall be subject to a footing inspection prior to erection of the sign. All signs shall be subject to a final inspection to ensure that they comply with the sign permit and this ordinance. If the building official determines that the sign as erected does not comply with the terms of the permit and this ordinance, he shall direct the permittee to bring it into compliance within a time specified. On a failure to do so the permit shall be revoked and the sign removed.
- ~~G. The fee for a sign permit, in addition to any required electrical permit fee, shall be fifty dollars (\$50.00). The fee calculation on a billboard, a freestanding on site sign, a projecting sign, a roof sign, or any other sign having more than one face shall be based on only one face of the sign, which shall be the largest.~~
- H. G. When a sign is erected before issuance of a permit as required by this ordinance, the fee specified herein shall be multiplied by five (5).

## 8.4 STANDARDS OF SIGN CONSTRUCTION

Any sign constructed under a sign permit issued under this ordinance shall be constructed in accordance with the provisions of the currently adopted building code in effect at the time such sign permit is issued. If there is a conflict between the provisions of this ordinance and said currently adopted building code, the provisions of the more restrictive shall apply.

## 8.5 MAINTENANCE, REPAIR, AND REMOVAL

- A. Every sign, including exempt and nonconforming signs, shall be maintained in a safe, presentable, and good condition at all times, including, if needed, replacement of defective parts, painting, repainting, cleaning, and any other action required for the maintenance of said sign.
- B. The building official shall cause the abatement or removal of unsafe, unlawful, or abandoned signs in accordance with the remedial and enforcement provisions of this ordinance. If the

building official has to remove any sign, the owner thereof shall bear the cost of removal. The cost shall be billed to the owner and upon a failure to pay within a reasonable time suit may be brought to recover the sum due.

## **8.6 SIGNS PERMITTED IN RESIDENTIAL DISTRICTS**

In all residential districts all exempt signs are permitted subject to the conditions of the exemption applicable to residential districts.

## **8.7 SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS**

- A. The following signs are permitted in all commercial and industrial districts, subject to the conditions and limitations herein:
- B. Billboards (freestanding, off-site signs)—Allowed in industrial districts only.
- C. Freestanding, on-site signs.
- D. Wall signs.
- E. Canopy signs.
- F. Under-canopy signs.
- G. Roof signs.
- H. Projecting signs.
- I. Exempt signs.
- J. Special sale promotion signs.
- K. Electronic message centers, with specific requirements outlined below, may be permitted as part of a freestanding or wall sign in commercial and industrial districts for parcels abutting Highway 90, with the exception of historic districts, where they are prohibited.
  - 1. One electronic message center per parcel may be permitted to be incorporated into the body of the allowable freestanding or wall sign.
  - 2. An electronic message center shall not comprise more than twenty (20) per cent of the overall allowable freestanding signage area or fifty (50) per cent of the allowable wall signage area, measured along the perimeter of the electronic message center.
  - 3. If a freestanding or wall sign of maximum allowed size is already present, the electronic message center must replace part of the existing sign. This addition of an electronic message center does not permit an increase in the maximum allowable signage area.
  - 4. The electronic message center shall have auto-dimming capabilities and shall adjust to no more than 0.3 footcandles above ambient light conditions. Additional light intensity requirements may be necessary, based on site-specific sign location and orientation, at the discretion of the building official.



5. Only text is permitted on the electronic message center; no images or animation is permitted. No videos, images, sound, or appearance of movement or animation is permitted, including sequential messaging, scrolling, flashing, fading, expanding/contracting, or scintillating use of lighting. No sign shall imitate traffic safety signs.
  6. Electronic message center signage lighting colors shall be limited to white, gray, black and amber.
  7. Copy shall be static and not change at intervals less than sixty (60) minutes.
  8. If an electronic message center is erected, all A-frame signs on the parcel shall be removed.
  9. Property owners with electronic signage that does not comply with this section in regard to color of text, use of pictures or sound, and movement shall have ninety (90) days to comply with these regulations.
  10. For purposes of prosecution of violations of this section, each day that any violation occurs related to color, use of pictures or sound, or movement is deemed to constitute a separate violation. Those found guilty of such violation shall, upon conviction, be fined for each violation not exceeding two hundred fifty dollars (\$250.00) for the first offense, not exceeding five hundred dollars (\$500.00) for the second offense within a calendar year, and not exceeding more than one thousand dollars (\$1,000.00) for other offenses within a calendar year, plus all court costs.
- L. On parcels having frontage on Highway 90 or Highway 57:
1. Major shopping centers with linear Highway 90 or Highway 57 frontage equal to or greater than five hundred (500) feet:
    - Two (2) freestanding, on-site signs shall be permitted, provided both signs are located on Highway 90 or Highway 57 frontage.
    - Each sign shall not exceed twenty (20) feet in height.
    - Total sign square footage shall not exceed two hundred fifty (250) square feet.
    - The subject signs shall be separated by a minimum of one hundred fifty (150) linear feet.
  2. Each store, office, or other place of business within the major shopping center shall be permitted one under canopy sign and one wall sign or one canopy sign subject to the area limitation of subsections N (1) (3) and (2) (6) below.
  3. Shopping centers with linear Highway 90 or Highway 57 frontage greater than three hundred (300) feet and less than five-hundred (500) feet:
    - One freestanding, on-site sign shall be permitted, provided the sign is located on the Highway 90 or Highway 57 frontage.
    - Sign shall not exceed ten (10) feet in height.
    - Sign square footage shall not exceed two hundred (200) square feet.
    - Each store, office, or other place of business within the shopping center shall be permitted one under canopy sign and one wall sign or one canopy sign subject to the area limitation of subsections N (1) (3) and (2) (6) below.

4. Shopping centers with linear Highway 90 or Highway 57 frontage of three hundred (300) feet or less:
  - One freestanding, on-site sign shall be permitted, provided the sign is located on the Highway 90 or Highway 57 frontage.
  - Sign shall not exceed ten (10) feet in height. ‘
  - Sign square footage shall not exceed one hundred fifty (150) square feet.
  - Each store, office, or other place of business within the shopping center shall be permitted one under canopy sign and one wall sign or one canopy sign subject to the area limitation of subsections **(N) (1) (3)** and **(2) (6)** below.
5. Commercial and industrial parcels with linear Highway 90 or Highway 57 frontage equal to or greater than one hundred fifty (150) feet:
  - One freestanding, on-site sign shall be permitted, provided the sign is located on the Highway 90 or Highway 57 frontage.
  - Sign shall not exceed ten (10) feet in height.
  - Sign square footage shall not exceed sixty (60) square feet.
6. Commercial and industrial parcels with linear Highway 90 or Highway 57 frontage less than one hundred fifty (150) feet:
  - One freestanding, on-site sign shall be permitted, provided the sign is located on the Highway 90 or Highway 57 frontage.
  - Sign shall not exceed ten (10) feet in height.
  - Sign square footage shall not exceed fifty (50) square feet.
7. Big box retailer (no minimum linear Highway 90 or Highway 57 frontage requirement provided the big box retailer is addressed on of Highway 90 or Highway 57):
  - One freestanding, on-site sign shall be permitted, provided the sign is located on the Highway 90 or Highway 57 frontage.
  - Freestanding signage shall not exceed twenty (20) feet in height.
  - Freestanding signage area shall not exceed one hundred twenty-five (125) square feet.
  - One main wall sign shall be permitted for an area not to exceed two hundred (200) square feet.
  - Secondary/directional wall signage shall be permitted for an area not to exceed fifty (50) square feet per piece, not to exceed ten (10) individual pieces.
  - Total big box retailer wall signage, including main signage and secondary/directional wall signage shall be permitted for an area not to exceed three hundred (300) square feet.
8. A hospital campus or multiple parcels consisting of a hospital and associated medical buildings, or multiple buildings containing medical-related establishments such as clinics, pharmacy, diagnostic center, or surgical center, with shared parking and common vehicular access, and having a minimum of three (3) acres of contiguous property:
  - One freestanding, on-site sign shall be permitted, provided the sign is located on the Bienville Blvd. (Highway 90) or Highway 57 frontage.

- Freestanding signage shall not exceed twenty (20) feet in height.
- Freestanding signage area shall not exceed one hundred twenty-five (125) square feet.
- Freestanding wayfinding/directional/building identification signs with a maximum height of six feet and a maximum sign area of 20 square feet each are permitted as necessary.
- One main wall sign is permitted for a maximum sign area of two hundred (200) square feet.
- Secondary/directional wall signs identifying specific building functions are permitted with a sign area not to exceed fifty (50) square feet per sign.
- Total wall signage, including main signage and secondary/directional wall signage shall be permitted for an area not to exceed three hundred (300) square feet.

M. Parcels that do not abut Highway 90 or Highway 57:

1. Major, minor, and shopping centers:

- One freestanding, on-site sign shall be permitted.
- Sign shall not exceed eight (8) feet in height.
- Sign square footage shall not exceed one hundred (100) square feet. Each store, office, or other place of business within the major, minor, shopping center shall be permitted one under canopy sign and one wall sign or one canopy sign subject to the area limitation of subsections **(N) (1) (3)** and **(2) (6)** below.

2. Commercial and industrial parcels:

- i. One freestanding, on-site sign shall be permitted.
- ii. Sign shall not exceed eight (8) feet in height.
- iii. Sign square footage shall not exceed twenty (20) square feet.

N. Wall Signs: One wall sign shall be permitted for each occupancy within a developed site. If such occupancy is on a street corner, one wall sign is permitted for each frontage.

1. Wall signs are permitted for a total area not exceeding the maximum area allowed for a freestanding sign for the lot as specified above. In developed sites with multiple occupancies, the permitted area for a wall sign shall not exceed sixty (60) square feet for developments having frontage on Highway 57 or Highway 90, and shall not exceed forty (40) square feet for lots that do not abut Highway 57 or Highway 90.
2. Occupancies located within a shopping center shall be allowed a wall sign with a maximum area that does not exceed sixty (60) square feet. Major anchor tenants are permitted one wall sign with a maximum area not exceeding one hundred twenty (120) square feet. Minor anchor tenants are allowed one wall sign with a maximum area not exceeding seventy-five (75) square feet.

O. Roof Signs: One roof sign is permitted per building, except in shopping centers. A roof sign shall not exceed the area limitations described above for freestanding signs. A roof sign may exist instead of, but not in addition to, a freestanding, on-site sign or a permitted projection sign. The maximum overall height above said roof shall not exceed five (5) feet.

- P. Projecting Signs: An occupant with building frontage on a public street is permitted to have one projecting sign along that street. The projecting sign may exist instead of, but not in addition to, a permitted freestanding, on-site sign or a permitted roof sign. A projecting sign shall not exceed the area limitation described above for freestanding signs.
1. Projecting signs may extend over public property only in the CMX-2 Community Commercial District (central business district). No projecting sign shall extend over public property more than ten (10) feet, or beyond a vertical plane two (2) feet inside the curb or roadway edge line or have a vertical clearance of less than nine (9) feet above grade. Projecting signs that extend over public property shall have an area that does not exceed eight (8) square feet.
- Q. Canopy signs and under-canopy signs shall be subject to the following:
1. The copy area of a canopy sign may be forty-eight (48) square feet. Subject to a minimum height limit of nine (9) feet from the sidewalk, copy may be installed above or on the face of the canopy proper, provided that when such sign is installed above or on the canopy proper, copy area will be computed on the total of the sign face and the canopy apron proper.
  2. Under-canopy signs shall have a sign area no greater than six (6) square feet, have a minimum clearance of eight (8) feet above the sidewalk and are limited to one per site.
  3. No portion of a canopy sign shall be closer than four (4) feet to a vertical line from the adjacent curb face or roadway edge in the absence of a curb.
- R. On places of public entertainment, such as theaters, arenas, coliseums, and meeting halls, the copy area allowance is six (6) square feet per linear foot of canopy as measured along the margin of the canopy.
- S. Billboards: Billboards shall be permitted in accordance with the following conditions and limitations:
1. Billboards are permitted only within industrial zoning districts:
  2. Are permitted only on undeveloped lots or parcels with an area of no less than one-half acre (twenty-one thousand seven hundred eighty (21,780) square feet) that abut Highway 90.
  3. They shall be spaced five thousand two hundred eighty (5,280) feet away from any other billboard (conforming or nonconforming). This distance shall be measured along a straight line between the two (2) closest points of the subject signs. Back-to-back or V-type signs shall be considered one sign, but signs shall not be erected in a manner so that multiple signs face the same direction.
  4. Billboard shall have a maximum height of thirty (30) feet, and the copy area shall have a minimum clearance of fifteen (15) feet measured vertically from the adjacent roadway, or if there is no roadway, from adjacent ground.
  5. Billboards shall not exceed three hundred (300) square feet of sign.
  6. Billboards are not allowed as an accessory to the primary use or structure on the lot.
- T. The following signs per site are authorized in addition to those allowed above:

1. Up to two (2) incidental signs may be attached to a freestanding, on-site sign or to a building wall. If attached to a wall such signs may not be mounted perpendicular thereto. These incidental signs are restricted to messages concerning credit cards which are accepted, official notices required by law, and trade affiliations. The area of each sign may not exceed four (4) square feet, and the total area of all signs on site shall not exceed eight (8) square feet.
  2. Two (2) directional signs are permitted for each driveway onto a public street. The area of each such sign shall not exceed six (6) square feet. The maximum height for such signs shall be four (4) feet above grade.
  3. The square footage of these incidental signs shall not be charged against the total allowable sign area otherwise permitted under this ordinance.
- U. Flag signs are permitted in commercial and industrial zoning districts subject to the following:
1. On all parcels abutting Highway 90 or Highway 57, each parcel shall be permitted two (2) non-exempt flag signs. Each sign shall be limited to twelve (12) feet in height and thirty (30) square feet in area.
  2. On all parcels not abutting Highway 90 or Highway 57, each parcel shall be limited to one (1) non-exempt flag sign. Each sign shall be limited to eight (8) feet in height and twenty (20) square feet in area.
  3. All such flag and/or feather signs shall remain in good repair or be subject to removal.
  4. No such flag and/or feather sign shall be placed in a public right-of-way.

(Ord. No. 2019-14, § I, 7-02-19) (Ord. No. 2019-16, § II, 9-03-19)

## **8.8 HISTORIC DISTRICTS, SITES OR LANDMARK PROTECTION AREAS**

- A. In addition to other requirements set forth herein, any sign located within an historic district, individual sites or landmark protection areas in the City of Ocean Springs shall comply with the following regulations:
- B. The appearance, color, size, position, method of attachment, texture of materials and design of such signs shall be in keeping with the collective characteristics of the structures located within the appropriate development zone. The signs allowed in the underlying zones shall further be limited as follows:
  1. Off-site signs shall not be permitted.
  2. Freestanding signs shall be limited to one sign per premises.
  3. Maximum area of any signs shall be as follows:
    - i. Schools with at least twenty-five (25) students from and including prekindergarten through high school or any grades thereof, or churches:
      - One name sign, maximum of twelve (12) square feet.
      - One information sign (bulletin board), maximum of eighteen (18) square feet.

- No sign permitted wider than six (6) feet.
  - One additional bulletin board not visible from the street, maximum of thirty-two (32) square feet.
  - Traffic flow directional signs, maximum one square foot.
- ii. Museums, community centers, civic (nonprofit) organizations, or historic sites:
- One sign, maximum of eighteen (18) square feet.
  - No sign permitted wider than six (6) feet.
4. Commercially zoned property:
- i. Businesses with less than 100-foot street frontage:
- One sign, maximum of twelve (12) square feet.
  - No sign wider than six (6) feet.
- ii. Businesses with one hundred (100) feet or more street frontage:
- Maximum area computed at twelve (12) square feet per one hundred (100) feet of street frontage.
  - No sign wider than twelve (12) feet.
5. Maximum total square feet of freestanding signs on single premises with multiple businesses:
- i. Premises with total street frontage of less than one hundred (100) feet, maximum area of twenty-four (24) square feet.
- ii. Premises with total street frontage of one hundred (100) feet or more, maximum area of forty-eight (48) square feet.
- iii. Signs on all other properties may not exceed four (4) square feet.
6. No sign may extend above the top of the nearest facade, eaves, or firewall of a building or structure.
7. Design and materials of signs. Visible bulbs, not exceeding ten (10) watts per bulb, are allowed. Neon tubing is not allowed. Clear plexiglas and acrylic, when used as a substitute for glass, are allowed; otherwise plastics are not allowed. Luminous paints are not allowed.
8. Buildings and signs within the historic district may be illuminated by remote light sources, provided that these light sources are shielded to protect adjacent properties.
9. Any nonconforming signs that are replaced or undergo repairs exceeding fifty (50) per cent of their value must conform to these regulations.
10. The Historic Preservation Commission may recommend to the zoning and adjustment board exceptions to these requirements where it can be shown that the proposed sign is consistent with the purpose and intent of the historic district and is historically authentic.

11. The Historic Preservation Commission shall appoint a sign committee which shall consist of the chairperson and two (2) other members. This committee shall have full authority, upon a majority vote, to approve all signs, which otherwise comply with all requirements, without necessity of a certificate of appropriateness. Failure of such committee to approve such sign shall result in the sign application being referred to the full Historic Preservation Commission for a certificate of appropriateness. A certificate of appropriateness must be obtained prior to a building permit being applied for or issued to build or modify any sign which does not meet the approval of the sign committee. The design, content and construction materials of the sign must be appropriate and consistent with the related structure and district. Provided, however, anything to the contrary herein notwithstanding an appeal from a decision of the Ocean Springs Historic Preservation Commission shall be governed and controlled in the same manner as other decisions of said commission, irrespective of the procedure process set forth in this Zoning Ordinance."

## **8.9 SIGNS IN SPECIAL USE DISTRICTS**

The following rules shall apply to signs in special use districts:

- A. On privately owned land the regulations that apply in commercial and industrial districts shall be followed.
- B. On trust lands of the State of Mississippi that are not leased to anyone there shall be no signs except those erected by or on the authority of the State of Mississippi or a political subdivision thereof.
- C. Signs shall be erected on trust lands of the State of Mississippi that are leased to private persons if and as authorized in any such lease.
- D. Unless the government lessor rules to the contrary, signs on trust lands of the State of Mississippi that are under lease to a private person on the effective date of (3) above shall be erected in accordance with the regulations that apply in commercial and industrial districts.

## **8.10 NONCONFORMING SIGNS**

- A. A nonconforming sign may remain until it loses its nonconforming status in any of the following ways:
  1. It is altered in any way in structure or copy (except for changeable copy signs and normal maintenance) that makes the sign less in compliance with this ordinance than it was before the alteration.
  2. It is relocated in such a way as to make it less in compliance with the requirements of this ordinance.
  3. It is changed to another nonconforming sign.
  4. It is enlarged.
  5. It is damaged in an amount greater than fifty (50) per cent of its value at the time the damage occurs.

- 6. It is abandoned.
- B. On the happening of any of the events in (a), (b), (c), (d), (e) or (f), the sign shall be immediately brought into compliance with this ordinance, or it shall be removed.

#### **8.11 MISCELLANEOUS RULES**

- A. No part of a sign shall be closer than ten (10) feet to a utility pole or an electric power line, except signs exempt from permitting requirements may be placed closer than ten (10) feet to a utility pole.
- B. Billboards and freestanding, on-site signs shall be securely anchored in concrete foundations.
- C. No signs shall be suspended by rope, wire, string, or the like.