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## **CHAPTER 1: PURPOSE AND APPLICABILITY**

### **1.1 Effective Date**

This Code shall be known as the Development Code of the City of Tupelo, Mississippi. This Code shall become effective on November 1, 2013.

### **1.2 General Purposes and Authority**

This Code is adopted pursuant to authority granted to the City of Tupelo by Title 17, Chapter 1 of the Mississippi Code, 1972 Annotated. This Code, which has been formulated following a comprehensive plan for the future of the community, is adopted for the following purposes:

- (1) To promote the public health and general welfare;
- (2) To lessen congestion in the streets;
- (3) To secure safety from fire, panic, and other dangers;
- (4) To provide adequate light and air;
- (5) To prevent the overcrowding of land and avoid undue concentrations of population;
- (6) To facilitate the adequate and safe provision of transportation, water, wastewater
- (7) treatment, schools, parks, and other public facilities and requirements;
- (8) To maintain and enhance the character of various districts within the City, considering their peculiar suitability for particular uses;
- (9) To conserve the value of buildings and land;
- (10) To encourage the most appropriate use of land throughout the community;
- (11) To conserve the natural resources and environmental quality of the City; and,
- (12) To protect development and residents of the community from flooding and other hazards.

### **1.3 Official Map of Zoning Districts**

The Official Map of Zoning Districts, along with all notations, references, and other information shown, is now incorporated into and made part of this Code. As part of this Code, the Official Map of Zoning Districts shall be amended only by the procedures set forth in this Code.

### **1.4 Jurisdiction and Applicability**

- (1) The provisions of this Code shall apply to all land, buildings, structures, and uses located within the corporate limits of the City of Tupelo, as identified on the Official Map of Zoning Districts.

- (2) Except as otherwise provided by this Code, all development that occurs within the City shall comply with the applicable terms and requirements of this Code.
- (3) No lot of record which did not exist on the effective date of this Code shall be created, by subdivision or otherwise, which does not conform to the applicable requirements of this Code.

## **1.5 Transitional Rule**

### **(1) Existing Unlawful Uses and Structures**

A structure or use not lawfully existing at the time of the adoption of this Code is deemed lawful as of the effective date of this Code, if it conforms to all of the requirements of this Code. However, if such structure or use does not conform to all of the requirements of this Code, then such structure or use remains unlawful hereunder.

### **(2) Uses Rendered Nonconforming**

When a lot is used for a purpose that was a lawful use before the effective date of this Code, and this Code or any amendment no longer classifies such use as either a permitted use or conditional use in the zoning district in which it is located, such use is deemed a nonconforming use and shall be controlled by the provisions of this Code.

### **(3) Buildings, Structures, and Lots Rendered Nonconforming**

Where any building, structure, or lot which existed on the effective date of this Code does not meet all standards in this Code or any amendment, such building, structure, or lot is deemed nonconforming and shall be controlled by the provisions of this Code.

## **1.6 Previously Granted Variances and Conditional Uses**

Any development for which a variance or conditional use has been granted before the effective date of this Code, or before the effective date of any amendment that renders the development nonconforming, may be carried out according to the granted variance or conditional use. It shall be deemed lawfully existing under the terms of this Code, if:

- (1) The activity for which the variance or conditional use was granted is commenced within 1 year from the date of adoption of this Code; and,
- (2) All features of the development which are not the specific subject of the variance or conditional use conform to all applicable requirements of this Code.
- (3) If the requirements of above have not been met, then the previously granted variance or conditional use shall become invalid. Development of the property must meet all applicable requirements of this Code, except where the person has applied for and received a new variance or conditional use, if allowed under the procedures of this Code.

## **1.7 Previously Approved Subdivision**

- (1) All subdivisions that have received preliminary subdivision plat approval since January 1990, by the City Governing Authority by the terms of the previous Subdivision Regulations shall be allowed to be developed as designed. Any such development must be completed according to the terms of construction specified by this Code.
- (2) The front and rear yard requirements of the Development Code in effect before the adoption of this Code shall apply to all subdivisions described in (1) above rather than the yard requirements contained in this Code. Yard variances granted for said subdivisions shall be allowed and the 1-year time limit specified above shall not apply. However, any restrictive covenants applicable to said subdivisions that require a greater yard than required by this subsection shall take precedence.
- (3) No Subdivision whose approval is more than five (5) years old prior to the submittal of Construction Plans will be allowed to develop. Preliminary plat approval shall be obtained through the requirements contained in this Code.

## **1.8 Previously Issued Building Permit**

Any development for which a building permit has been issued before the effective date of this Code, or before the effective date of any amendment that renders the development nonconforming, may be carried out according to that building permit and shall be deemed lawfully existing under the terms of this Code, if:

- (1) The permit was validly issued; and,
- (2) The permit has not expired.
- (3) This Section shall not apply where the property owner consents to making the development conform to the requirements of this Code, or any amendment thereto, which would make the development nonconforming.

## **1.9 Severability**

- (1) If any court of competent jurisdiction invalidates any provision of this Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Code. If any court of competent jurisdiction invalidates the application of any provision of this Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment. If any court of competent jurisdiction judges invalid any condition attached to the approval of an application for development approval or the approval of a conditional use, then such judgment shall not affect any other conditions or requirements attached to the same approval which are not specifically included in that judgment.

## **CHAPTER 2. DEFINITIONS AND RULES OF CONSTRUCTION**

### **2.1 General Rules of Construction**

The following rules shall apply for construing or interpreting the terms and provisions of this Code.

In their application, the provisions of this Code shall be held to be the minimum requirements for the promotion and protection of the public health, safety and general welfare, and shall be construed to achieve the purposes for which this Code is adopted.

In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Code and applying to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts which are set forth in Chapter 5 shall control in the event of any conflict between those regulations and the regulations which are set forth in Chapter 4 for the underlying zoning district, regardless of whether they are more strict or less strict than the regulations for the underlying district.

In the event of a conflict or inconsistency between the text of this Code and any caption, figure, illustration, table, or map contained herein, the text shall control.

The words "shall", "must", and "will", are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive in nature. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

Any act authorized by this Code to be carried out by a specific official of the City is implicitly authorized to be carried out by a designee of such official.

### **2.2 Interpretation of District Boundaries**

Where uncertainty exists with respect to the boundaries of the zoning districts shown on the Official Map of Zoning Districts, the following rules shall be used to interpret the Official Map:

- (1) Where the Official Map shows a zoning district boundary line located within or following a street or alley right-of-way, railroad or utility line right-of-way, easement, or waterway, the district boundary shall be considered to be in the center of the right-of-way, easement, or waterway. If the actual location of such right-of-way, easement, or waterway, as indicated in a recorded legal description of such, varies slightly from the location shown on the Official Map, then the actual location shall control.
- (2) Where the Official Map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall control.

Where the Official Map shows a district boundary to approximately coincide with a property line or municipal border, the property line or municipal border shall be considered the district boundary, unless otherwise indicated on the map.

(3) Where the Official Map shows a district boundary to not coincide or approximately coincide with any street, alley, railroad, waterway, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the Official Map.

(4) Where the Official Map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this Code for the zoning district in which that part is located.

### **2.3 Conflict or Inconsistency with Other Laws, Covenants, or Deed Restrictions**

This Code is not intended to abrogate any other law, code, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this Code are either more restrictive or less restrictive than comparable standards imposed by any other law, Code or regulation, the provisions which are more restrictive or which impose higher standards or requirements shall govern. Wherever the provisions of this Code require a greater width or size of yards or courts, a lower height of building, a lesser number of stories, a greater percentage of lot to be left unoccupied, or shall impose other standards which are higher than those set forth in another statute, Code, or regulation, then the provisions of this Code shall govern. Wherever the provisions of any other statute, Code, or regulation require a greater width or size of yard or courts, a lower height of building, a lesser number of stories, or a greater percentage of lot to be left unoccupied, or impose other standards which are higher than those set forth in this Code, then the provisions of such statute, Code, or regulation shall govern.

This Code is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this Code are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement then the requirements of this Code shall govern. Nothing in this Code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this Code.

### **2.4 Definitions**

When used in this Code, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Code specifically indicate otherwise.

**ACCELERATED EROSION:** Any increase over the rate of natural erosion as a result of land disturbing activities.

**ACCESSORY BUILDING OR STRUCTURE:** A building or structure which is on the same lot as, and of a nature customarily incidental and subordinate to, another building or structure, and the use of which is clearly incidental and subordinate to that of the other building or structure.

**ACCESSORY DWELLING UNIT (ADU):** A residential unit, also known as a granny flat, guest house, or mother-in-law apartment, that is a second dwelling unit located on a lot with one (1) single-family house and which is no more than thirty-five percent (35%) of the size of the principal unit. An ADU is a complete living unit with kitchen, bathroom, and sleeping facilities; has a separate entrance from the primary dwelling unit; and provides off-street parking.

**ACCESSORY USE:** A use which is on the same lot as, and of a nature customarily incidental and subordinate to the principal use, structure, or building on the property.

**ACTIVE CONSTRUCTION:** Activities that contribute directly to the completion of facilities contemplated or shown on the construction plans.

**ADDITION (TO AN EXISTING BUILDING):** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall.

**ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE:** A measure, structure, or device that controls the soil material within the land area under responsible control of the person conducting the land disturbing activity.

**ADULT ARCADE:** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.

**ADULT BOOKSTORE:** A commercial establishment that, as one of its principal business purposes, offers for sale or lease for any form of consideration, any one (1) or more of the following:

- (1) books, magazines, periodicals, or other printed matter, or photographs, films, motions pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”; or,
- (2) instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities”.

**ADULT CABARET:** An establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.

**ADULT ENTERTAINMENT ESTABLISHMENTS:** Any adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult video store, or similar establishment which regularly features or depicts behavior which is characterized by the exposure of “specified anatomical areas”, or where any employee, operator or owner exposes his/her “specified anatomical areas” for viewing by patrons.

**ADULT MOTEL:** An establishment which includes the word “adult” in any name it uses or otherwise advertises the presentation of adult material offering public accommodation for any form of consideration, which provides patrons with closed-circuit televised transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**ADULT MOTION PICTURE THEATER:** An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas”.

**ADULT VIDEO STORE:** A commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental any form of consideration of any one (1) or more of the following: photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe “specific sexual activities” or “specified anatomical areas”; and, instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities”.

**AGRICULTURAL USES:** Land used as pasture or in the commercial production of crops, horticultural products, fish hatcheries or aquaculture. Also for the purposes of this Code, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hooved animals such as cattle, horses, goats, sheep and swine; however, residential uses are permitted up to ten (10) hens for personal use. Also included in this definition of agricultural uses are agricultural accessory buildings and sales of agricultural products grown or raised on the premises. The commercial slaughtering of animals is not included as an agricultural use.

**AIRCRAFT SALES AND SERVICE:** The sale, rental, or repair of aircraft. This use shall not include salvage or scrap operations.

**AIRPORT:** An area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

**ALLEY:** A small, low volume street, either publicly or privately owned, which typically serves as secondary access to the rear or side of properties whose principal frontage is on another street.

**ALTERNATIVE TOWER STRUCTURES:** This shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANIMAL SHELTER:** A non-profit or government-owned agency run for the purpose of impounding and caring for lost and abandoned small animals such as dogs and cats. Due to the potential for noise or other adverse effects associated with this use, care shall be taken during site planning to mitigate any effects on surrounding property owners.

**ANTENNA:** Any structure or device used for the purpose of collecting, emitting, or radiating electromagnetic waves, microwaves, AM/FM radio waves, digital, cellular, and television broadcasts, including, but not limited to, directional antennas, such as panels, microwave dishes, and omni-directional antennas.

**APARTMENT:** Dwelling unit in a multi-family development.

**APPEAL:** A request for a review of the City's interpretation of any provision of this Code.

**ARCADE:** A walkway or passageway adjacent to a building covered by a roof but open to the outside air.

**AREA OF SHALLOW FLOODING:** An "AO" zone designated on the Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year.

**ARTERIAL STREET:** See **STREET, ARTERIAL:**

**AS-BUILT PLAN:** A reproducible Mylar plan showing the true and actual location and nature of buildings, structures, plant materials, underground utility lines, and other features or improvements which have been installed on or off the property pursuant to a development plan approved under this Code, to be used to determine compliance with the requirements of this Code.

**ASPHALT AND/OR CONCRETE PLANT:** A manufacturing plant where concrete, asphalt, macadam, or another form of coated roadstone is mixed before being transported to a construction site.

**ASSISTED LIVING FACILITY:** A building, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, health care assistance, and one or more personal services for a period exceeding twenty-four (24) hours to one (1) or more adults who are not relatives of the owner or proprietor. Accessory uses may

include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility.

**AVERAGE PER CENT SLOPE:** For the purpose of determining required buffers along watercourses, the sum of the slopes adjacent to a watercourse divided by the number of locations at which the slope was calculated. The determination of the average percent slope shall consist of not less than three (3) locations along the watercourse, with a distance of no greater than five hundred (500) feet between locations. All calculations of the average percent slope shall include the location along the watercourse with the steepest slope. For the purpose of measuring the slope of other land areas, the sum of the slopes of the land area shall be divided by the number of locations at which the slope was calculated. The determination of the average percent slope shall be made at intervals not less than five hundred (500) feet apart, and shall be measured from the top of the slope or the upper boundary of the land area being measured, whichever is lower, to the bottom of the slope or the lower boundary of the land area being measured, whichever is higher.

**AWNING:** Any non-rigid material such as fabric or flexible plastic supported or attached to a frame and that extends from the exterior wall of a building.

**BASE FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**BASEMENT:** A story wholly or partially underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half ( $\frac{1}{2}$ ) of its height is above the average grade level.

**BED AND BREAKFAST:** An operator-occupied residence where eight (8) or fewer rooms are rented on an overnight basis, guests are served no more than one (1) meal per day, no cooking facilities are provided in the rooms, and the length of stay does not exceed fourteen (14) consecutive days.

**BERM:** An earthen structure that has been contoured so as to form a mound above the general elevation of the adjacent ground or surface.

**BLOCK:** a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

**BORROW MATERIAL:** Fill material that is required for on-site construction and obtained from other locations.

**BREAKAWAYWALL:** Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which is not part of the structural support of the building and which is designed to break away during floods without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

**BROADCASTING FACILITY, RADIO AND/OR TELEVISION:** A programming origination studio of a television station, radio station, or cable television provider. Such facility shall not include telecommunications facilities or towers. These shall be permitted as separate uses.

**BROWN BAG ESTABLISHMENT:** An unlicensed establishment that allows consumption of alcoholic beverages and/or beer on the premises and where dancing and entertainment may or may not be provided.

**BUFFER:** A portion of property designated to mitigate impacts between land uses or transportation routes, or to protect water features from pollutants. It may contain any combination of vegetative materials, berms, fences, and walls, and provide separation and screening to minimize potential adverse impacts.

**BUILDABLE AREA:** That portion of a lot remaining after required yards have been provided.

**BUILDING:** Any structure which is enclosed and isolated by exterior walls and constructed or used for residence, business, industry, or other public or private purpose, or accessory thereto, the construction of which requires or would require a building permit under the building code.

**BUILDING, ACCESSORY:** See **ACCESSORY BUILDING OR STRUCTURE**

**BUILDING CODE (S):** The International Building Code, International Residential Code, International Existing Building Code, International Gas Code, International Plumbing Code, International Mechanical Code, International Property Maintenance Code, National Fire Prevention Association Code, used singularly or any combination thereof, as currently adopted by the City of Tupelo.

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.

**BUILDING PERMIT:** A permit issued by the Building Department pursuant to the currently adopted Building Codes of the City of Tupelo.

**BUILDING, PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING SETBACK LINE:** A line establishing the minimum allowable distance between the nearest portion of any building and a property line when measured perpendicularly thereto.

**BUILDING WALL:** An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and the eaves of the building, used to enclose the space within the building. A porch, balcony, or stoop is part of the building structure and may be considered as a building wall.

**BUILD-TO LINE:** A line establishing the maximum allowable distance between the principal front elevation of a building and the property line when measured perpendicularly thereto. In the Fairpark sub-district, the build-to line replaces the front setback line. The principal front elevation must be built to the build-to line.

**CALIPER:** A horticultural method of measuring the diameter of a tree trunk for the purposes of determining the tree's size. The caliper of the trunk is measured six (6) inches above the ground for trees with a diameter of four (4) inches or less, twelve (12) inches above the ground for trees with a diameter more than four (4) and less than ten (10) inches, and at breast height of four and one-half (4½) feet for trees with a diameter of ten (10) inches or greater. Caliper measurement may be taken with a "slot" or "pincer" type caliper instrument or diameter tape.

**CAMPGROUND/RV PARK:** Land used or intended to be used, let, or rented for occupancy by vacationing transient campers traveling by automobile or otherwise, or for occupancy by tents, or other movable or temporary sleeping quarters of any kind, together with automobile parking spaces and incidental utility structures and facilities required and provided in connection with the use. This use shall not include manufactured or mobile home sales, repair, or storage.

**CANOPY:** A structure constructed of rigid materials, including but not limited to, metal, wood concrete, plastic, canvas or glass, which is attached to and supported by a building, or which is free-standing and supported by columns, poles, or braces extended to the ground.

**CANOPY TREE:** See **TREE, CANOPY**

**CARWASH FACILITY:** An establishment providing the exterior washing of vehicles, either full-serve or self-serve. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants.

**CEMETERY:** A place used or to be used and dedicated or designated for interment of human remains or pet animal remains.

**CERTIFICATE OF OCCUPANCY:** A certificate by the Chief Building Inspector that a building, structure or use conforms to the building permit, all applicable city ordinances and requirements and may be used or occupied as proposed and approved.

**CHANGE OF USE:** A change of use of a building, structure or property to another use as permitted in the subject property's zoning district.

**CITY COUNCIL:** The City Council of the City of Tupelo, Mississippi.

**CLUBS AND LODGES, CIVIC OR FRATERNAL:** Private not-for-profit associations, corporations, or other entity consisting of persons who are bona fide paying members and which own, lease, or use a building, a parcel of land, or a portion thereof, the use of such premises being restricted primarily to members and their guests, including offices for local, state and regional officials of that organization.

**CODES DIVISION:** The City of Tupelo Codes Enforcement Division of the Development Services Department.

**COLUMBARIUM:** A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person. Such use is permitted by right as an accessory use to a permitted cemetery, funeral home, crematory, or place of assembly and/or worship.

**COMMERCIAL:** Any nonresidential use of land involving commerce or commercial activity such as wholesale or retail trade, or the provision of services.

**CONFERENCE CENTER:** A facility 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.

**COLLECTOR STREET:** See **STREET, COLLECTOR**

**COMMERCIAL VEHICLE:** A motor vehicle or trailer designed for a commercial or industrial function or marked with commercial advertising. Such vehicle may display letters, numbers, logos, and/or symbols identifying a trade or business or advertising a business product or service (excluding bumper stickers and registration/license numbers or other such information required to be posted by law), have permanently mounted outside brackets or holders for ladders, tools, pipes, or similar equipment, or be licensed as a “for-hire” vehicle (e.g., a taxicab or limousine).

**COMMUNITY FLOOD HAZARD AREA (CFHA):** An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. This includes areas downstream from dams.

**COMPATIBLE USE:** A land use listed in Chapter 4 or 5 of this Code as a “compatible use” in the zoning district in which it is located, and which is subject to the approval procedures set forth in Section 12.12 of this Code.

**COMPREHENSIVE PLAN:** The documents entitled “Comprehensive Plan” and “Future Land Use Map” and such other policies and documents as may be adopted from time to time to guide future development.

**CONDITIONAL USE:** A land use listed in Chapter 4 or 5 of this Code as a “compatible use” or “flexible use” in the zoning district in which it is located, and which is subject to the approval procedures set forth in Chapter 12.12 of this Code.

**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 thirty (30) days or more.

**CONTRACTOR SHOP:** A business for a contractor, plumber, electrician, or similar trade which includes office space as well as indoor or outdoor storage of materials or vehicles and which may include retail sales to other businesses or the public.

**CONSTRUCTION:** Any new construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or any part thereof, which provides, adds to, repairs, or increases the floor area of a residential or non-residential use.

**CONTIGUOUS:** Abutting directly on the boundary of, separated by a street other than a controlled access highway from, or separated by a street; railroad, or public utility right-of-way.

**CONTROLLED-ACCESS HIGHWAY:** A roadway which, in accordance with State and Federal guidelines, is designed to give preference to through traffic by providing access connections at interchanges or selected public roads only, with no direct access from private roads or driveways and with no crossings at grade.

**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, light wine, candy, papers and magazines, and general hardware articles. Fast food may be offered but only as a secondary activity. Gasoline is not offered for sale. Vehicular maintenance and service are not provided. This use is regulated under the retail sales and/or service use.

**CONVENIENCE STORE WITH FUEL SALES:** A retail establishment which offers for sale gasoline dispensed by the customer. Such store may also have a car wash and sell groceries, tobacco and beer and light wine. Vehicular maintenance and service are not provided.

**COPING:** The finished edge of a roof.

**CORNER LOT:** A lot abutting upon two (2) or more streets at their intersection.

**CRITICAL FACILITY:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use, and store hazardous materials or hazardous waste.

**CRITICAL WATER QUALITY AREA:** Those lands which lie adjacent to a water supply reservoir and extend to a point beyond either the ridge line of the reservoir watershed or one mile from the shoreline of the reservoir at normal pool level, whichever is the shorter distance.

**CUL-DE-SAC:** A street designed to have one (1) end permanently closed, with the closed end terminated by a vehicular turnaround, and which does not intersect with another street.

**DAY CARE CENTER:** A day care facility for the care and keeping of more than fifteen (15) unrelated persons.

**DAY CARE HOME, LARGE:** A day care facility established in a residential dwelling for the care and keeping of more than five (5) but fewer than sixteen (16) unrelated persons.

**DAY CARE HOME, SMALL:** A day care facility established in a residential dwelling for the care and keeping of less than six (6) unrelated persons.

**DEMOLITION:** The intentional removal of fifty (50) percent or more of a structure's external walls.

**DEMOLITION BY NEGLECT:** Conditions of neglect in the maintenance of a building that constitutes or substantially contributes to deterioration threatening the structural integrity of the structure.

**DENSITY, GROSS:** The number of dwelling units on a particular tract or parcel of land, taking into account the entire area of that tract or parcel.

**DENSITY, NET:** The number of dwelling units on a particular tract or parcel of land, not taking into account portions of the tract or parcel which contain rights-of-way for collector or larger streets, slopes greater than twenty percent (20%), areas of special flood hazard, lakes or other water bodies, or wetlands falling under the regulatory jurisdiction of the U.S. Army Corps of Engineers but taking into account all other areas of that tract or parcel.

**DEPENDENT LIVING UNIT:** A dwelling unit that is part of a life care community that does not include complete facilities for independent living. A dependent living unit is typically associated with such ancillary services including but not limited to: central dining, nursing care, more than occasional medical care and physical therapy.

**DESIGN COMPATIBILITY:** A condition occurring between two (2) of the same or two (2) different use types where the buildings harmonize together through the use of common scale, setbacks, heights, materials, design treatments, roof forms, orientation, or other features.

**DETACHED:** Not physically connected to another building or structure.

**DETACHED DWELLING:** A residential unit such as a single-family home that is the primary structure on a lot and is not physically connected to another building or structure.

**DETENTION FACILITY:** A natural or artificial facility that provides temporary storage of excess water runoff for the purpose of attenuating excess runoff and normally drains completely between spaced runoff events.

**DEVELOPABLE ACREAGE:** That portion of a parcel of land which is developable under the provisions of this Code, not including rights-of-way, areas of special flood hazard or areas with slopes of greater than twenty percent (20%).

**DEVELOPER:** Any person engaged in the development or redevelopment of land, buildings or structures, or any person dividing or proposing to divide land so as to constitute a subdivision.

**DEVELOPMENT:** The initiation, construction, change, or enlargement of any use or structure, the disturbance of land through the removal of ground cover, or the division of land into two (2) or more parcels. "Development" shall include, but not be limited to, the following:

- (1) Construction or enlargement of a building or structure;
- (2) Change in the type of use of a building, structure, or land;
- (3) Material increase in the intensity of use of land, such as an increase in the number of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;
- (4) Commencement or expansion of resource extraction, agricultural, horticultural, or forestry activities on a parcel of land;
- (5) Demolition of a structure or the removal of trees from a parcel of land;
- (6) Deposition of refuse, solid or liquid wastes, or fill on a parcel of land;
- (7) Alteration, either physically or chemically, of the shore, bank, or channel of any stream, lake, or other body of water or alteration of any wetland; or,
- (8) Permanent storage of materials or equipment.

**DIAMETER AT BREAST HEIGHT (DBH):** The standard measure of a single (1) stemmed tree at four and one-half (4½) feet above grade. When a tree has grown with cluster stems at breast height, DBH shall be equal to the sum or aggregate of the diameters of the individual stems measured at four and one-half (4½) feet above the grade.

**DIRECTOR OF PARKS AND RECREATION:** The Director of the Parks and Recreation Department, or his or her designee.

**DIRECTOR OF DEVELOPMENT SERVICES:** The Director of the Development Services Department, or his or her designee.

**DISTRICT:** A zoning district established by Chapters 4 or 5 of this Code.

**DRIP LINE:** An imaginary perpendicular line that extends downward from the outermost tips of the tree branches (i.e. crown) to the ground.

**DRIVE-THROUGH SERVICE:** A facility which is accessory to a business or service establishment and is designed or intended to enable a customer, without exiting a motor vehicle parked on or moving through the premises, to transact business with a person outside the motor vehicle.

**DRUG STORE OR PHARMACY WITH DRIVE-THROUGH SERVICE:** A freestanding establishment including one (1) or more drive through lanes for customer service that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

**DRUG STORE OR PHARMACY WITHOUT DRIVE-THROUGH SERVICE:** A freestanding establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies. This use does not include drive through services and shall be permitted under the retail sales and/or service use category.

**DUPLEX:** A residential unit that contains two (2) housing units which share a no-through access common wall in a single structure on a single lot. Individual units may be located on separate floors or side-by-side. A duplex shall have open yards on all sides and not be attached to any other building.

**DWELLING:** One (1) room or rooms connected together and comprising a minimum of three hundred-ninety (390) square feet, constituting a separate, independent housekeeping establishment with independent cooking and sleeping facilities for owner occupancy, or rental or lease on a monthly or longer basis. This term shall not include a motel, hotel, guest house, or other structure designed for transient residence of thirty (30) days or less.

**DWELLING, ATTACHED:** A building which contains two (2) or more dwelling units which share one (1) or more common walls for fifty percent (50%) or more of their width, with each dwelling unit located on a separate lot. This definition may include a townhouse or zero-lot-line house.

**DWELLING, DETACHED:** A residential unit such as a single-family home that is the primary structure on a lot and is not physically connected to another building or structure.

**DWELLING, MULTI-FAMILY:** A structure containing multiple individual dwelling units, with the units often stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors and ceilings. This definition shall include apartment developments and condominiums. It shall not include duplexes, semi-attached houses, townhouses, patio homes, or zero-lot-line houses.

**DWELLING, PATIO HOME:** A single family dwelling on a separate lot with open space setbacks on three (3) sides.

**DWELLING, ZERO LOT LINE:** A single family dwelling on a separate lot with open space setbacks on three (3) sides, which shares a common wall with another dwelling.

**DWELLING UNIT:** A building or portion thereof, which is designed, arranged, or used for living quarters for one (1) family.

**EASEMENT:** A grant by a property owner, to the public, a corporation, or other person or persons, of the right to use or occupy designated land for specified purposes, such as for access,

drainage, conservation, greenways, or the location of public improvements such as utility lines. An easement does not constitute fee simple ownership of the land.

**EASEMENT, MAJOR DRAINAGE:** A grant by a property owner to the public of the right to use an identifiable piece of land for the purpose of constructing and/or maintaining drainage ways which receive surface water runoff from four (4) or more adjoining property parcels.

**EASEMENT, MINOR DRAINAGE:** A grant by a property owner of the right to use an identifiable piece of land for the purpose of constructing, preserving and/or maintaining drainage ways which receive surface water runoff from three (3) or fewer adjoining property parcels.

**EDUCATIONAL FACILITY, K-12:** A privately-owned or publicly-owned elementary school, middle school, junior high school, or high school which does not provide lodging for students. This use may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, and other facilities that further the educational mission of the school.

**EDUCATIONAL FACILITY, UNIVERSITY AND/OR COLLEGE:** An institution, other than a trade school, which provides full time or part time education beyond the high school level. This use may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

**EDUCATIONAL FACILITY, VOCATIONAL TRAINING:** A public or private school offering vocational, industrial, 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 may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

**ELEVATED BUILDING:** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

**ELEVATION:** The front, side, or rear of a structure.

**ENCLOSED PORCH:** A projection from an outside wall of a dwelling, covered by a roof and sidewalls (other than the sides of the building to which the porch is attached). The sidewalls are constructed of opaque materials to a height of at least four (4) feet above the floor level.

**ENCROACHMENT:** 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.

**ENERGY DISSIPATERS:** A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

**EROSION:** The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

**ESCROW:** A deposit of cash with the city in lieu of an amount required and still enforced on a performance or maintenance bond.

**EXCESSIVE GROWTH:** The growth of weeds, grass or plants which are not cultivated or landscaped or regularly tended and which may reach a height in excess of twelve (12) inches.

**EXISTING CONSTRUCTION FOR THE PURPOSE OF FLOODPLAIN**

**MANAGEMENT:** Any structure for which a valid building permit was issued prior to January 17, 1978.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION (FOR THE PURPOSE OF FLOOD- PLAIN MANAGEMENT):** A manufactured-home park or subdivision for which the construction of facilities was completed prior to January 17, 1978.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites on which manufactured homes are to be permanently placed.

**FAA:** Federal Aviation Administration.

**FAÇADE:** The exterior wall on the front, side, or rear elevation of the building regardless of whether the building side faces a street.

**FAMILY:** Two (2) or more persons related by blood, marriage, state-approved foster home placement or court-approved adoption, or up to five (5) unrelated persons, who occupy a dwelling and live as a single (1) housekeeping unit.

**FARM:** The raising of crops, livestock, or other plants and animals, including orchards, vineyards, and nurseries, along with any buildings and structures that are customarily and necessarily incidental to such activities. This shall include the retail sale of products grown or raised on the premises.

**FARMERS MARKET:** An occasional or periodic public market held in a structure or open area where farmers sell produce and other farm products they have grown, gathered, or raised directly to consumers. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold.

**FCC:** Federal Communications Commission.

**FENCE:** A structure used to delineate a boundary or as a barrier or means of protection, confinement, or screening.

**FINANCIAL ESTABLISHMENTS:** A business that provides financial services directly to customers at the site of the business.

**FLAG LOT:** See “LOT, FLAG”

**FLEXIBLE USE:** A land use listed in Chapter 4 or 5 of this Code as a “flexible use” in the zoning district in which it is located, and which is subject to the approval procedures set forth in Section 12.12 of this Code.

**FRONTAGE:** The length of the property line for a parcel which runs parallel to and along a road right-of-way or street exclusive of alleyways.

**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOD BOUNDARY MAP:** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as zone “A.”

**FLOODPLAIN:** Any land area susceptible to flooding.

**FLOOD INSURANCE:** The insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard, the Future Conditions Flood Hazard Areas and the risk premium zones.

**FLOOD INSURANCE STUDY (FIS):** A report that includes an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMS.)

**FLOOD ZONE:** A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than one (1) foot.

**FLOODWAY FRINGE:** The portion of the Special Flood Hazard Area that is outside of the Floodway.

**FLOOR AREA:** The gross total horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings, or the center lines of a party wall separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding, in the case of nonresidential facilities, arcades, porticos, and similar areas open to the outside air which are accessible to the general public and which are not designed or used as areas for sales, display, storage, service, or production.

**FLOOR AREA RATIO:** The numerical value obtained by dividing the gross floor area on a lot by the area or size of such lot.

**GOLF COURSE:** A course with nine (9) or more holes for playing golf, including any accessory driving range, clubhouse, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges that are not accessory to a golf course.

**GREENWAY:** A linear open space, owned privately or by the City of Tupelo or another unit of government, which contains a trail for walking, bicycling, horseback riding or other passive recreation, but not for use by motorized vehicles for purposes other than maintenance of the greenway.

**GROUND COVER:** Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

**GROUP HOME:** A dwelling shared by four (4) or more persons with disabilities and support staff who live as a single (1) housekeeping unit. Staff may provide personal care, education, community activities, and similar habilitation services to residents. As used for this definition, disabilities shall mean a temporary or permanent physical, emotional, or mental disability that limits a person's ability to live independently, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments. Group home residents shall not include any person whose residency would constitute a direct threat to the health and safety of others. This definition shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, hospitals, rest homes, nursing homes, boarding homes, homes for orphans or aged, or sub-acute-care detoxification centers or halfway houses. Uses that require state licensure, such as adult foster care facilities, are required to comply with state statutes.

**HALFWAY HOUSE:** A licensed home for juveniles or adult persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents back into society, enabling them to live independently.

**HARDSHIP: (as Related to Variances of this Code)** The exceptional hardship that would result from a failure to grant the requested variance. The City of Tupelo requires 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 owner to build elsewhere or put the parcel to a different use than that originally intended.

**HEIGHT:** The vertical distance between the average finished grade of a structure and the highest point of a structure with a flat roof, or the midpoint of the peak and eave heights of a structure with a pitched roof.

**HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HISTORIC DISTRICT:** A group of parcels and their buildings, structures, and objects that are linked by historical association or historical development, and that is designated by the City of Tupelo or the National Register of Historic Places.

**HISTORIC LANDMARK:** A structure of exceptional individual significance, typically outside an historic district, and that is designated by the City of Tupelo or the National Register of Historic Places.

**HISTORIC LANDMARK SITE:** A location where a primary architectural or historical resource formerly stood or a significant historic event took place, or an important archaeological resource remains, and that is designated by the City of Tupelo or the National Register of Historic Places.

**HISTORIC PRESERVATION COMMISSION:** The Historic Preservation Commission of the City of Tupelo, Mississippi.

**HISTORIC STRUCTURE:** Any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing in the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district;

- (3) Individually listed on the Mississippi inventory of historic places;
- (4) Individually listed on a Tupelo or other local inventory of historic places in communities with historic preservation programs that have been certified by;
  - (a) An approved state program as determined by the Secretary of Interior, or
  - (b) Directly by the Secretary of Interior in states without approved programs.

**HOLIDAY DECORATIONS:** Displays erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent in nature and which contain no advertising material.

**HOME BUSINESS:** A home occupation that allows customers and other activities as specified in Chapter 7 of this Code.

**HOME OCCUPATION:** An occupation or profession that involves the rendering of a service in exchange for monetary fees or other remuneration, is conducted wholly within a dwelling unit by a member of the family residing therein, and is clearly incidental and secondary to the use of the dwelling unit for residential purposes. This occupation can in no way be apparent from the outside by signs, traffic generation, etc.

**HOSPITAL:** An institution providing human health services primarily for in-patient medical and surgical care for the physically or mentally sick and injured and which may include related support facilities such as laboratories, out-patient departments, staff offices, food services, and gift shop.

**HOTEL OR MOTEL:** 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.

**IMPERVIOUS AREA:** A portion of land which, due to human modification, allows little or no infiltration of precipitation into the soil. Impervious areas shall include, but are not limited to, buildings, decks and porches, parking and driveway areas, sidewalks, and paved recreation areas.

**IMPERVIOUS SURFACE RATIO (ISR):** A measurement of intensity of hard surfaced development on a site. An impervious surface ratio is the relationship between the total impervious surface area on a site and the gross land area. The ISR is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the gross land area.

**INCREASED COST OF COMPLIANCE:** The cost to repair a substantially-damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention Code. Increased cost of compliance coverage is provided in a standard NFIP flood insurance policy.

**INDEPENDENT LIVING UNIT:** A dwelling unit that is part of a life care community which includes complete facilities for independent living, including cooking and sanitary facilities. The occupants are presumed to be able to function independently of the support facilities of the life care community.

**INTERSTATE HIGHWAY:** A controlled access highway that is part of the Federal interstate highway system.

**JUNK VEHICLE:** Any motor vehicle, trailer, camper, or boat that does not have a current state-issued inspection sticker and motor vehicle registration plate and that meets one (1) or more of the following requirements:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or;

(3) Is more than ten (10) years old and has an approximate fair market value equal only to the approximate value of the scrap in it.

**JUNKYARD:** A building, structure or parcel of land, or portion of a building, structure, or parcel of land, used for the collection, storage and sale of paper, rags, scrap metal, bottles, or discarded material. Where such materials are a byproduct of a permitted use, such activity shall be considered outdoor storage and must comply fully with all applicable provisions. This definition shall not include a publicly-owned landfill, solid waste transfer facility, or other public utility facility, or a recycling and salvage operation.

**KENNEL:** An establishment engaged in boarding, breeding, buying, selling, grooming or training of pet animals.

**LAKE OR NATURAL WATERCOURSE:** Any stream, river, swamp, canal, or other waterway, and any reservoir, lake, or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by the accumulation of sediment.

**LAND SURVEYOR, LICENSED:** A land surveyor who is certified and registered by the State Board of Registration for Professional Engineers and Land Surveyors pursuant to Title 73 Chapter 13, Sections 1-99 inclusive of the Mississippi Code 1972, Annotated, eligible to practice in Mississippi.

**LAND-DISTURBING ACTIVITY:** Any use of the land by any person for residential, industrial, educational, institutional, or commercial development, or for highway and road construction and maintenance, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Within watershed management areas, land disturbing activity shall include the clear cutting of trees unless specifically exempted.

**LANDOWNER:** Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner.

**LIFE CARE COMMUNITY:** A building or group of buildings which contains dwelling units where the occupancy is restricted to persons who are at least sixty-two (62) years of age, or married couples in which one (1) of the persons is at least sixty-two (62) years of age. Such facility may be composed of apartments, nursing home facilities, and facilities that provide nursing and/or medical care as well as support services, such as common dining facilities, retail stores, and personal service establishments, which are operated by the owner of the life care community or lessees of the owner. Life care communities are those designed to meet the residents' basic needs for shelter, food, and health care, regardless of the level of independence of the individual resident and regardless of how these needs may change over time.

**LIMITED ACCESS THOROUGHFARE:** (See **THOROUGHFARE, LIMITED ACCESS**)

**LOCAL STREET:** See **STREET, LOCAL**

**LOGO:** The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, symbols, or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

**LOT:** A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or plat, and which is recognized as a separate legal entity for purposes of transferring title. This term shall include any number of contiguous lots, or portions thereof, upon which a single principal building and its accessory buildings are located or intended to be located.

**LOT, FLAG:** An irregularly shaped lot which is connected to a street with an appendage or extension which does not meet the lot width requirements of the district.

**LOT COVERAGE:** The percentage of a lot's area that is covered by buildings.

**LOT DEPTH:** The average horizontal distance between the front lot line and the rear lot line.

**LOT OF RECORD:** A lot that is a part of a subdivision approved and recorded in accordance with the provisions of this Code.

**LOT WIDTH:** The horizontal distance between the side line lots of a lot, or for corner lots, between a corner side lot line and the opposite side lot line, as measured along the minimum required front setback line.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area of a building, including the basement. An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access, or storage, in an area other than a basement area, shall not be considered the lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code.

**MANUFACTURED OR MOBILE HOME SUBDIVISION:** A parcel of land under single (1) ownership or management which is operated as a business engaged in providing a place where manufactured homes or mobile homes permitted as of July 29, 2003 are installed for non-transient living or sleeping purposes and where sites or lots are set aside or offered for lease for use by manufactured or mobile homes for living or sleeping purposes.

**MANUFACTURED HOME, CLASS A OR B:** A structure built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, fabricated in an offsite manufacturing facility after June 15, 1976, in one or more sections, which includes the plumbing, heating, air conditioning, and electrical systems contained therein, with each section bearing the HUD Code Seal certifying compliance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, designed to be transported for installation or assembly at the building site. Such structure shall also meet or exceed the construction standards for Class A or B Manufactured Homes promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction. This definition does not include recreational vehicle or Class C manufactured home, mobile home, travel trailer, or modular home.

**MANUFACTURING, HEAVY:** The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or that otherwise do not constitute “light manufacturing,” or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds twenty-five percent (25%) of the floor area of all buildings on the lot. “Heavy manufacturing” shall include, but not be limited to, the following: enameling, lacquering, or the plating or galvanizing of metals; foundries producing iron and steel products; industrial chemical manufacture; meat packing plants; mixing plants for concrete or paving materials, and manufacture of concrete products; oxygen manufacture and/or storage; pottery, porcelain, and vitreous china manufacture; poultry dressing for wholesale; pressure treating of wood; stone cutting; tire recapping and retreading; or processing and fabrication of products made from extracted or raw materials or products involving flammable or explosive materials and processes. This shall not include resource extraction or recycling and salvage operations. This use shall not include any use that is otherwise listed specifically in a zoning district as a permitted, compatible, or flexible use.

**MANUFACTURING, LIGHT:** The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place. Such use shall occur entirely within a building, and the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing shall not exceed twenty-five percent (25%) of the floor area of all buildings on the lot. This shall not include uses that constitute heavy manufacturing, resource extraction, or recycling and salvage operations.

**MEAN SEA LEVEL:** The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum

used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

**MIXED-USE:** A building, development, block, or zoning district with more than one (1) use. Uses may be mixed horizontally within one structure or development, or they may be mixed vertically, with multiple uses on different floors of one structure.

**MOBILE HOME:** A structure built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, fabricated in an offsite manufacturing facility before June 15, 1976, in one or more sections, designed to be transported for installation or assembly at the building site. Sections do not carry the HUD Code Seal. This definition does not include recreational vehicle, Class A, B, or C manufactured home, travel trailer, or modular home.

**MODEL SALES HOME:** A permanent building which is typical of the dwellings in the residential development in which it is located and which is temporarily used for the purpose of display and sales associated with residential property, but intended for ultimate use as a residential dwelling unit.

**MODULAR HOME:** A structure that is transportable in one or more sections; designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; certified by its manufacturers as being constructed in accordance with a nationally recognized building code; and designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974 or mobile homes. Because they are built to the same building code as site built homes, modular homes are treated in this Code in the same manner as a single-family detached dwelling.

**MULTIPLE FRANCHISE BUSINESS:** A business that, pursuant to franchise agreements, markets the goods or services of more than one company or manufacturer.

**MULTIPLE TENANT BUILDING:** A single building that contains two (2) or more distinct occupants internally separated by firewalls or demising walls.

**MULTI-OCCUPANT NON-RESIDENTIAL DEVELOPMENT:** A building or group of buildings under unified ownership or management that contains more than one non-residential establishment or occupant.

**MULTI-USE TRAIL:** A hard-surface, off-road pathway used by bicyclists, pedestrians, and other non-motorized traffic typically located within or along a greenway or parallel to a street.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD):** A vertical control used as a reference for establishing varying elevations within the flood plain. These figures are used based on information as corrected in 1929.

**NATIVE VEGETATION:** Any indigenous tree, plant or shrub adapted to soil and climactic conditions occurring on-site.

**NATURAL WATER EROSION:** The wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions, not caused by man.

**NIGHTCLUB OR BAR:** An establishment licensed to serve alcoholic beverages and/or beer on the premises and where dancing and entertainment may or may not be provided.

**NIGHT CLUB OR BAR, AFTER HOURS:** An establishment where alcoholic beverages are consumed, and mixers and setups are sold for consumption and where minors are usually excluded and where dancing and entertainment may also be provided.

**NONCONFORMING LOT:** A lot that met all legal requirements when it was platted or otherwise recorded but which does not comply with the minimum lot area or minimum lot width requirements of this Code, or a subsequent amendment hereto, for the zoning district in which it is located.

**NONCONFORMING STRUCTURE:** A building or structure that met all legal requirements when constructed but which does not comply with this Code or a subsequent amendment hereto.

**NONCONFORMING USE:** The use of a building or land that met all legal requirements when first established but which this Code, or a subsequent amendment hereto, does not allow in the zoning district in which it is located. Uses allowed as either a Compatible or Flexible Use is not considered a Nonconforming Use.

**NONCONFORMITY:** Any use, building, structure, or lot which was lawful at the time it was constructed or established but which fails to comply with one (1) or more of the applicable regulations or standards of this Code.

**NON-EROSIVE:** The ability of a ground cover to withstand the velocity of storm water runoff during the design storm.

**NON-RESIDENTIAL:** Used or intended for purposes other than as a dwelling unit.

**NURSERY:** The growing, storage, and wholesale or retail sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials. Such use may include greenhouses and irrigation systems. Such use may include outdoor storage of goods, materials, and equipment that exceeds the size permitted by accessory use standards; however, all other standards for outdoor storage shall apply.

**NURSING HOME:** Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of three or more non-related individuals, including facilities known by varying designations such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities, hospices, and infirmaries. This does not include the home or residence of any individual who cares for or maintains only persons related to him or her by blood or marriage. This does not include hospitals, clinics, or life care communities, even though a life care community may include a nursing home as one of its components. This use must comply with state statutes regarding licensure for institutions of the aged or infirm.

**OBSTRUCTION:** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channel, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**OFFICE:** A room, group of rooms, or building whose primary use is the conduct of a business, professional service, or governmental activity of a non-retail nature, including administration, record keeping, clerical work, and similar functions. This use shall not include manufacturing, processing, repair, or storage of materials, products, or vehicles.

**OFFICE, MEDICAL:** Any building or portion thereof, the principal use of which is for offices of one (1) or more licensed physicians, ophthalmologists, dentists, physical or occupational therapists, psychologists, or other medical staff for the examination and treatment of persons on an out-patient basis only. Such use may include a laboratory where diagnostic or therapeutic medical procedures of a non-surgical nature are administered.

**OFFICE WITH STORAGE:** This use functions primarily as an office and includes indoor or outdoor storage of materials and/or vehicles used for business purposes. It may include retail sales or services to other businesses or the public as a secondary use. Such use may include but is not limited to construction or trade businesses such as contractors, plumbers, electricians, and similar businesses that have storage needs. It may also include transportation businesses such as taxicab companies, trucking companies, and private companies that provide ambulances or other vehicular transportation to hospitals, doctors' offices, or private individuals.

**OPEN SPACE:** Any portion of a parcel or area of land or water which is open and unobstructed by structures from the ground to the sky including areas maintained in a natural and undisturbed character. Open space may include recreational facilities such as swimming pools, golf courses, green ways, and tennis courts, and areas designed to enhance the privacy or general appearance of a development. Private open space is open space that is owned by a corporation, individual, or house owners association. Public open space is open space owned by a governmental jurisdiction.

**OUTPARCEL:** A portion of land in a subdivision, shopping center, or other development that does not contain the primary building associated with the development, that is intended for development of one (1) or more smaller independent buildings and that is usually located adjacent to a development's street frontage. Outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the primary building or buildings.

**OVERLAY DISTRICT:** A district, as established in Chapter 5 of this Code, which applies supplementary or replacement regulations to land which is classified into a general use district.

**PARAPET WALL:** That portion of a building wall that extends above the level of the roofline, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

**PARCEL:** Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from another parcel that is designated by its owner or developer as land to be used or developed as a unit, or that has been used or developed as a unit.

**PARK:** Publicly or privately owned land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty. This use does not include commercially operated amusement parks.

**PARKING FACILITY, OFF-SITE:** An off-street parking area provided on a different parcel than the use it is intended to serve.

**PARKING LOT:** The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas. A parking lot shall not include the storage of vehicles for sale, wrecked or abandoned vehicles, vehicle parts, or the repair of vehicles.

**PARKING SPACE, OFF-STREET:** A space designed for the parking or temporary storage of one automobile and located outside of a dedicated street right-of-way.

**PASSENGER TERMINAL:** A station and related facilities intended for the transition of the general public, including bus and railroad passenger stations.

**PEAK HOUR TRIPS:** The greatest number of vehicle trips generated by a unit of new development during any sixty (60) minute period in a given day.

**PENNANT:** A sign composed of lightweight plastic, fabric, or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string, or pole, usually in series, and which is designed to move in the wind.

**PERMITTED USE:** See **USE BY RIGHT**

**PERSON:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution utility cooperative interstate body, or other legal entity.

**PERVIOUS PAVING:** Surface improvements such as interlocking concrete paving blocks, brick pavers, grid pavers, or other similar improvements which permit the infiltration of water through the improved surface. Gravel shall not be considered a pervious paving surface.

**PHASE OF GRADING:** One (1) of two (2) types of grading: rough or fine.

**PLACE OF ASSEMBLY AND/OR WORSHIP:** A place used for regular religious or cultural activities, entertainment, or meetings. This includes churches, chapels, mosques, synagogues, and other places of worship. It also includes non-profit organizations such as civic and fraternal clubs and lodges. This use shall include accessory uses and structures such as such as administrative facilities, schools, day care centers, cooking and eating facilities, cemeteries, recreational facilities, or dwellings located on the same lot. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses.

**PLANNED UNIT DEVELOPMENT:** A tract of land under single (1) ownership, or under common control, evidenced by duly recorded contracts or agreements approved by the City Council, that is planned and developed as an integral unit in a single (1) development operation or in a programmed series of development operations in accordance with a master land use plan and detailed engineering and architectural plans as approved by the City Council.

**PLANNING COMMITTEE:** The Planning Committee of the City of Tupelo, Mississippi.

**PLAT:** A map, chart or plan of a tract or parcel of land which is to be or which has been, subdivided.

**PORCH:** A roofed structure not more than seventy-five (75%) percent enclosed by walls, no more than two (2) feet in height, attached to the main building, and not heated or cooled. A porch which projects beyond a required yard, setback, or building restriction line may be screened, but may not be enclosed with glass, jalousies, canvas, plastic, or any solid material to a height greater than two (2) feet.

**PORTICO:** A porch or walkway open to the outside air that is covered by a roof which is supported by columns or pillars, typically leading to the entrance of a building.

**PRIMARY ENTRANCE:** The place of pedestrian ingress and egress to a building, parcel, or development used most frequently by the public.

**PRINCIPAL USE OR PRIMARY USE:** The main use of land or buildings as opposed to a secondary or accessory use.

**PROPERTY:** All real property, subject to the provisions of this Code.

**PROTECTIVE COVER:** See **GROUND COVER**.

**PUBLIC FACILITY:** A building or area owned or used by any department or branch of the City of Tupelo, Lee County, the State of Mississippi, or the Federal Government.

**PUBLIC RIGHT-OF-WAY:** Property dedicated for public use, usually for a public street, public infrastructure and/or waterway. For the purposes of this code, such Public Rights-Of-Way shall be considered to extend a minimum of ten (10) feet from the edge of the pavement, or to the dedicated right-of-way boundary, whichever is farther.

**PUBLIC SAFETY STATION:** A police, fire, or paramedic station operated, franchised, or regulated by a government agency.

**PUBLIC UTILITY:** A business or service that provides the public with electricity, gas, water and sewer service, telephone or cable television service. Any such use must be approved by the City of Tupelo, constructed to City standards, sizes, and specifications, conform to the requirements of this Code, and be dedicated to and accepted by the City for operation and maintenance. For the purpose of this Code, commercial wireless telecommunication services shall not be considered public utility uses and are defined separately.

**PUBLIC UTILITY FACILITIES:** A building or structure, other than a water or sanitary sewer utility substation or transportation facility, which houses or contains facilities for the operation of publicly owned or publicly licensed water, wastewater, waste disposal, gas or electricity services. This includes, but is not limited to, wastewater and stormwater treatment plants, electrical transformer stations, landfills, and solid-waste transfer stations. This does not include recycling and salvage operations.

**QUORUM:** The minimum number of board members that must be present for a board to conduct official business or take official action.

**RADIO FREQUENCY (RF) EMISSIONS:** Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna-supporting structure, building, or other vertical projection. RF emissions are regulated by the FCC.

**REAL ESTATE SALES OFFICE:** A building or structure that is located on the site of a development or subdivision and temporarily used for the purpose of selling or leasing properties located within that development or subdivision.

**RECREATIONAL FACILITY, INDOOR:** An establishment offering sports, theatrical productions, game playing, or similar amusements to the public within a fully enclosed building. This shall include, but is not limited to, theaters, bowling alleys, billiard parlors, tennis courts, swimming pools, gymnasiums, and skating rinks. This shall not include recreation centers or such amusements that are an accessory building or structure to schools or places of assembly and/or worship.

**RECREATIONAL FACILITY, OUTDOOR:** Any premises (whether public or private) where the principal use is the provision of outdoor amusements, sports, games, athletic facilities, or other outdoor recreational facilities and/or services except golf courses.

**RECREATIONAL VEHICLE:** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or towable by a light duty truck; and
- (4) Designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.

**RECREATIONAL VEHICLE PARK:** A parcel of land upon which sites are rented or leased for the temporary or periodic placement of recreational vehicles as temporary living quarters for recreational or vacation purposes.

**RECYCLING AND/OR SALVAGE FACILITY:** A facility, other than a recycling drop-off station, for the collection, handling, sorting, storage, processing, compaction, purchase, and/or resale of paper, metal, plastic, glass, or cloth materials that are disposed of by households or by non-residential uses. This shall not include junkyards.

**RECYCLING DROP-OFF STATION:** One (1) or more outdoor containers designed and intended for the depositing of clean, separated, and recyclable paper, metal, glass, or plastic materials and the collection of such materials for processing at another location, but itself having no mechanical facilities for the processing of such materials.

**REDEVELOPMENT:** Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot, site, or area. Redevelopment may also include changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

**REGULATORY FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**REPETITIVE LOSS:** The flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on average, equaled or exceeded twenty-five percent (25%) of the market value of the building at the time of each such flood event.

**RESEARCH AND DEVELOPMENT FACILITY:** A facility that engages in research, or research and development, of innovative ideas in medical, optical, scientific, photographic processing facilities, or technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use. Such use is primarily the research, testing and development of goods, materials, foodstuffs or products.

**RESERVOIR WATERSHED:** A drainage basin that is tributary to a reservoir intended as a source for public water supply.

**RESIDENTIAL:** Used or intended for use as a dwelling unit.

**RESIDENTIAL STREET:** See **STREET, LOCAL**

**RESOURCE CONSERVATION FACILITIES:** Areas with important or valuable natural resources, such as fish hatcheries and fishponds; game preserves; botanical and zoological gardens; water reservoirs; and dams.

**RESOURCE EXTRACTION:** Extraction of minerals, ores, soils, and any other solid matter from its original location, including but not limited to quarrying, open-pit mining, drilling, tunneling, strip mining, and any other such activities.

**RESTAURANT WITH DRIVE-THROUGH SERVICE:** An establishment where meals or prepared food are served to customers in their motor vehicles or at counters within the establishment. Such a facility may include indoor or outdoor seating.

**RESTAURANT WITHOUT DRIVE-THROUGH SERVICE:** An establishment where meals or prepared food are served to customers for consumption on or off the premises. Such a facility may include indoor or outdoor seating.

**RESTRICTED COLORS:** Fluorescent and full chroma colors.

**RETAIL SALES AND/OR SERVICE:** A business which sells or leases goods, products, or materials directly to the consumer or provides a personal service directly to the consumer. This includes, but is not limited to, clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, bookstores, florists, furniture stores, hardware stores, pet stores, toy stores, variety stores, travel agencies, dry-cleaners, laundries, tailors, hair stylists, cosmeticians, tanning or tanning salons, banks, postal stations, package delivery drop-off and pick-up stations, photocopy centers, shoe repair shops, appliance repair shops, interior design studios, dance and martial arts studios, and domestic pet services. It does not include restaurants, convenience stores with fuel sales, vehicle sales and/or rental, or amusement establishments. Accessory uses may include temporary outdoor sales and outdoor storage.

**RETENTION FACILITY:** Any type of detention facility not provided with a positive outlet.

**RIGHT-OF-WAY:** An area owned or maintained by the City, the State of Mississippi, the United States, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.

**SATELLITE DISH ANTENNA:** Any antenna, including any supporting structure, designed to receive signals from orbiting satellites or similar sources, excluding microwave antennae.

**SECONDARY ENTRANCE:** An additional entrance to a building, parcel, or development used less frequently than a primary entrance.

**SECURED:** Placed in a concrete footing, holes with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure.

**SEDIMENT:** Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

**SEDIMENTATION:** The process by which sediment resulting from accelerated erosion has been or is being transported away from a land-disturbing activity or into a lake or natural watercourse.

**SELF-SERVE STORAGE FACILITY:** A building or group of buildings also called “mini-warehouse” divided into separate compartments offered for rent and used for temporary or long-term off-site storage needs.

**SEMI-ATTACHED HOUSE:** A residential unit that shares a common wall along a property line with another semi-attached house. In appearance it is similar to a duplex.

**SETBACK:** The shortest horizontal distance from a lot line of a lot or abutting right-of-way to the nearest point of a structure on the lot. A parcel of land typically consists of a front setback on a street, two (2) side setbacks, and a rear setback. A corner lot shall typically have a front setback on each street it abuts and side setbacks on other sides.

**SHOPPING CENTER:** A building or group of buildings, either connected or free-standing, under unified or multiple ownership of land parcels, that is designed and has been approved as a shopping center with common parking, pedestrian movement, ingress, and egress, and is used or intended to be used primarily for the retail sale of goods and services to the public.

**SHRUB:** A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

**SIDEWALK:** A hard-surfaced, all-weather pedestrian way, usually within a right-of-way line.

**SIGHT VISIBILITY 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 along the curb or edge-of-pavement line of the other roadway or the edge of the driveway.

**SIGN:** Any device, fixture, placard, or structure that uses color, form, graphics, words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, designs, trade names, or trademarks by which anything is made known such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, which are legible from any public street or adjacent property and used to attract attention. This definition includes the structure or the face on which a sign message is displayed. Specific types of signs are defined further in Chapter 10.

**SIGNIFICANT VEGETATION:** A tree that is over fifteen (15) inches in diameter at breast height, displays a root zone, canopy, and limb structure characteristic of the particular species, and is in a condition of good health and vigor.

**SIGNIFICANT WORK:** In reference to vested rights under the provisions of this Code, the placement of permanent evidence of an improvement on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings, the cost for which represents a major part of the total cost of construction of the project.

**SILTATION:** Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

**SITE PLAN:** An accurately scaled development plan that shows existing conditions on a site as well as depicting details of proposed development.

**SPECIFIED ANATOMICAL AREAS:** Specified anatomical areas means and includes any of the following: less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Specified sexual activities means and includes any of the following: human genitals in a state of sexual stimulation or arousal; acts of or simulation of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; flagellation or torture in the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of pain; erotic touching, fondling or other such contact with an animal by a human being; or human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth above.

**STORM DRAINAGE FACILITIES:** The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

**STORM WATER RUNOFF:** The flow of water resulting from precipitation that flows over the surface or as concentrated flow in ditches, channels, storm sewers, or watercourses.

**STREET:** A public or private thoroughfare that affords the principal means of access to abutting property. The term includes all facilities that normally occur within the right-of-way. The following may also be considered streets: highways, parkways, throughways, roads, avenues, boulevards, lanes, places, courts, and alleys.

**STREET FRONTAGE:** The distance that a lot line adjoins a public or private street from one (1) lot line intersecting the street to the furthest lot line intersecting the same street.

**STREET, ARTERIAL:** A street carrying the highest traffic volume, serving major centers of activity and providing primary routes into and out of the city. A street designed and intended primarily to channel moderate to high volumes of vehicular traffic at moderate to high speeds between collector streets and other arterial streets and freeways and provide limited direct vehicular access to and from adjacent developments and properties. Such street may also be known as a thoroughfare or major thoroughfare.

**STREET, COLLECTOR:** A street collecting traffic from within a specific land use zone and connecting it to the arterial street system. A street which serves as a connection between local and residential streets and arterial streets. It typically provides limited direct vehicular access to adjacent developments and properties.

**STREET, LOCAL:** A street designed and intended primarily to provide direct access to and from adjacent developments and properties through intersecting driveways, as well as to provide travel mobility by connecting driveways and other local streets to collector streets. Local streets generally handle low to medium vehicular travel speeds and traffic volumes and do not connect to high-traffic streets. Local streets may also be known as residential streets.

**STREETSCAPE:** Visual elements of a street, including the road, adjacent buildings, street furniture, trees, open spaces, and related features, that help shape the function and appearance of the street.

**STRUCTURE:** Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently, and it includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, gas or liquid storage tanks, and impervious surfaces such as paved parking lots.

**STUB OUT:** A temporary extension of a street to an external property line to facilitate future roadway connection, increase connections within a neighborhood for public safety and other vehicles, and reduce traffic impacts on the road network.

**SUBDIVIDER:** Any person, firm, or corporation who subdivides land deemed to be a subdivision as defined by this Code.

**SUBDIVISION:** The division of a tract of land into two (2) or more lots, building sites, or other divisions (such as condominium units through a vertical subdivision) for the purpose, whether immediate or future, for sale or building development.

**SUBDIVISION, MAJOR:** All divisions of a tract or parcel of land into six (6) or more lots, building sites, or other divisions for the immediate or future purpose of sale or building development, and all divisions of land involving the dedication of public infrastructure.

**SUBDIVISION, MINOR:** All divisions of a tract or parcel of land into five (5) or fewer lots, building sites, or other divisions for the immediate or future purpose of sale or building development, and not involving the dedication of public infrastructure.

**SUBSTANTIAL ALTERATION:** Any work on a structure that reduces the load bearing capacity of, or imposes additional loads on, a primary structural component, and which may include the rearrangement of spaces through the construction of walls or partitions or a change in ceiling height, the addition or elimination of doors or windows, the extension or rearrangement of systems, or the installation of additional equipment or fixtures.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure where the cost of restoring the structure to the before-damaged condition equals or exceeds fifty percent (50%) of the Lee County Tax Assessor's stated value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or improvement of a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the Lee County Tax Assessor's stated value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is considered to occur 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 structure. This term does not include any project for improvement of a structure necessary to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure that is listed on the National Register of Historic Places or a state inventory of historic places.

**SUBSTANTIAL PROGRESS:** A measure used to determine whether substantial progress has been made on the site of an approved site plan. Substantial progress shall include but is not limited to one or more of the following: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; installing and obtaining approval of on-site infrastructure; or obtaining a building permit for the construction and approval of the building foundation.

**SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** Where the repair, reconstruction, rehabilitation or improvements of the streets, utilities and pads exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**TELECOMMUNICATIONS:** The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS FACILITY, OTHER:** Equipment, operational building, or other facility associated with wireless telephone or similar communication purposes and utilized by one (1) or more commercial, governmental, or other public or quasi-public users. This use shall not include towers.

**TELECOMMUNICATIONS TOWER:** A structure erected on the ground and used primarily for the support of antennas for wireless telephone and similar communication purposes and utilized by one (1) or more commercial, governmental, or other public or quasi-public users. The term includes microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This use does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the FCC.

**TEMPORARY USE:** A use established for a temporary period of time with the intent to discontinue such use upon the expiration of the time period, and which is subject to the approval procedures set forth in Sections 7.8 and 12.14 of this Code.

**TEN-YEAR STORM:** The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten (10) years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest, under average antecedent wetness conditions.

**THOROUGHFARE IMPROVEMENT:** Any improvement to any highway, road, or street designated on the Thoroughfare Plan.

**THOROUGHFARE PLAN:** The Official Map of the Thoroughfare Plan, as adopted by the City of Tupelo, which identifies major road improvements necessary to serve projected growth.

**TOWNHOUSE:** A single family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

**TRACT:** Contiguous land under one (1) ownership or under multiple ownership either developed as a single unit or recorded as a single unit.

**TRADE MARKET FACILITY:** A facility that sells and warehouses furniture or other goods in a showroom display. Such facility may be open to the public year-round or during special events only.

**TREE:** Any self-supporting woody plant of a species that normally grows, or is capable of growing, to an overall height of a minimum of fifteen (15) feet. This term includes canopy trees and under story trees but does not include shrubs or groundcover.

**TREE, CANOPY:** A self-supporting woody plant of a species that normally achieves an overall height at maturity of thirty (30) feet or more.

**TREE, HISTORIC:** Any tree that is designated by the City as being of notable historical interest and value due to its association with the physical and cultural development of the City.

**TREE, SPECIMEN:** Any tree that designated by the City as being of high value due to its type, size, age, and other relevant criteria.

**TREE, UNDERSTORY:** Any self-supporting woody plant of a species that normally achieves an overall height at maturity of fifteen (15) to thirty (30) feet and that can grow beneath larger canopy trees.

**TREE REMOVAL:** Any intentional or unintentional act that may reasonably be expected to cause a tree to decline and die, including:

- (1) Severing the trunk;
- (2) Excessive pruning of the trunk or branching system;
- (3) Mechanical damage to the branching system;
- (4) Mechanical damage to the bark and cambium system;
- (5) Damage to the root system by machinery, storage of materials, or soil compaction;
- (6) Substantially changing the natural surface grade with the drip line;
- (7) Excessive paving or building within the drip line;
- (8) Substantially changing the natural drainage patterns of the building site in a manner reasonably expected to kill the tree.

**TRUCK STOP:** A facility providing services to the trucking industry, including the dispensing of fuel, automated and self-serve automotive wash facilities, restaurants, gift shops, sale of convenience goods, business service centers, restrooms and shower facilities, scales, and overnight parking facilities.

**UNCOVERED AREA:** An area having no ground cover on or above the soil surface.

**UTILITY, MAJOR:** Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, and electrical substations.

**UTILITY, MINOR:** Infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water tanks, water and sewage pump stations, storm water retention and detention facilities, and telephone exchanges.

**UPPER-STORY RESIDENTIAL UNIT:** A dwelling unit located on the second floor or higher of a building with nonresidential uses located on the ground or street level.

**USE:** The purpose for which a building, structure, or area of land may be arranged or occupied or the activity conducted or proposed in a building, structure, or on an area of land.

**USE BY RIGHT:** A land use listed in Chapter 4 or 5 of this Code as a “use by right” in the zoning district in which it is located, and which is not subject to approval procedures of this Code except as to the physical characteristics of land, structures or improvements associated with the use.

**VARIANCE:** A grant of relief to a person from the requirements of this Code which permits construction or use in a manner otherwise prohibited by this Ordinance where enforcement would result in unnecessary and unusual hardship.

**VEHICLE SALES AND/OR RENTAL:** The sale or rental of new or used motor vehicles, boats, trailers, or farm equipment. This shall not include commercial or eighteen wheel (18) trucks, salvage operations or scrap operations. Repair and service may be included as an accessory use.

**VEHICLE SERVICE:** Any building, structure, or lot used for the business of repairing automobiles, motorcycles, trucks, boats, recreational vehicles, and other similarly sized vehicles. This shall not include car washes, the retreading and/or recapping of tires, or convenience stores which sell gasoline or lubricating oil, but not other automotive accessories or services.

**VEHICULAR USE AREA:** That portion of a development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal vehicular access ways, fire lanes, loading areas, and other areas dedicated to vehicular use, but not necessarily including vehicular storage and display areas.

**VEHICLE WRECKER SERVICE:** An establishment operated for the purpose of temporary storage on-site of no more than nine wrecked or inoperable vehicles for a period no longer than ninety (90) days. An establishment with ten or more inoperable vehicles located on-site or stores inoperable vehicles for more than ninety (90) days, stacks vehicles, or dismantles portions of the vehicles shall be considered a junkyard.

**VELOCITY OF FLOW:** The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

**VESTED RIGHT:** The right of a property owner to develop according to the terms of an approved site-specific development plan or building permit even if the zoning or zoning district requirements are changed prior to development.

**VETERINARIAN CLINIC:** A use primarily engaged in providing medical care for animals, operated by a licensed veterinarian. A clinic may or may not offer facilities for the overnight care of animals in connection with medical treatment. Any clinic providing facilities for the overnight boarding of animals or providing outside pens shall be permitted as a veterinarian clinic with outdoor kennel.

**WAREHOUSING OR DISTRIBUTION ESTABLISHMENT:** A business or government agency operation for which the primary purpose of which is:

- (1) The storage of goods, materials, vehicles, trailers, or boats, or
- (2) The distribution of goods and materials to another location for the purposes of resale or use at the place distributed to. This shall include offices located on the same property in conjunction with such uses. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

**WASTE:** Surplus materials resulting from on-site construction which is disposed of at other locations.

**WATER SURFACE ELEVATION:** The height in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**WATERCOURSE:** A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. A watercourse may include specifically designated areas in which substantial flood damage may occur.

**WATERSHED:** All of the land area draining to a particular point on a water course or to a water body.

**WATERSHED MANAGEMENT AREA:** That land area of a reservoir watershed that is defined on maps on file in the Planning and Development Department, provided that more precise boundaries may be established by topographic data from actual site surveys.

**WETLANDS:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly as hydrophytic vegetation, as defined by responsible State or Federal agencies such as the Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs, and similar areas.

**WHOLESALE FACILITY:** Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other

wholesalers. This use does not include sale of contractor's materials, manufacturing, resource extraction, scrap operations, or salvage operations.

**YARD:** An open space that lies between a building or set of buildings and the nearest property line.

**YARD, FRONT:** The yard between a building and the front lot line, extending across the entire width of a lot, between side lot lines.

**YARD, REAR:** The yard between a building and the rear lot line, extending from between side lot lines or from a corner side yard and opposite side lot line.

**YARD, SIDE:** The yard between a building and the side lot line, extending between the front yard and the rear yard on a typical lot, or between two front yards or a front and side yard on a corner lot. Any such yard abutting a street shall be treated as a "front yard."

**ZERO-LOT-LINE HOUSE:** A residential unit also called a patio or garden home that is positioned on one (1) side lot line without any setback, with private yards on the other three (3) sides of the building.

**ZONING DISTRICT:** Any area within the City of Tupelo delineated on the Zoning Map to which a set of regulations governing permitted land use, density and intensity of development applies.

**ZONING MAP:** The Official Zoning Map upon which the boundaries of various zoning districts are drawn.

## **CHAPTER 3. DECISION MAKING AND ADMINISTRATION BODIES**

### **3.1 City Council**

**3.2 Powers and Duties.** Without limiting any authority granted to the City Council by State law or by other Codes of the City, the City Council shall have the following powers and duties with respect to this Code, to be carried out in accordance with the terms of this Code:

- (1) To adopt amendments to the text of this Code;
- (2) To adopt amendments to the Official Map of Zoning Districts, such as to zone or rezone property into a zoning district, planned unit development district, or overlay district;
- (3) To adopt amendments to the Comprehensive Plan;
- (4) To approve or deny requests for approval of major subdivision plats;
- (5) To approve or deny requests for approval of major site plans; and
- (6) Such additional powers and duties as may be set forth for the City Council elsewhere in this Code.

### **3.2 Planning Committee**

**3.2.1 Powers and Duties:** The Planning Committee shall have the following powers and duties, to be carried out in accordance with the terms of this Code:

- (1) To review all proposed amendments to this Code, all proposed rezoning of property under this Code, all proposed master land use plans for planned unit developments, all flexible uses, all transportation special use permits, all proposed preliminary plats of major subdivisions, and all proposed major site plans, and to make decisions and/or recommendations to the City Council for final action thereon in accordance with the terms of this Code;
- (2) To perform studies and surveys of the present conditions and probable future development of the City and its environs, including, but not limited to, studies and surveys of land uses, population, economic base, traffic, parking, and redevelopment needs;
- (3) To formulate and recommend to the City Council the adoption or amendment of a Comprehensive Plan and other plans for the City and its environs for the purpose of achieving the coordinated and harmonious development of the City, in accordance with present and future needs, in order to promote and ensure efficiency and economy in the development process, safe and convenient movement of traffic, safety from fire and other dangers, adequate light and air, healthful and convenient distribution of population, adequate open spaces, good civic design and arrangement of buildings, wise and efficient

expenditures of public funds, adequate provision for public utilities, and other matters pertaining to the safety, morals, order, convenience, prosperity, and general welfare of the City's citizens;

- (4) To hear and decide applications for approval of variances from the terms of the Code, in accordance with the procedures and standards set forth in this Code, except where this Code places responsibility for hearing or considering such a variance with another body;
- (5) To review the terms of this Code from time to time, as it deems appropriate, and to recommend to the City Council any changes that the Planning Committee considers necessary to properly regulate the development and use of land, buildings, and structures;
- (6) To hear and decide appeals from any order, requirement, permit, decision, or determination issued or made by an administrative officer of the City in enforcing any provision of the Code, in accordance with the procedures and standards set forth in the Code;
- (7) Such additional powers and duties as may be set forth for the Planning Committee elsewhere in this Code and other Codes of the City.

**3.2.2 Membership; Term; Vacancies; Removal; Compensation:** The Planning Committee shall consist of nine (9) members, at least one (1) from each geographical ward, appointed by the Mayor and confirmed by the City Council in accordance with Section 21-8-23 of the Mississippi Code 1972, Annotated and shall reside within the corporate boundaries of the City.

- (1) Terms begin January 1 of each year. Initially, two (2) members of the Planning Committee shall serve for a term of four (4) years, two (2) members shall serve for a term of three (3) years, two (2) members shall serve for a term of two (2) years, and three (3) members shall serve for a term of one (1) year. The members shall be eligible to succeed themselves at the discretion of the Mayor and City Council. Thereafter the initial appointment, appointments shall be for four (4) years.
- (2) The Planning Committee shall elect a chair, vice-chair, secretary, and such other officers, as it may deem necessary and appropriate.
- (3) Vacancies occurring for reasons other than the expiration of terms shall be filled by the appointing authority as they occur, for the period of the unexpired term.
- (4) The Mayor may remove any member of the Planning Committee, for inefficiency, neglect of duty, or malfeasance in office.
- (5) The chairperson and members of the Planning Committee may be compensated for their services as members of said Committee, in such amounts as the City Council may determine, and within the limits of Mississippi State Code 1972 Ann. § 17-1-11.

- (6) The Mayor may, in his/her discretion, appoint with confirmation by the City Council, and provide compensation for alternate members to serve on the Committee in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Committee and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

**3.2.3 Meetings:** The Planning Committee shall hold at least one (1) meeting per month, unless there is no business to come before the Committee in a given month and such other regular or special meetings or hearings as the chair or a majority of the members deem necessary to conduct the business before it. All meetings and hearings of the Committee shall be open to the public.

**3.2.4 Rules and Records:** The Planning Committee shall formulate and adopt the rules of procedure under which it will operate. The Committee shall keep minutes of its proceedings and discussions and shall keep records of its resolutions, findings, recommendations, and other official actions.

**3.2.5 Cooperation with Other Agencies:** The Planning Committee shall cooperate in all respects with the appropriate City boards, commissions, offices, and employees, including, but not limited to, the City Council, the Mayor, the Development Services Department, and other agencies of the City.

### **3.3 Staff Agencies**

**3.3.1 Services Department:** The Development Services Department, under the direction and supervision of the Director of Development Services and his/her designees, in particular, the City Planner and Zoning Administrator, shall have the following powers and duties, to be carried out in accordance with the terms of this Code:

- (1) To review all applications for development approval for compliance with the terms of this Code;
- (2) To review and approve all applications for compatible uses, minor subdivisions, administrative flexibility, variances by compatibility, and minor site plan approval for compliance with the terms of this Code.
- (3) To provide the City Council and the Planning Committee with reports and recommendations regarding matters before those bodies, either as required by this Code or upon the request of the body;
- (4) To issue and revoke temporary use permits, in accordance with this Code, and to make and maintain records thereof;

- (5) To determine and enforce compliance with any conditions attached by the City Council or Planning Committee to its approval of a compatible or flexible use, variance, subdivision plat, or site plan;
- (6) To advise the Building Department in its inspections of buildings, structures, and the use and development of land;
- (7) To enforce compliance with the terms of this Code and such additional powers and duties as may be set forth for the Department elsewhere in this Code and other Codes of the City.

**3.3.2 Building Division:** The Building Division, under the direction and supervision of the City Engineer and the Director of Development Services, shall have the following powers and duties, to be carried out in accordance with the terms of this Code:

- (1) To review and comment on all applications for development approval which are submitted thereto;
- (2) To issue and revoke fill permits, building permits and certificates of occupancy, in accordance with this Code, and to make and maintain records thereof;
- (3) To conduct inspections of buildings, structures, and the use and development of land;
- (4) To review all applications for permits and other forms of development approval for compliance with the provisions in this Code regarding flood hazards, and to determine whether all necessary permits and approvals have been obtained from those federal, state or other local government agencies from which prior approval is required;
- (5) To determine and enforce compliance with the terms of this Code and other applicable Codes and construction codes of the City and the State;
- (6) To determine and enforce compliance with any conditions attached by the City Council or Planning Committee to its approval of a conditional use, variance, subdivision plat, or site plan;
- (7) To calculate the amounts of required guarantees for the installation of improvements, and to determine the sufficiency of improvement guarantee funds;
- (8) To review applications for fill permits and stormwater retention plans, and to issue fill permits and approval of stormwater retention, in accordance with this Code;
- (9) To prepare and maintain standard engineering design specifications for streets, water, distribution facilities, wastewater disposal facilities, soil erosion and sedimentation control devices, storm drainage facilities, and other improvements;

(10) To review and approve the design specifications for subdivision and site plan improvements.

(11) Such additional powers and duties as may be set forth for the Department elsewhere in this Code and other Codes and construction codes of the City and the State.

**3.2.4 Public Works Department:** The Public Works Department, under the direction and supervision of the Director of Public Works, shall have the following powers and duties, to be carried out in accordance with the terms of this Code:

(1) To review and comment on all applications for development approval which are submitted thereto and to advise other agencies and the elected and appointed bodies of the City regarding the impact of any existing or proposed development on the City public works;

(2) To review, inspect, and advise the Development Services Department concerning City acceptance of subdivision and site plan improvements,

(3) Such additional powers and duties as may be set forth for the Department elsewhere in this Code and other Codes of the City.

**3.2.5 Water and Light Department:** The Water and Light Department, under the direction and supervision of the Director of Water and Light, shall have the following powers and duties, to be carried out in accordance with the terms of this Code:

(1) To review and comment on all applications for development approval which are submitted thereto;

(2) To review, inspect, and advise the Development Services Department concerning City acceptance of subdivision and site plan improvements.

**3.2.6 Fire Department:** The Fire Department, under the direction and supervision of the Fire Chief, shall have the following powers and duties, to be carried out in accordance with terms of this Code:

(1) To review and comment on all applications for development approval which are submitted thereto;

(2) To advise other agencies and the elected and appointed bodies of the City regarding the impact of any existing or proposed development of the City's utility systems;

(3) Such additional powers and duties as may be set forth for the Department elsewhere in this Code and other Codes of the City.

## **CHAPTER 4. BASE ZONING DISTRICTS**

### **4.1 Purpose and Intent.**

The City of Tupelo has zoning districts covering all land in the city limits. Zoning protects the rights of property owners and allows them the reasonable use of their property insofar as the use does not negatively affect the health, safety, or welfare of abutting properties or the neighborhood. Zoning permits particular land uses where they are most appropriate, considering public utilities, road access, natural resources or constraints, and the established development pattern.

In order to carry out the purposes of this Code and to allow appropriate uses in different districts, the City shall be divided into the following zoning districts, the boundaries of which shall be shown on the Official Map of Zoning Districts:

- (1) Agriculture/Open Space Protection (A/O)
- (2) Low-Density Residential (LDR)
- (3) Medium-Density Residential (MDR)
- (4) Mixed-Use Residential (MUR)
- (5) Mixed-Use Downtown (MUD)
- (6) Mixed-Use Commercial Corridor (MUCC)
- (7) Mixed-Use Activity Center (MUAC)
- (8) Mixed-Use Employment (MUE)
- (9) Regional Commercial (RC)
- (10) Industrial (I)

### **4.2 Relationship of Base Zoning Districts to Overlay Districts**

Lands within the City may also be classified into one of the “overlay districts” set forth in Chapter 5: Overlay Districts and Permitted Uses. Where the property is classified in an overlay district as well as a base zoning district, then the standards governing development in the overlay district shall apply in addition to the standards governing development in the underlying district. In the event of an express conflict between the standards set forth in the base zoning district and the overlay district, the stricter standard shall apply.

### **4.3 Allowable Uses, Compatible Uses, Flexible Uses, and Prohibition of Uses Not Expressly Listed**

No use shall be established in any zoning district unless it is expressly designated by this Code as a “permitted use,” “compatible use,” “flexible use,” or “temporary use.” The range of uses allowed as permitted, compatible, or flexible uses in each zoning district may be found in Table

4.3. In the event of a conflict between Table 4.3 and the text of this Code, the text shall control. The range of uses allowed as temporary uses may be found in Chapter 7: “Accessory and Temporary Structures and Uses”.

#### **4.4 Annexed Lands**

The zoning district designation for areas added to the City’s jurisdiction through annexation beyond the City’s existing jurisdiction shall be determined as follows:

If the property annexed is not subject to any zoning standards, the property shall not be subject to any use restrictions imposed by this Code until such time as the City has properly zoned the property at which time all restrictions and regulations contained in the Code shall apply. Prior to such zoning becoming effective, all other standards contained in this Code other than use restrictions shall apply.

If the property annexed is subject to zoning regulations, the property shall be designated by the City Council after recommendation by the Planning Committee. All standards of this Code for said zoning classification shall apply to this annexed property immediately upon said annexation and zoning district designation by the City Council.

#### **4.5 Zoning Map**

The Official Map of Zoning Districts, along with all notations, references, and other information shown, is now incorporated into and made part of this Code. As part of this Code, the Official Map of Zoning Districts shall be amended only by the procedures set forth in this Code.

**Table 4.3**

Use Categories	AO	LDR	MDR	MUR	MUD refer to table 5.3.4	MUCC-1 (Walkable)	MUCC-2 (Conventional)	MUE-1 (Walkable)	MUE-2 (Conventional)	MUAC-1 (Walkable)	MUAC-2 (Conventional)	RC	I
<b>Residential</b>													
Detached Dwelling	R	R	R	R		C				C*			
Accessory Dwelling Unit	C	C	R	R		R	R	R	R	R	R		
Manufactured or Mobile Home Subdivision	F												
Duplex/Semi-Attached Unit		F	C	C		C*	F*			R*			
Patio Home/Zero-Lot-Line Home		C	R	C		C*	F*			R*			
Townhouse			R	R		R*	R*	R*	R	R*			
Upper-Story Residential Unit				R*		R	R	R*	R	R	R		
Apartment Development				F*		C*	C*	R	R	R	R	F	
<b>Non-Residential</b>													
Adult Entertainment Establishment													R
Aircraft Sales and/or Service													R
Airport	F												R
Animal Shelter	F	F											R
Asphalt and/or Concrete Plant													R
Assisted Living Facility			F	C		R	R	C	C	R	R		
Bed and Breakfast	C	F	R	R		R				R	R		
Broadcasting Facility, Radio and/or Television	F					C	C	R	R	C	C	C	
Campground and/or RV Park	C	C	C			C	C						
Car Wash Facility							R				R	R	R
Cemetery	C	C	F										

R = use by Right C = use by Compatibility F = use by Flexibility

\* Location restrictions apply; see text of chapters 4 and 7

**Table 4.3**

Use Categories	AO	LDR	MDR	MUR	MUD refer to table 5.3.4	MUCC-1 (Walkable)	MUCC-2 (Conventional)	MUE-1 (Walkable)	MUE-2 (Conventional)	MUAC-1 (Walkable)	MUAC-2 (Conventional)	RC	I
Conference Center						R	R	R	R	R	R		
Convenience Store with Fuel Sales						R	R	R	R	R	R	R	R
Correctional Facility	F								F				R
Crematory			F	F			C						
Day Care Center				C*		R	R	R	R*	R	R	C	
Day Care Home, Large	C	C	C	R		R	R	R	R	R	R	C	
Day Care Home, Small	R	R	R	R		R	R	R	R	R	R		
Dog Kennel	C	F	F	F									
Drinking Establishment				C*		C	C			R	R	R	
Drug Store or Pharmacy with Drive-Through Service						R	R	R	R	R	R	R	
Educational Facility, College or University				C*		R	R	R	R	R	R		
Educational Facility, K-12	C	C	C	C		R	R	C	C	R	R		
Educational Facility, Vocational Training				C*		C	C	R	R	C	C		
Engine Repair, Small						C	C		F	F	F		R
Engine Repair, Large						F	F						R
Farm	R												
Farmers Market	R			C		C							
Financial Establishment						R	R	R	R	R	R	R	
Firing Range, Indoor													R
Firing Range, Outdoor	F												C
Forestry	R												
Funeral Home			F	R*		R	R						
Golf Course and/or Country Club	R	R	C	C*									

R = use by Right C = use by Compatibility F = use by Flexibility

\* Location restrictions apply; see text of chapters 4 and 7

**Table 4.3**

Use Categories	AO	LDR	MDR	MUR	MUD refer to table 5.3.4	MUCC-1 (Walkable)	MUCC-2 (Conventional)	MUE-1 (Walkable)	MUE-2 (Conventional)	MUAC-1 (Walkable)	MUAC-2 (Conventional)	RC	I
Golf Driving Range	R	F											
Government Facility				R*		R	R	R	R	R	R		C
Group Home	C	C	C	R		C*		C*					
Halfway House	F							F	F				F
Home Business	C		F	F		R	R	R	R	R	R	R	
Home Occupation	R	R	R	R		R	R	R	R	R	R	R	
Hospital						R	R	R	R	R	R	F	
Hotel or Motel				F*		R	R	C	C	R	R	R	
Library			C	R		R	R	R	R	R	R		
Junkyard													R
Manufacturing, Heavy													R
Manufacturing, Light								C	R				R
Museum			C	R*		R	R			R	R		
Nursing Home						R	R	R	R	R	R	F	
Office				R*		R	R	R	R	R	R	R	R
Office with Storage						F	C	C	R	F	C		R
Office, Medical				R*		R	R	R	R	R	R	R	
Outdoor Dining				C*		R	R	R	R	R	R	R	
Outdoor Display of Merchandise						R	R			R	R	R	R
Outdoor Display of Plants				R*		R	R	R	R	R	R	R	R
Outdoor Storage						R	R	R	R	R	R	R	R
Park and/or Open Space	R	R	R	R		R	R	R	R	R	R	R	
Parking Facility, Off-Site						C	C	C	C	C	C	C	C
Passenger Terminal						R	R	R	R	R	R		R
Place of Assembly and/or Worship	C	C	C	C*		R	R	R	R	R	R		
Printing and/or Publishing Facility						F	F	C	R				R
Public Safety Station	C	C	R	R*		R	R	R	R	R	R	R	R

R = use by Right C = use by Compatibility F = use by Flexibility

\* Location restrictions apply; see text of chapters 4 and 7

**Table 4.3**

Use Categories	AO	LDR	MDR	MUR	MUD refer to table 5.3.4	MUCC-1 (Walkable)	MUCC-2 (Conventional)	MUE-1 (Walkable)	MUE-2 (Conventional)	MUAC-1 (Walkable)	MUAC-2 (Conventional)	RC	I
Railroad Station and/or Yard													C
Recreation Facility, Indoor				R		R	R	R*	R*	R	R	R	C
Recreation Facility, Outdoor	R	R	C	C*									C
Recycling and/or Salvage Facility									F				R
Recycling Drop-Off Facility													R
Research and Development Facility						C	C	R	R	C	C		R
Resource Extraction	F												F
Restaurant with Drive-Through Service						R	R	R*	R*	R	R	R	
Restaurant without Drive-Through Service				C*		R	R	R*	R*	R	R	R	
Retail Sales and/or Service				R*		R	R	R*	R	R	R	R	
Retail Sales, Lumber Yard or Building Materials							C					R	R
Satellite Dish Antennae	R	R	R	R		R	R	R	R	R	R	R	R
Self-Serve Storage Facility							F		R		F		R
Social and/or Community Service Facility				R*		R	R	C	C	R	R	C	C
Swimming Pool	R	R	R	R		R	R	R	R	R	R	R	
Telecommunications Facility, Other		C						C	C				R
Telecommunications Tower	F	F				F	F	F	F	F	F	F	R

R = use by Right C = use by Compatibility F = use by Flexibility

\* Location restrictions apply; see text of chapters 4 and 7

**Table 4.3**

<b>Use Categories</b>	<b>AO</b>	<b>LDR</b>	<b>MDR</b>	<b>MUR</b>	<b>MUD refer to table 5.3.4</b>	<b>MUCC-1 (Walkable)</b>	<b>MUCC-2 (Conventional)</b>	<b>MUE-1 (Walkable)</b>	<b>MUE-2 (Conventional)</b>	<b>MUAC-1 (Walkable)</b>	<b>MUAC-2 (Conventional)</b>	<b>RC</b>	<b>I</b>
Trade Market Facility						R	R	C	C			R	R
Truck Stop						C	R*		R				R
Trucking Company								F	R				R
Utility, Major	C	F				C	C	F	F	F	F	F	R
Utility, Minor	R	C	C	C		C	C	C	C	C	C	C	R
Vehicle Sales and/or Rental						F	R			F	R	R	
Vehicle Service						F	R			F	R	R*	R
Vehicle Wrecker Service													R
Veterinarian Clinic without Outdoor Kennel				C		C	C	C	C	R	R	C	
Veterinarian Clinic with Outdoor Kennel	F	F											R
Warehouse and/or Distribution and/or Freight Facility								F	R				R
Waste-Related Service Facility								F	R				R
Wholesale Facility								C	R				R
Woodworking or Cabinet-Making Facility						F	C			C			R

R = use by Right C = use by Compatibility F = use by Flexibility

\* Location restrictions apply; see text of chapters 4 and 7

## **4.6 Agriculture/Open Space Protection District (AO)**

### **4.6.1 Purpose and Intent**

The objective of the Agriculture/Open Space Protection District (AO) is to preserve environmentally sensitive land areas such as floodplains and agricultural areas which are not suitable for dense development and which are generally outside of areas served by public water and sanitary sewer systems. The types of uses, area and intensity of development permitted in this district are designed to protect agricultural and open space uses, including very low density single-family residences and accessory uses.

### **4.6.2 Development Emphasis**

This district shall allow agriculture and very low density residential uses and shall have very limited development impact, particularly land clearing, hardscape and higher intensity uses. Residential development should be of high quality and environmentally sustainable design due to the environmental sensitivity of land in this district, much of which is floodplain or flood hazard area. It should include appropriate design tools or amenities to compensate for converting valuable open space. These may include a connected street system, side or rear garages, clustering of residential houses, environmental set aside areas, and low-impact stormwater management techniques.

### **4.6.3 Flexibility Options**

Lot sizes and development standards may be reduced to allow a higher percentage of protected open space through cluster subdivision design. Setbacks may be reduced where rear access is provided by an alley. Low-impact stormwater management practices may substitute for curb and gutter. Sidewalk or street connectivity requirements may be reduced or waived if connectivity is provided by an alternative pedestrian or cyclist path.

### **4.6.4 Special Requirement**

Land in the AO districts which is classified as flood hazard area may be rezoned for other use only upon a finding by the City Engineer that the proposed development would have no significant adverse impact on flood elevations.

### **4.6.5 Development Standards**

<b>Agriculture/Open Space Protection District (AO)</b>	
Minimum/Maximum Lot Size*	2 acres minimum/no maximum
Minimum/Maximum Width*	150 feet minimum/no maximum
Minimum/Maximum Front Setback	50 feet minimum/no maximum
Minimum/Maximum Side Setback	25 feet minimum/no maximum
Minimum/Maximum Rear Setback	50 feet minimum/no maximum

Maximum Height**	2 stories maximum
Maximum Density***	1 dwelling unit/2 acres

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

\*\*\*Existing parcels of land are exempt from minimum density requirements.

#### **4.6.6 Uses**

##### **4.6.6.1 Uses by Right – A/O**

- (1) Detached Dwelling
- (2) Day Care Home, Small
- (3) Farm
- (4) Farmers Market
- (5) Forestry
- (6) Golf Course and/or Country Club
- (7) Golf Driving Range
- (8) Home Occupation
- (9) Park and/or Open Space
- (10) Recreation Facility, Outdoor
- (11) Satellite Dish Antennae
- (12) Swimming Pool
- (13) Utility, Minor

##### **4.6.6.2 Uses by Compatibility – A/O**

- (1) Accessory Dwelling Unit (ADU)
- (2) Bed and Breakfast
- (3) Campground and/or RV Park Facility

- (4) Cemetery
- (5) Day Care Home, Large
- (6) Dog Kennel
- (7) Educational Facility, K-12
- (8) Group Home
- (9) Home Business
- (10) Place of Assembly and/or Worship
- (11) Public Safety Station
- (12) Utility, Major

#### **4.6.6.3 Uses by Flexibility – A/O**

- (1) Airport
- (2) Animal Shelter
- (3) Broadcasting Facility, Radio and/or Television
- (4) Correctional Facility
- (5) Firing Range, Outdoor
- (6) Halfway House
- (7) Manufactured or Mobile Home Subdivision
- (8) Resource Extraction
- (9) Telecommunications Tower
- (10) Veterinarian Clinic with Outdoor Kennel

### **4.7 Low-Density Residential District (LDR)**

#### **4.7.1 Purpose and Intent**

The objective of the Low-Density Residential District (LDR) is to provide an area of low-density residential uses and to transition between more densely developed neighborhoods and the Agricultural-Open Space areas. This district may be located in the more sparsely developed areas of the city where rural, low-density development patterns exist and where utility services and other infrastructure may not be able to accommodate a higher density. Landowners may develop large lot single family units or cluster development on smaller lots to conserve open space, views, and other natural features.

#### 4.7.2 Development Emphasis

This district shall allow low-density residential uses and also limit development impact, particularly land clearing; impervious surfaces such as buildings and parking lots, and higher intensity uses. Development in this district shall protect the character of existing single-family housing and offer large lot housing to residents and potential new residents. Residential development should be of high quality and environmentally friendly design, offering appropriate amenities to compensate for the conversion of open space. Walking or biking trails or other outdoor recreational amenities are appropriate. Development standards in this district shall encourage clustering of houses, the creation of environmental set aside areas, and low impact stormwater management techniques. Standards shall discourage cul-de-sacs, single access developments, and front loaded garages.

#### 4.7.3 Flexibility Options

Lot sizes and development standards may be reduced to allow a higher percentage of protected open space through cluster subdivision design. Setbacks may be reduced where rear access is provided by an alley. Low-impact stormwater management practices may substitute for curb and gutter. The sidewalk requirements may be waived if connectivity is provided by walking paths, bike trails, or a similar amenity. The street connectivity requirement may be reduced or waived if connectivity is provided by off-site multi-use paths or similar amenity.

#### 4.7.4 Development Standards

<b>Low-Density Residential District (LDR)</b>	
Minimum/Maximum Lot Size*	.33 acres - 1 acre
Minimum/Maximum Width*	90 feet minimum/no maximum
Minimum/Maximum Front Setback	20 - 50 feet
Minimum/Maximum Side Setback	10 feet/no maximum
Minimum/Maximum Rear Setback	10 feet/no maximum
Maximum Height**	2 stories
Minimum/Maximum Density***	1 dwelling unit/acre minimum 3 dwelling units/acre maximum
Open Space Requirement	15%

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

\*\*\*Existing parcels of land are exempt from minimum density requirements.

## **4.7.5 Uses**

### **4.7.5.1 Uses by Right – LDR**

- (1) Detached dwelling
- (2) Day Care Home, Small
- (3) Golf Course and/or Country Club
- (4) Home Occupation
- (5) Park and/or Open Space
- (6) Recreation Facility, Outdoor
- (7) Satellite Dish Antennae
- (8) Swimming Pool

### **4.7.5.2 Uses by Compatibility – LDR**

- (1) Accessory Dwelling Unit (ADU)
- (2) Patio Home/Zero-Lot-Line Home
- (3) Campground and/or RV Park
- (4) Cemetery
- (5) Day Care Home, Large
- (6) Educational Facility, K-12
- (7) Group Home
- (8) Place of Assembly and/or Worship
- (9) Public Safety Station
- (10) Telecommunications Facility, Other
- (11) Utility, Minor

### **4.7.5.3 Uses by Flexibility – LDR**

- (1) Duplex Dwelling
- (2) Animal Shelter
- (3) Bed and Breakfast
- (4) Dog Kennel
- (5) Golf Driving Range

- (6) Telecommunications Tower
- (7) Utility, Major
- (8) Veterinary Clinic with Outside Kennel

**4.8 Medium Density Residential District (MDR)**

**4.8.1 Purpose and Intent**

The objective of the Medium Density Residential District (MDR) is primarily to provide a variety of single-family dwellings and other residential uses. The district includes existing dense neighborhoods prime for infill and redevelopment as well as land located close to mixed use activity centers. New residential neighborhoods will be walkable and should be accessible via local streets to parks, open space, schools and civic activities. The development standards in the MDR District ensure that new development in this district is appropriately scaled to transition between low-density housing and denser commercial areas. New development should be designed so that its form, height, and proportion are compatible with existing adjacent development.

**4.8.2 Development Emphasis**

The standards in this district shall ensure that there are attractive development and redevelopment opportunities for new housing near the center of Tupelo. Standards shall be designed to offer more housing types that are designed to keep neighborhoods and property values stable; to improve walkability and connectivity of residential areas; and to provide a transition between low density residential areas and mixed use areas.

**4.8.3 Flexibility Options**

Compatibility with existing development will be the top priority in MDR. Other standards include setbacks, lot dimensions, and lot coverage. At points of transition between different types of development or land uses, dimensions and density may increase or decrease to allow buildings to buffer between higher and lower intensity uses or structures. Pedestrian and/or bike connectivity may substitute for street connectivity.

**4.8.4 Development Standards**

<b>Medium-Density Residential District (MDR)</b>	
Minimum/Maximum Lot Size*	4,000 sq. ft. min. for traditional housing; 6,000 sq. ft. min/14,520 sq. ft. max for residential; 6,000 sq. ft. min/1 acre max for non-residential
Minimum/Maximum Width*	50 ft. min/90 ft. max for residential; 50 ft min for non-residential
Minimum/Maximum Front Setback**	10 ft. min/30 ft. max for residential; 10 ft. min/50 ft. max for non-residential

Minimum/Maximum Side Setback***	0 ft. minimum/40 ft. maximum
Minimum/Maximum Rear Setback	10 ft. minimum/no maximum
Maximum Height****	2 stories
Minimum/Maximum density	3-7 dwelling units/acre
Open Space Amenity	10%

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Traditional housing developments must build to a maximum ten (10') front setback.

\*\*\* Residential units such as townhouses may be attached with a zero (0) foot setback. A five (5) foot minimum setback shall be required on all other development.

\*\*\*\*\*Existing parcels of land are exempt from minimum density requirements.

#### **4.8.5 Uses**

##### **4.8.5.1 Uses by Right – MDR**

- (1) Detached Dwellings
- (2) Accessory Dwelling Unit (ADU)
- (3) Patio Home/Zero-Lot-Line Home
- (4) Townhouse
- (5) Bed and Breakfast
- (6) Day Care Home, Small
- (7) Home Occupation
- (8) Park and/or Open Space
- (9) Public Safety Station
- (10) Satellite Dish Antennae
- (11) Swimming Pool

##### **4.8.5.2 Uses by Compatibility – MDR**

- (1) Duplex dwelling
- (2) Campground and/or RV Park
- (3) Day Care Home, Large

- (4) Educational Facility, K-12
- (5) Golf Course and/or Country Club
- (6) Group Home
- (7) Library
- (8) Museum
- (9) Place of Assembly and/or Worship
- (10) Recreational Facility, Outdoor
- (11) Utility, Minor

#### **4.8.5.3 Uses by Flexibility – MDR**

- (1) Assisted Living Facility
- (2) Cemetery
- (3) Crematory
- (4) Dog Kennel
- (5) Funeral Home
- (6) Home Business

### **4.9 Mixed-Use Residential District (MUR)**

#### **4.9.1 Purpose and Intent**

The objective of the Mixed-Use Residential District (MUR) is intended to provide opportunities for new development and redevelopment in existing well-connected, centrally located neighborhoods. MUR standards will allow a diverse range of housing that is compatible with existing development patterns. A range of residential housing types may be permitted and will be the majority of new development, including detached single-family houses, duplexes, patio homes, townhomes, live/work units, or apartments. Some small scale commercial uses may be allowed on larger streets if the buildings are scaled to the neighborhood and the uses are those that are compatible with the neighborhood. These could include a church, small boutique clothing store, doctor's office, day care center, coffee shop, or dry cleaner. The MUR district is intended to accommodate new growth in areas near activity centers and major streets and to allow for a vertical or horizontal mix of uses on sites. All new development and redevelopment will be pedestrian-oriented and shall be accessible via local streets to parks, schools, and nearby commercial centers. Development will be designed so that its form, height, and proportion are compatible with existing adjacent development.

#### **4.9.2 Development Emphasis**

The highest priority in the MUR district is to preserve the character of existing residential neighborhoods while accommodating some new and renovated housing units. The standards in this district will encourage the redevelopment of existing neighborhoods. It will allow infill residential development that respects the existing character of the neighborhoods. Many residents in these neighborhoods are already in walking distance of schools, parks, churches, and retail or restaurants. These standards will allow some limited new destinations to be built at a small, neighborhood scale, such as offices, coffee shops, or retail stores. All new development will be compatible with existing development patterns, including height and setbacks, and it will include street and pedestrian connectivity.

#### 4.9.3 Flexibility Options

Compatibility is the most important goal. Therefore, where necessary to achieve compatibility, there may be adjustments to standards such as height or setback. In some cases a landscaped buffer may be replaced by architectural transition and pedestrian connections. Residential density may be increased on a collector or arterial street. In general, non-residential uses are permitted as part of a larger residential project. However, if a collector or arterial street already has some commercial uses, a non-residential project may be allowed if it is compatible with the existing area, conforms to design standards, and will enhance the value of the street. Minimum parking requirements may be reduced in locations that are safely accessible to pedestrians from nearby residential areas.

#### 4.9.4 Development Standards

<b>MIXED-USE RESIDENTIAL DISTRICT (MUR)</b>	
Minimum/Maximum Lot Size*	3,000 sq. ft. min. for traditional housing; 5,000-14,520 sq. ft. for other single family housing. 5,000 sq. ft. minimum/no maximum for multi-family housing or non-residential.
Minimum/Maximum Width*	30 - 90 feet for single family housing. 50 feet minimum/no maximum for multi-family housing or non-residential.
Minimum/Maximum Front Setback	10 - 30 feet
Minimum/Maximum Side Setback**	No minimum/50 feet maximum
Minimum/Maximum Rear Setback	10 feet minimum/no maximum
Minimum/Maximum Height***	3 stories
Minimum/Maximum Density****	Less than 30% for non-residential. 3/13 dwelling units per acre for residential.
Open Space Amenity	5%
Maximum Floor Area Ratio (non-residential)	0.5

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Residential units such as townhouses may be attached with a zero (0') foot setback. A five (5') foot minimum side setback shall be required on all other development.

\*\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

\*\*\*\* Existing parcels of land are exempt from minimum density requirements.

#### **4.9.5 Uses**

##### **4.9.5.1 Uses by Right – MUR**

- (1) Detached Dwelling
- (2) Accessory Dwelling Unit (ADU)
- (3) Patio Home/Zero-Lot-Line Home
- (4) Townhouse
- (5) Upper Story Residential Unit
- (6) Bed and Breakfast
- (7) Day Care Home, Large
- (8) Day Care Home, Small
- (9) Group Home
- (10) Home Occupation
- (11) Library
- (11) Park and/or Open Space
- (12) Satellite Dish Antennae
- (13) Swimming Pool

##### **4.9.5.2 Other Uses by Right – MUR**

The following uses are allowed by right in MUR if located on a collector or arterial street and if part of a mixed-use development that consists of no more than thirty percent (30%) or up to five thousand (5,000) square feet of non-residential uses, whichever is less. If the project does not meet all of these standards it may be permitted by compatibility.

- (1) Upper-Story Residential Unit
- (2) Government Facility\*
- (3) Museum\*
- (4) Office
- (5) Office, Medical
- (6) Outdoor Display of Plants
- (7) Public Safety Station\*
- (8) Recreation Facility, Indoor
- (9) Retail Sales and/or Service
- (10) Social and/or Community Service Facility

\*These uses are exempt from the mixed-use development requirement.

#### **4.9.5.3 Uses by Compatibility – MUR**

- (1) Duplex Dwelling
- (2) Assisted Living Facility
- (3) Day Care Center\*\*
- (4) Drinking Establishment\*\*
- (5) Educational Facility, College or University\*\*
- (6) Educational Facility, K-12
- (7) Educational Facility, Vocational Training\*\*
- (8) Farmers Market
- (10) Funeral Home\*\*
- (11) Golf Course and/or Country Club\*\*
- (12) Outdoor Dining\*\*
- (13) Place of Assembly and/or Worship\*\*
- (14) Recreation Facility, Outdoor\*\*
- (15) Restaurant without Drive-Through Service\*\*
- (16) Utility, Minor
- (17) Veterinarian Clinic without Outdoor Kennel\*\*

\*\*Permitted by compatibility if part of a mixed-use development that is located on a collector or arterial street and consists of no more than thirty percent (30%) or up to five thousand (5,000) square feet of non-residential uses, whichever is less. If all of these conditions are not met, the use may be permitted by flexibility.

#### **4.9.5.4 Uses by Flexibility – MUR**

- (1) Apartment Development\*
- (2) Crematory
- (3) Dog Kennel
- (4) Home Business
- (5) Hotel or Motel\*\*

\*Apartment developments of 8 units or less may be permitted on a major collector or arterial street. Apartment developments of more than 8 units may only be located on an arterial street.

\*\*This use shall be permitted only on a major collector or arterial street.

#### **4.10 Mixed-Use Downtown District (MUD)**

##### **4.10.1 Purpose and Intent**

The objective of the Mixed-Use Downtown District (MUD) is to maintain and improve the vibrant downtown area as an environment that has employment and shopping opportunities, a range of housing types and parks, lodging, open space, and civic uses. New development should be compatible with the existing character of the block. In general, it will occur in traditional development patterns with narrower streets, smaller blocks, and smaller lots. Uses may be mixed both vertically and horizontally. Development and redevelopment will be designed in an integrated, pedestrian-friendly manner and should not be dominated by any one land use or housing type. Due to the varying character and land uses that exist in the MUD district, the City of Tupelo has Downtown Overlay Zones that have additional standards. These overlay zones are intended to ensure that new development is compatible with the existing architectural pattern.

##### **4.10.2 Development Emphasis**

The standards in the MUD district are intended to encourage adaptive reuse, redevelopment, and new development that preserves the pedestrian-oriented form of the area and allows higher density employment, residential, and office uses. A wide variety of uses are permitted in this district. In general, the pattern of development should consist of retail uses on the ground floor and residential and office space on upper floors. This pattern is most lucrative for the developer and fosters the most vibrant form of street life for residents and visitors.

##### **4.10.3 Development Standards**

<b>Mixed-Use Downtown District (MUD)</b>	
Minimum/Maximum Lot Size*	None
Minimum/Maximum Width*	None
Minimum/Maximum Front Setback**	0 to 20ft.
Minimum/Maximum Side Setback**	No minimum/no maximum
Minimum/Maximum Rear Setback**	10 ft. minimum/no maximum
Maximum Height***	5 stories
Maximum Floor Area Ratio (FAR)	2.5
Open Space Amenity	n/a

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\*Front setback shall be zero feet (0') on Main Street. On other streets, setbacks shall be determined by averaging the setbacks of adjoining or adjacent buildings. Where setback is not determined by context the stated minimum and maximum setback shall apply. Where a design covenant is more restrictive, the more restrictive guidelines shall apply.

\*\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

#### **4.10.4 Uses**

Permitted uses are regulated in Chapter 5, Overlay Districts.

### **4.11 Mixed-Use Commercial Corridor District (MUCC)**

#### **4.11.1 Purpose and Intent**

The objective of the Mixed-Use Commercial Corridor District (MUCC) is to promote gradual development and redevelopment of existing commercial corridors as mixed use areas that contain shopping and services, offices, light commercial uses, and some housing. The MUCC district allows both a vertical (multi-story) and horizontal (multiple uses on a site) mix of uses. New development and redevelopment will be designed to accommodate a range of residential, retail, commercial, and office uses in a way that is visually appealing for residents, both motorists and pedestrians. The district is intended to serve both residents of adjacent neighborhoods and people who may drive to one destination but stay to shop, eat, or run other errands in a walkable commercial area. Developers in the MUCC districts may choose between pedestrian-scaled standards (MUCC-1) and conventional standards (MUCC-2), with the exception that properties adjoining pedestrian-oriented development shall use that set of standards.

### 4.11.2 Development Emphasis

The standards in the MUCC district are intended to encourage redevelopment of aging commercial corridors to a more pedestrian-oriented form and to improve connectivity to nearby residential areas. Some residential units may be mixed into the commercial corridor, either on upper floors of mixed-use buildings or along the edges of the MUCC district to provide a buffer between the commercial district and adjacent single family neighborhoods.

### 4.11.3 Flexibility Options

A developer who chooses walkable development will be allowed significantly higher density as well as reduced landscaping and reduced open space requirements. Landscaping requirements may be reduced for a development with side and rear parking areas. In general, dimensional standards may be adjusted to allow increases in the intensity of use if such increase is compatible with existing development. Buffer requirements between non-residential and residential areas may be replaced by architectural transition and pedestrian connections. Tree replacement requirements may be reduced for pedestrian-oriented development. Vertically mixed uses are encouraged. Requests for flexibility considerations that reduce the pedestrian accessibility or appeal of a proposed development will not normally be considered. A development that consists of at least fifty percent (50%) residential uses shall be built to the walkable set of standards.

### 4.11.4 Development Standards

<b>Mixed-Use Commercial Corridor District (MUCC)</b>	<b>MUCC-1 Pedestrian-Scaled Standards</b>	<b>MUCC-2 Conventional Standards</b>
Minimum/Maximum Lot Size*	5,000 sq. ft. minimum/no maximum	20,000 sq. ft. minimum/no maximum
Minimum/Maximum Width*	50 feet minimum/no maximum	100 feet/ no maximum
Minimum/Maximum Front Setback	10 – 30 feet	30 feet minimum/no maximum
Minimum/Maximum Side Setback	10 feet minimum/no maximum	10 feet minimum/no maximum
Minimum/Maximum Rear Setback	10 feet minimum/no maximum	10 feet minimum/no maximum
Maximum Height**	4 stories	3 stories
Open Space Amenity	3%	10% of gross land area
Maximum Floor Area Ratio (FAR)	1.5	0.5

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

#### **4.11.5 Uses**

##### **4.11.5.1 Uses by Right - MUCC-1**

- (1) Accessory Dwelling Unit (ADU)
- (2) Townhouse\*
- (3) Upper-Story Residential Unit
- (4) Assisted Living Facility
- (5) Bed and Breakfast
- (6) Conference Center
- (7) Convenience Store with Fuel Sales
- (8) Day Care Center
- (9) Day Care Home, Small
- (10) Day Care Home, Large
- (11) Drug Store or Pharmacy with Drive-Through Service
- (12) Educational Facility, College or University
- (13) Educational Facility, K-12
- (14) Financial Establishment
- (15) Funeral Home
- (16) Government Facility
- (17) Home Business
- (18) Home Occupation
- (19) Hospital
- (20) Hotel or Motel
- (21) Library
- (22) Museum
- (23) Nursing Home
- (24) Office

- (25) Office, Medical
- (26) Outdoor Dining
- (27) Outdoor Display of Merchandise
- (28) Outdoor Display of Plants
- (29) Outdoor Storage
- (30) Park and/or Open Space
- (31) Passenger Terminal
- (32) Place of Assembly and/or Worship
- (33) Public Safety Station
- (34) Recreation Facility, Indoor
- (35) Restaurant with Drive-Through Service
- (36) Restaurant without Drive-Through Service
- (37) Retail Sales and/or Service
- (38) Satellite Dish Antennae
- (39) Social and/or Community Service
- (40) Swimming Pool
- (41) Trade Market Facility

\*Permitted by right if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a compatible use.

#### **4.11.5.2 Uses by Right - MUCC-2**

- (1) Accessory Dwelling Unit (ADU)
- (2) Townhouse\*
- (3) Upper Story Residential Unit
- (4) Assisted Living Facility
- (5) Billboard Replacement\*\*
- (6) Car Wash Facility
- (7) Conference Center
- (8) Convenience Store with Fuel Sales
- (9) Day Care Center

- (10) Day Care Home, Small
- (11) Day Care Home, Large
- (12) Drugstore or Pharmacy with Drive-Through Service
- (13) Educational Facility, College or University
- (14) Educational Facility, K-12
- (15) Financial Establishment
- (16) Funeral Home
- (17) Government Facility
- (18) Home Business
- (19) Home Occupation
- (20) Hospital
- (21) Hotel or Motel
- (22) Library
- (23) Museum
- (24) Nursing Home
- (25) Office
- (26) Office, Medical
- (27) Outdoor Dining
- (28) Outdoor Display of Merchandise
- (29) Outdoor Display of Plants
- (30) Outdoor Storage
- (31) Park and/or Open Space
- (32) Passenger Terminal
- (33) Place of Assembly and/or Worship
- (34) Public Safety Station
- (35) Recreation Facility, Indoor
- (36) Restaurant with Drive-Through Service
- (37) Restaurant without Drive-Through Service
- (38) Retail Sales and/or Service
- (39) Satellite Dish Antennae
- (40) Social and/or Community Service Facility

- (41) Swimming Pool
- (42) Trade Market Facility
- (43) Truck Stop
- (44) Vehicle Sales and/or Rental
- (45) Vehicle Service

\*Permitted by right if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a compatible use.

\*\*Any existing billboard may be replaced by an electronic graphic display billboard, subject to the size and location standards in Sections 10.7.2. (11) and (12) and to the condition that another billboard be removed and not replaced.

#### **4.11.5.3 Uses by Compatibility - MUCC-1**

- (1) Detached Dwelling
- (2) Duplex Dwelling\*
- (3) Patio Home/Zero-Lot-Line Home\*
- (4) Apartment Development\*\*
- (5) Broadcasting Facility, Radio and/or Television
- (6) Campground and/or RV Park
- (7) Drinking Establishment
- (8) Educational Facility, Vocational Training
- (9) Engine Repair, Small
- (10) Farmers Market
- (11) Group Home\*
- (12) Parking Facility, Off-Site
- (13) Research and Development Facility
- (14) Utility, Major
- (15) Utility, Minor
- (16) Veterinarian Clinic without Outdoor Kennel

\*Permitted by compatibility if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a flexible use.

\*\* Apartment developments are permitted by compatibility if they have eight (8) or fewer units and if located on a major collector or arterial street; otherwise by flexibility.

#### **4.11.5.4 Uses by Compatibility - MUCC-2**

- (1) Apartment Development\*
- (2) Broadcasting Facility, Radio and/or Television
- (3) Campground and/or RV Park
- (4) Crematory
- (5) Drinking Establishment
- (6) Educational Facility, Vocational Training
- (7) Engine Repair, Small
- (8) Office with Storage
- (9) Parking Facility, Off-Site
- (10) Research and Development Facility
- (11) Retail Sales, Lumber Yard or Building Materials
- (12) Utility, Major
- (13) Utility, Minor
- (14) Veterinarian Clinic without Outdoor Kennel
- (15) Woodworking or Cabinet-Making Facility

\* Permitted by compatibility if they have eight (8) or fewer units and if located on a major collector or arterial street; otherwise by flexibility.

#### **4.11.5.5 Uses by Flexibility - MUCC-1**

- (1) Engine Repair, Large
- (2) Office with Storage
- (3) Printing and/or Publishing Facility
- (4) Telecommunications Tower
- (5) Vehicle Sales and/or Rental
- (6) Vehicle Service
- (7) Woodworking or Cabinet-Making Facility

#### **4.11.5.6 Uses by Flexibility - MUCC-2**

- (1) Duplex Dwelling\*
- (2) Patio Home/Zero-Lot-Line Home\*
- (3) Engine Repair, Large
- (4) Printing and/or Publishing Facility
- (5) Self-Serve Storage Facility
- (6) Telecommunications Tower

\*Permitted by flexibility if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR.

## **4.12 Mixed-Use Employment District (MUE)**

### **4.12.1 Purpose and Intent**

The objective of the Mixed-Use Employment District (MUE) is to provide concentrated areas of high-quality employment facilities that may be integrated with or adjacent to complementary retail and commercial uses and medium density residential uses. Mixed-use employment areas should have direct access to arterial or collector streets and shall be compatible with and connected to the surrounding development as well as any nearby parks, open space, and pathways. Mixed use employment areas may include corporate office headquarters, hospitals and medical centers, research and development facilities, business parks, and educational facilities in planned, campus-like settings. Secondary uses such as live-work units, medium-density residential housing, and complementary commercial uses are encouraged. Developers in the MUE districts may choose between pedestrian-scaled standards (MUE-1) and conventional standards (MUE-2), with the exception that properties adjoining pedestrian-oriented development shall use that set of standards.

### **4.12.2 Development Emphasis**

The standards in the MUE district are intended to promote higher-quality design standards at street frontages and gateways and allow a wider range of uses in existing commercial and employment corridors. Some residential units may be mixed into the MUE district, either on upper floors of mixed-use buildings or along the edges of the MUE district to provide a buffer between the commercial district and adjacent residential development.

### **4.12.3 Flexibility Options**

A developer who chooses walkable development will be allowed significantly higher density as well as reduced landscaping and no open space requirements. Landscaping requirements may be reduced for a development with side and rear parking areas. In general, dimensional standards may be adjusted to allow increases in the intensity of use if such increase is compatible with existing development. Buffer requirements between non-residential and residential areas may be

replaced by architectural transition and pedestrian connections. Tree replacement requirements may be reduced for pedestrian-oriented development. Vertically mixed uses are encouraged. Standards for building design or materials may be reduced if additional landscaping is provided. Sidewalk requirements may be waived if a system of internal pedestrian circulation or another pedestrian amenity is more appropriate. Requests for flexibility considerations that reduce the pedestrian accessibility or appeal of a proposed development will not normally be considered. A development that consists of at least fifty percent (50%) residential uses shall be built with the walkable set of standards (MUE-1).

#### 4.12.4 Development Standards

<b>Mixed-Use Employment District (MUCC)</b>	<b>MUE-1 Pedestrian-scaled Standards</b>	<b>MUE-2 Conventional Standards</b>
Minimum/Maximum Lot Size*	5,000 sq. ft. minimum/no maximum	20,000 sq. ft. minimum/no maximum
Minimum/Maximum Width*	50 feet minimum/no maximum	100 feet/ no maximum
Minimum/Maximum Front Setback	10 – 30 feet	30 feet minimum/no maximum
Minimum/Maximum Side Setback	10 feet minimum/no maximum	10 feet minimum/no maximum
Minimum/Maximum Rear Setback	10 feet minimum/no maximum	10 feet minimum/no maximum
Maximum Height**	3 stories	2 stories
Open Space Amenity	3%	10% of gross land area
Maximum Floor Area Ratio (FAR)	1.5	0.5

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

#### 4.12.5 Uses

##### 4.12.5.1 Uses by Right - MUE-1

- (1) Accessory Dwelling Unit (ADU)

- (2) Townhouse\*
- (3) Upper-Story Residential Unit\*\*
- (4) Apartment Development
- (5) Broadcasting Facility, Radio and/or Television
- (6) Conference Center
- (7) Convenience Store with Fuel Sales\*\*
- (8) Day Care Center\*\*
- (9) Day Care Home, Small\*
- (10) Day Care Home, Large\*
- (11) Drug Store or Pharmacy with Drive-Through Service
- (12) Educational Facility, College or University
- (13) Educational Facility, Vocational Training
- (14) Financial Establishment
- (15) Government Facility
- (16) Home Business
- (17) Home Occupation
- (18) Hospital
- (19) Library
- (20) Nursing Home
- (21) Office
- (22) Office, Medical
- (23) Outdoor Dining
- (24) Outdoor Display of Plants
- (25) Outdoor Storage
- (26) Park and/or Open Space
- (27) Passenger Terminal
- (28) Place of Assembly and/or Worship
- (29) Public Safety Station
- (30) Recreation Facility, Indoor\*\*
- (31) Research and Development Facility
- (32) Restaurant with Drive-Through Service\*\*

- (33) Restaurant without Drive-Through Service\*\*
- (34) Retail Sales and/or Service\*\*
- (35) Satellite Dish Antennae
- (36) Swimming Pool

\*Permitted by right if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a compatible use.

\*\*Permitted by right if use is part of a mixed-use that is approximately seventy-five (75%) office, medical, and/or educational uses. If use does not meet these standards, it may be permitted as a compatible use.

#### **4.12.5.2 Uses by Right - MUE-2**

- (1) Accessory Dwelling Unit (ADU)
- (2) Townhouse\*
- (3) Upper-Story Residential Unit\*\*
- (4) Apartment Development
- (5) Broadcasting Facility, Radio and/or Television
- (6) Conference Center
- (7) Convenience Store with Fuel Sales\*\*
- (8) Day Care Center\*\*
- (9) Day Care Home, Small
- (10) Day Care Home, Large
- (11) Drug Store or Pharmacy with Drive-Through Service
- (12) Educational Facility, College or University
- (13) Educational Facility, Vocational Training
- (14) Financial Establishment
- (15) Government Facility
- (16) Home Business
- (17) Home Occupation
- (18) Hospital
- (19) Library
- (20) Manufacturing, Light

- (21) Nursing Home
- (22) Office
- (23) Office with Storage
- (24) Office, Medical
- (25) Outdoor Dining
- (26) Outdoor Display of Plants
- (27) Outdoor Storage
- (28) Park and/or Open Space
- (29) Passenger Terminal
- (30) Place of Assembly and/or Worship
- (31) Printing and/or Publishing Facility
- (32) Public Safety Station
- (33) Recreation Facility, Indoor\*\*
- (34) Research and Development Facility
- (35) Restaurant with Drive-Through Service\*\*
- (36) Restaurant without Drive-Through Service\*\*
- (37) Retail Sales and/or Service
- (38) Satellite Dish Antennae
- (39) Self-Serve Storage Facility
- (40) Swimming Pool
- (41) Trucking Company
- (42) Truck Stop
- (43) Warehouse and/or Distribution and/or Freight Facility
- (44) Waste-Related Service Facility
- (45) Wholesale Facility

\*Permitted by right if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a compatible use.

\*\*Permitted by right if use is part of a mixed-use that is approximately seventy-five (75%) office, medical, and/or educational uses. If use does not meet these standards, it may be permitted as a compatible use.

#### **4.12.5.3 Uses by Compatibility - MUE-1**

- (1) Assisted Living Facility
- (2) Educational Facility, K-12
- (3) Group Home\*
- (4) Hotel or Motel
- (5) Manufacturing, Light
- (6) Office with Storage
- (7) Parking Facility, Off-Site
- (8) Printing and/or Publishing Facility
- (9) Social and/or Community Service Facility
- (10) Telecommunications Facility, Other
- (11) Trade Market Facility
- (12) Utility, Minor
- (13) Veterinarian Clinic without Outdoor Kennel

\*Permitted by compatibility if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a flexible use.

#### **4.12.5.4 Uses by Compatibility - MUE-2**

- (1) Assisted Living Facility
- (2) Educational Facility, K-12
- (3) Hotel or Motel
- (4) Parking Facility, Off-Site
- (5) Social and/or Community Service Facility
- (6) Telecommunications Facility, Other
- (7) Trade Market Facility
- (8) Utility, Minor
- (9) Veterinarian Clinic without Outdoor Kennel
- (10) Woodworking or Cabinet-Making Facility

#### **4.12.5.5 Uses by Flexibility - MUE-1**

- (1) Halfway House
- (2) Telecommunications Tower
- (3) Utility, Major
- (4) Warehouse and/or Distribution and/or Freight Facility
- (5) Waste-Related Service Facility
- (6) Wholesale Facility

#### **4.12.5.6 Uses by Flexibility - MUE-2**

- (1) Correctional Facility
- (2) Engine Repair, Small
- (3) Halfway House
- (4) Recycling and/or Salvage Facility
- (5) Telecommunications Tower
- (6) Utility, Major

### **4.13 Mixed Use Activity Center District (MUAC)**

#### **4.13.1 Purpose and Intent**

The objective of the Mixed Use Activity Center District (MUAC) is to create areas that will serve as focal points for commercial development activity and as convenient places for the community to shop, work, live, or gather within a pedestrian-friendly environment. Activity centers have been designated along major corridors where they are accessible to adjacent residential and employment uses. Developers in the MUAC districts may choose between pedestrian-scaled standards (MUAC-1) and conventional standards (MUAC-2), with the exception that properties adjoining pedestrian-oriented development shall use that set of standards.

#### **4.13.2 Development Emphasis**

Standards in the MUAC district are intended to encourage the concentration of activities at centers near major intersections rather than in strip form along major streets. Standards will allow increased density and diversity of uses. They will be distinguished from the Regional Center district because they may be designed to a pedestrian scale.

### 4.13.3 Flexibility Options

Pedestrian-oriented development will be allowed significantly higher density as well as reduced landscaping and no open space requirement. Landscaping requirements may be reduced for any development with parking on the side and rear rather than the front. In general, dimensional standards may be adjusted to allow increases in the intensity of use. Buffer requirements between non-residential and residential areas may be replaced by architectural transition and pedestrian connections. Tree replacement requirements may be reduced for pedestrian-oriented development. Vertically mixed use is encouraged. Requests for flexibility considerations that reduce the pedestrian accessibility or appeal of a proposed development will not normally be considered. A development that consists of at least fifty percent (50%) residential uses shall be built with the walkable set of standards (MUAC-1).

### 4.13.4 Development Standards

<b>Mixed-Use Center District (MUAC) Activity</b>	<b>MUAC-1 Pedestrian-Scaled Standards</b>	<b>MUAC-2 Conventional Standards</b>
Minimum/Maximum Lot Size*	5,000 sq. ft. minimum/no maximum	20,000 sq. ft. minimum/no maximum
Minimum/Maximum Width*	50 feet minimum/no maximum	100 feet/ no maximum
Minimum/Maximum Front Setback	10 – 30 feet	30 feet minimum/no maximum
Minimum/Maximum Side Setback	10 feet minimum/no maximum	10 feet minimum/no maximum
Minimum/Maximum Rear Setback	10 feet minimum/no maximum	10 feet minimum/no maximum
Maximum Height**	4 stories	3 stories
Open Space Requirement	3%	10 % of gross land area
Maximum Floor Area Ratio (FAR)	2.0	1.5

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

#### **4.13.5 Uses**

##### **4.13.5.1 Uses by Right - MUAC-1**

- (1) Accessory Dwelling Unit (ADU)
- (2) Duplex Dwelling\*
- (3) Patio Home/Zero-Lot-Line Home\*
- (4) Townhouse\*
- (5) Upper-Story Residential Unit
- (6) Apartment Development
- (7) Assisted Living Facility
- (8) Bed and Breakfast
- (9) Conference Center
- (10) Convenience Store with Fuel Sales
- (11) Day Care Center
- (12) Day Care Home, Small
- (13) Day Care Home, Large
- (14) Drinking Establishment
- (15) Drug Store or Pharmacy with Drive-Through Service
- (16) Educational Facility, K-12
- (17) Educational Facility, College or University
- (18) Financial Establishment
- (19) Government Facility
- (20) Home Business
- (21) Home Occupation
- (22) Hospital
- (23) Hotel or Motel
- (24) Library
- (25) Museum
- (26) Nursing Home
- (27) Office
- (28) Office, Medical

- (29) Outdoor Dining
- (30) Outdoor Display of Merchandise
- (31) Outdoor Display of Plants
- (32) Outdoor Storage
- (33) Park and/or Open Space
- (34) Passenger Terminal
- (35) Place of Assembly and/or Worship
- (36) Public Safety Station
- (37) Recreation Facility, Indoor
- (38) Restaurant with Drive-Through Service
- (39) Restaurant without Drive-Through Service
- (40) Retail Sales and/or Service
- (41) Satellite Dish Antennae
- (42) Social and/or Community Service Facility
- (43) Swimming Pool
- (44) Veterinarian Clinic without Outdoor Kennel

\*Permitted by right if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a compatible use.

#### **4.13.5.2 Uses by Right - MUAC-2**

- (1) Accessory Dwelling Unit (ADU)
- (2) Upper Story Residential Unit
- (3) Apartment Development
- (4) Assisted Living Facility
- (5) Bed and Breakfast
- (6) Car Wash Facility
- (7) Conference Center
- (8) Convenience Store with Fuel Sales
- (9) Day Care Center
- (10) Day Care Home, Large
- (10) Day Care Home, Small

- (11) Drinking Establishment
- (12) Drug Store or Pharmacy with Drive-Through Service
- (13) Educational Facility, K-12
- (14) Educational Facility, College or University
- (15) Financial Establishment
- (16) Government Facility
- (17) Home Business
- (18) Home Occupation
- (19) Hospital
- (20) Hotel or Motel
- (21) Library
- (22) Museum
- (23) Nursing Home
- (24) Office
- (25) Office, Medical
- (26) Outdoor Dining
- (27) Outdoor Display of Merchandise
- (28) Outdoor Display of Plants
- (29) Outdoor Storage
- (30) Park and/or Open Space
- (31) Passenger Terminal
- (32) Place of Assembly and/or Worship
- (33) Public Safety Station
- (34) Recreation Facility, Indoor
- (35) Restaurant with Drive-Through Service
- (36) Restaurant without Drive-Through Service
- (37) Retail Sales and/or Service
- (38) Satellite Dish Antennae
- (39) Social and/or Community Service Facility
- (40) Swimming Pool
- (41) Vehicle Sales and/or Rental

(42) Vehicle Service\*\*

(43) Veterinarian Clinic without Outdoor Kennel

\*\*Permitted by right if accessory to a vehicle sales and/or rental vehicle use. Permitted by compatibility as a principal use.

#### **4.13.5.3 Uses by Compatibility - MUAC-1**

- (1) Detached Dwelling\*
- (2) Broadcasting Facility, Radio and/or Television
- (3) Educational Facility, Vocational Training
- (4) Parking Facility, Off-Site
- (5) Research and Development Facility
- (6) Utility, Minor

\*Permitted by compatibility if located on a local or collector street and if parcel is adjacent to land zoned A/O, LDR, MDR, or MUR. If use does not meet these standards, it may be permitted as a flexible use.

#### **4.13.5.4 Uses by Compatibility - MUAC-2**

- (1) Broadcasting Facility, Radio and/or Television
- (2) Educational Facility, Vocational Training
- (3) Office with Storage
- (4) Parking Facility, Off-Site
- (5) Research and Development Facility
- (6) Utility, Minor

#### **4.13.5.5 Uses by Flexibility - MUAC-1**

- (1) Engine Repair, Small
- (2) Office with Storage
- (3) Telecommunications Tower
- (4) Utility, Major
- (5) Vehicle Sales and/or Rental
- (6) Vehicle Service

#### 4.13.5.6 Uses by Flexibility - MUAC-2

- (1) Engine Repair, Small
- (2) Self-Serve Storage Facility
- (3) Telecommunications Tower
- (4) Utility, Major

#### 4.14 Regional Commercial District (RC)

##### 4.14.1 Purpose and Intent

The Regional Commercial (RC) district is intended to provide appropriate locations for large retail centers with stores that provide a regional draw. It allows a variety of community needs to be met in a single area of town and create a synergy that contributes to the success of businesses located there. The RC district is located at the intersection of major highways and arterial streets. New development should be designed as concentrated centers that convey a unified design. Retail businesses will be the primary use. Complementary uses such as restaurants, high-density residential development, and employment uses are also encouraged.

##### 4.14.2 Development Emphasis

Standards in the RC district focus on high-quality design. Development sites and businesses are expected to continue to be oriented for vehicles. In the future, there should be improved internal circulation to maintain safety on arterial roads where excessive curb cuts are likely to lead to increased collisions. Signage shall be encouraged that consists of one (1) sign advertising all businesses in a subdivision so that potential customers can more easily locate businesses and good visibility may be maintained on the street.

##### 4.14.3 Flexibility Options

Limited flexibility may be given in regard to building height, lot coverage, floor area ratio or additional parking. Developments that allow cross connection to adjoining properties or include one unified subdivision sign at the street will be attractive candidates for flexibility.

##### 4.14.4 Development Standards

<b>Regional Commercial District (RC)</b>	
Minimum/Maximum Lot Size*	5,000 sq ft minimum/no maximum
Minimum/Maximum Width*	50 feet minimum/no maximum
Minimum/Maximum Front Setback	10 feet minimum/no maximum
Minimum/Maximum Side Setback	10 feet minimum/no maximum
Minimum/Maximum Rear Setback	10 feet minimum/no maximum
Maximum Height	3 stories**
Maximum Floor Area Ratio (FAR)	0.4

Open Space Amenity	n/a
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\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

#### **4.14.5 Uses**

##### **4.14.5.1 Uses by Right – RC**

- (1) Car Wash Facility
- (2) Convenience Store with Fuel Sales
- (3) Drinking Establishment
- (4) Drug Store or Pharmacy with Drive-Through Service
- (5) Financial Establishment
- (6) Home Business
- (7) Home Occupation
- (8) Hotel or Motel
- (9) Office
- (10) Office, Medical
- (11) Outdoor Dining
- (12) Outdoor Display of Merchandise
- (13) Outdoor Display of Plants
- (14) Outdoor Storage
- (15) Park and/or Open Space
- (16) Public Safety Station
- (17) Recreation Facility, Indoor
- (18) Restaurant with Drive-Through Service
- (19) Restaurant without Drive-Through Service
- (20) Retail Sales and/or Service

- (21) Retail Sales, Lumber Yard or Building Materials
- (22) Satellite Dish Antennae
- (23) Swimming Pool
- (24) Trade Market Facility
- (25) Vehicle Sales and/or Rental
- (26) Vehicle Service\*

\*Permitted by right if accessory to a vehicle sales and/or rental vehicle use. Permitted by compatibility as a principal use.

#### **4.14.5.2 Uses by Compatibility – RC**

- (1) Broadcasting Facility, Radio and/or Television
- (2) Day Care Center
- (3) Day Care Home, Large
- (4) Parking Facility, Off-Site
- (5) Social and/or Community Facility
- (6) Utility, Minor
- (7) Veterinarian Clinic without Outdoor Kennel

#### **4.14.5.3 Uses by Flexibility – RC**

- (1) Apartment Development
- (2) Hospital
- (3) Nursing Home
- (4) Telecommunications Tower
- (5) Utility, Major

### **4.15 Industrial District (I)**

#### **4.15.1 Purpose and Intent**

The Industrial District (I) is established as a district in which the principal use of land is for industries, warehousing, flex space facilities and supporting uses in locations that will minimally affect surrounding properties.

#### 4.15.2 Development Emphasis

Standards in the I district will allow a wide range of light and heavy industrial uses with minimal design requirements.

#### 4.15.3 Flexibility Options

Standards for building design and materials may be reduced if additional landscaping is provided. Sidewalks may be replaced by internal pedestrian improvements or other amenities if appropriate.

#### 4.15.4 Development Standards

<b>Industrial District (I)</b>	
Minimum/Maximum Lot Size*	5,000 sq ft minimum/no maximum
Minimum/Maximum Width*	50 feet minimum/no maximum
Minimum/Maximum Front Setback	10 feet minimum/no maximum
Minimum/Maximum Side Setback	10 feet minimum/no maximum
Minimum/Maximum Rear Setback	10 feet minimum/no maximum
Maximum Height**	2 stories
Maximum Floor Area Ratio (FAR)	0.5
Open Space Amenity	n/a

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements.

\*\* Height limits do not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning and do not exceed the limitations of the airport hazard zoning regulations.

#### 4.15.5 Uses

##### 4.15.5.1 Uses by Right – I

- (1) Adult Entertainment Establishment
- (2) Aircraft Sales and/or Service
- (3) Airport
- (4) Animal Shelter
- (5) Asphalt and/or Concrete Plant
- (6) Car Wash Facility

- (7) Convenience Store with Fuel Sales
- (8) Correctional Facility
- (9) Engine Repair, Small
- (10) Engine Repair, Large
- (11) Firing Range, Indoor
- (12) Junkyard
- (13) Manufacturing, Light
- (14) Manufacturing, Heavy
- (15) Office
- (16) Office with Storage
- (17) Outdoor Display of Merchandise
- (18) Outdoor Display of Plants
- (19) Outdoor Storage
- (20) Passenger Terminal
- (21) Printing and/or Publishing Facility
- (22) Public Safety Station
- (23) Recycling and/or Salvage Facility
- (24) Recycling Drop-Off Facility
- (25) Research and Development Facility
- (26) Retail Sales, Lumber Yard and/or Building Materials
- (27) Satellite Dish Antennae
- (28) Self-Serve Storage Facility
- (29) Telecommunications Facility, Other
- (30) Telecommunications Tower
- (31) Trade Market Facility
- (32) Truck Stop
- (33) Utility, Minor
- (34) Utility, Major
- (35) Vehicle Service
- (36) Vehicle Wrecker Service
- (37) Veterinarian Clinic with Outdoor Kennel

- (38) Warehouse and/or Distribution and/or Freight Facility
- (39) Waste-Related Service Facility
- (40) Wholesale Facility
- (41) Woodworking or Cabinet-Making Facility

#### **4.15.5.2 Uses by Compatibility – I**

- (1) Firing Range, Outdoor
- (2) Government Facility
- (3) Parking Facility, Off-Site
- (4) Railroad Station and/or Yard
- (5) Recreation Facility, Indoor
- (6) Recreation Facility, Outdoor
- (7) Social and/or Community Service Facility

#### **4.15.5.3 Uses by Flexibility – I**

- (1) Halfway House
- (2) Resource Extraction

**GENERAL DEVELOPMENT STANDARDS TABLE 4.16**

Land Use District	Min. & Max. Lot Size*	Min. & Max. Width in feet*	Min. & Max. Front Setback in feet	Min. & Max. Side Setback in feet	Min. Rear Setback in feet	Max. Height**	Min. & Max. Density***	Open Space Amenity	Max FAR
A-O	2 ac - no max	150 – no max.	50 – no max.	25 – no max.	50 – no max.	2 stories	≤1du/ac maximum	n/a	
LDR	0.33 ac – 1 ac	90 – no max	20 – 50	10 – no max	10 – no max	2 stories	1-3 du/ac	15%	
MDR	6,000-14,520 sq ft. residential; 6,000 sq. ft. - 1 ac. for nonresidential	50-90 res. 50 min for non-res	10 – 30 res. 10-50 for non-res	0 – 40****	10 – no max	2 stories	3-7du/ac	10%	
MUR	3,000* – 14,520 sq ft for housing. 5,000 – no max for multi-family housing or non-res	30 – 90 for housing. 50 – no max for multi-family housing or non-res	10 – 30	0 – 50****	10 – no max	3 stories	<30% non-res. 3-13du/ ac	5%	0.5
MUD	None	None	0 – no max *****	0 – no max *****	0 – no max *****	5 stories		n/a	2.5
MUCC-1	5,000 – no max	50 – no max	10 – 30	10 – no max	10 – no max	4 stories		3%	1.5
MUCC-2	20,000 sq ft – no max	100 – no max	30 – no max	10 – no max	10 – no max	2 stories		10% of gross land area	0.5
MUE-1	5,000 sq ft – no max	50 – no max	10 – 30	10 – no max	10 – no max	3 stories		3%	1.5
MUE-2	20,000 sq ft – no max	100 – no max	30 – no max	10 – no max	10 – no max	2 stories		10% of gross land area	0.5
MUAC-1	5,000 sq ft - no max	50 – no max	10 – 30	10 – no max	10 – no max	3 stories		3%	2.0
MUAC-2	20,000 sq ft – no max	100 – no max	30 – no max	10 – no max	10 – no max	2 stories		10% of gross land area	1.5
RC	5,000 sq ft – no max	50 – no max	10 – no max	10 – no max	10 – no max	3 stories		n/a	0.4
I	5,000 sq ft – no max	50 – no max	10 – no max	10 – no max	10 – no max	2 stories		n/a	0.5

In Mixed Use districts, (1) refers to standards for pedestrian scaled development and (2) refers to conventional development standards, as provided in Section 6.3.2.

\*Existing parcels of land are exempt from minimum and maximum lot size and width requirements. A property owner will not be required to subdivide an existing parcel to conform to any minimum requirements. Minimum lot size may be reduced by two thousand (2,000) square feet for traditional housing developments.

\*\* See exceptions to building height in Section 6.4.2. (2).

\*\*\*Existing parcels of land are exempt from minimum density requirements.

\*\*\*\*Residential units such as townhouses may be attached with a zero (0') setback. A five (5') minimum side setback shall be required on all other development.

\*\*\*\*\*Front setback shall be zero (0') on Main Street. On other streets, setbacks shall be determined by averaging the setbacks of adjoining or adjacent buildings. If none exist on the block, all setbacks shall be zero to twenty (0 to 20) feet. Where a design covenant is more restrictive, the more restrictive guidelines shall apply.

## **CHAPTER 5. OVERLAY DISTRICTS**

### **5.1 Purpose and Applicability**

#### **5.1.1 Purpose**

The City of Tupelo has provided for the adoption of overlay districts to establish alternative land development requirements within specific areas of our community. Each overlay district is superimposed over the base zoning district. It consists of a physical area with mapped boundaries and written text spelling out standards that are in addition to those of the base zoning district.

#### **5.1.2 Designation of Districts**

Districts may be adopted by the City Council under procedures for development code amendments, Section 12.7, based on recommendations of the Director of Development Services and Planning Committee.

#### **5.1.3 Applicability**

The provisions of an Overlay District shall apply to the development of all land therein whether publicly or privately held.

#### **5.1.4 Standards Conflict**

In case of conflicts between the standards of an Overlay District and standards of the underlying base district, other requirements of the Development Code or other rules, regulations, covenants and agreements applicable, the standard of the Overlay District shall prevail.

#### **5.1.5 Relationship to Subdivision Regulations**

The character of proposed development within an Overlay District may require that standards for lot size, shape and frontage be subject to modification from standards established in adopted subdivision regulations. An application for a final development plan for a site within an Overlay District shall be deemed to be an application for preliminary subdivision approval, with no separate filing required.

### **5.2 Use Regulations**

#### **5.2.1 Primary Use**

Within an Overlay District, no buildings, structure, land or premises shall be used and no buildings or structure shall be hereafter erected, constructed, reconstructed or moved, unless the use shall be one (1) or more of the uses permitted listed within each Overlay District. Uses are permitted by right or with conditions. There are two (2) types of conditional uses. A “compatible use,” indicated on the table by the symbol C, may be approved by the Development Services

Director in accordance with the terms of this Code. A “flexible use,” indicated by the symbol F, may be approved by the Planning Committee in accordance with the terms of this Code.

### **5.2.2 Accessory Use**

Accessory uses pursuant to Chapter 7 are permitted in an Overlay District subject to compliance with all other applicable standards of the Development Code.

## **5.3 Mixed Use Downtown Overlay District**

### **5.3.1 Purpose and Intent**

The city hereby establishes a Mixed Use Downtown Overlay District, or District, for the general purpose of implementing the Tupelo 2025 Comprehensive Plan, hereinafter referred to as the Comprehensive Plan.

The Mixed Use Downtown Overlay District is further established for the following specific purposes:

- (1) Attract economic development and employment opportunities that are supportive of and compatible with the existing character of the area within the Mixed Use Downtown Overlay District and those private and public uses contemplated within the Downtown Tupelo Master Plan;
- (2) Enhance the visual image of the Mixed Use Downtown Overlay District which is associated with a major gateway to Tupelo, by
  - (a) Ensuring the architectural compatibility of new and existing buildings and structures;
  - (b) Reducing visual clutter related to signs, utilities transmission lines, unkept facades of buildings and structures, storage of materials and visibility of parked vehicles;
  - (c) providing and maintaining landscaping and associated furnishings along streets, at buildings and structures and in vehicular parking areas; and,
  - (d) Protecting visual vistas identified in the Downtown Tupelo Master Plan;
- (3) Protect and provide for specific sites for development and redevelopment as identified in the Downtown Tupelo Master Plan;
- (4) Prohibit land uses that have adverse impacts on the Mixed Use Downtown Overlay District and, through their incompatibility with proposed uses identified in the Downtown Tupelo Master Plan, deter new development;
- (5) Encourage the preservation of buildings and structures with significant historical or architectural character and prohibit the removal or major alteration of any building or structure without permit approval by the City;

- (6) divide the Mixed Use Downtown Overlay District into sub-districts to implement the purposes cited herein; and,
- (7) Amend the specific uses of the existing base zoning within the Mixed Use Downtown Overlay District to comply with those permitted uses identified in the Downtown Tupelo Master Plan.

### **5.3.2 Base Zoning District**

The base zoning of the area included within the Mixed Use Downtown Overlay District is Mixed Use Downtown (MUD).

### **5.3.3 Sub-districts**

The Mixed Use Downtown Overlay District includes the following Sub-districts:

- (1) Judicial Sub-district;
- (2) City Center Retail Sub-district;
- (3) Financial Sub-district;
- (4) Coliseum Sub-district;
- (5) Downtown Gateway Sub-district;
- (6) Major Development Sub-district; and,
- (7) Fairground Redevelopment Sub-district.

\*Location of each Sub-district is delineated in Figure 5.3.3, Sub-district Map.

### **5.3.4 Use Regulations**

- (1) **Primary Use:** Within the Mixed Use Downtown Overlay District, no buildings, structure, land or premises shall be used and no buildings or structure shall be hereafter erected, constructed, reconstructed or moved, except for one or more of the uses in Table 5.3.4.
- (2) **Use Types:** Three (3) types of uses are provided for in Chapters 4 and 12 of the Development Code: Uses by right may be approved by Development Services staff. Compatible uses as identified in table 5.3.4. may be approved by the Director of Development Services Department or designee in accordance with the terms of Chapter 12, Section 12. Flexible uses as identified on table 5.3.4. may be approved by the City Council after recommendation by the Planning Committee in accordance with the terms of Chapter 12, Section 12.

- (3) **Accessory Use:** Accessory uses pursuant to Chapter 7 are permitted in the Mixed Use Downtown Overlay District subject to compliance with the Height and Area Regulations and the Design Standards of the Chapter and other applicable requirements of the Development Code.

### 5.3.5 Height and Area Regulations

- (1) **Conforming Use:** Within the Mixed Use Downtown Overlay District, the minimum parcel area, minimum parcel dimension (width and depth), minimum yard dimensions (front, side and rear), maximum building height and maximum building coverage applicable to building and structures hereafter erected, constructed or moved shall be determined by reference to adjacent properties as described in the Mixed Use Downtown Overlay District Design Guidelines and in Section 6.10, Infill Development. Where adjacent properties are undeveloped or otherwise do not supply a reference for a lot development or building dimension, the building or structure shall conform to the standards for the Mixed Use Downtown District in Section 4.9 and in Table 4.17, General Development Standards.
- (1) **Nonconforming Use-Improvement:** Nonconforming uses and/or nonconforming buildings and structures shall not be enlarged, extended, or reconstructed subject, except as provided in Section 5.3.4.(3) below for replacement due to damage. Such buildings and structures may be renovated provided they comply with the Mixed Use Downtown Overlay District Design Standards.
- (3) **Nonconforming Use - Replacement Due to Damage:** If a nonconforming use and/or building or structure, taken collectively as a business entity, is damaged or destroyed by fire, explosion, act of nature or other casualty to the extent of less than fifty percent (50%) of its appraised value by the County Tax Assessor, exclusive of foundations, it may be restored to its original size provided that all new work conforms with Mixed Use Downtown Overlay District Design Standards. Such restoration must be completed within twelve (12) months of date damaged.

### 5.3.6 Design Standards

- (1) **Conforming Use:** Within the Mixed Use Downtown Overlay District, no building or structure shall be hereafter erected, constructed or moved unless such use conforms to the Mixed Use Downtown Overlay District Design Standards. Where the Mixed Use Downtown Overlay District Design Standards do not provide a standard, provisions of Chapter 6 and other Chapters of the Development Code shall apply.
- (2) **Nonconforming Use-Improvement:** Nonconforming uses and/or buildings or structures may be renovated provided they comply with the Mixed Use Downtown Overlay District Design Standards.
- (3) **Nonconforming Use - Replacement Due to Damage:** If a nonconforming use and/or building, taken collectively as a business entity, is damaged or destroyed by fire, explosion, act of nature or other casualty to the extent of less than fifty percent (50%) of

its appraised value by the County Tax Assessor, exclusive of foundations, it may be restored to its original size provided that the new work conforms with the Mixed Use Downtown Overlay District Design Standards. Such restoration must be completed within twelve (12) months of the date damaged.

### **5.3.7 Review Process**

- (1) Within the Mixed Use Downtown Overlay District, the Director of Development Services shall not issue any building permit for construction, alteration, repair, demolition or relocation of a building or structure without first submitting the application of such permit, together with all plans, elevations, and other information as may be required to determine the appropriateness of the design, per Section 5.3.6. (1) of this code, to the Downtown Design Review Committee for approval. Review by the Committee shall be based on the Mixed Use Downtown Overlay District Design Guidelines, and, for projects located in the Fairgrounds Redevelopment Sub-district, on the Fairpark Design Guidelines.
- (2) Within the Mixed Use Downtown Overlay District, all new permitted, compatible and flexible uses and all expansions and changes in use shall comply with the standards of the Mixed Use Downtown Overlay District Design Guidelines, and, for projects located in the Fairgrounds Redevelopment Sub-district, of the Fairpark Design Guidelines.

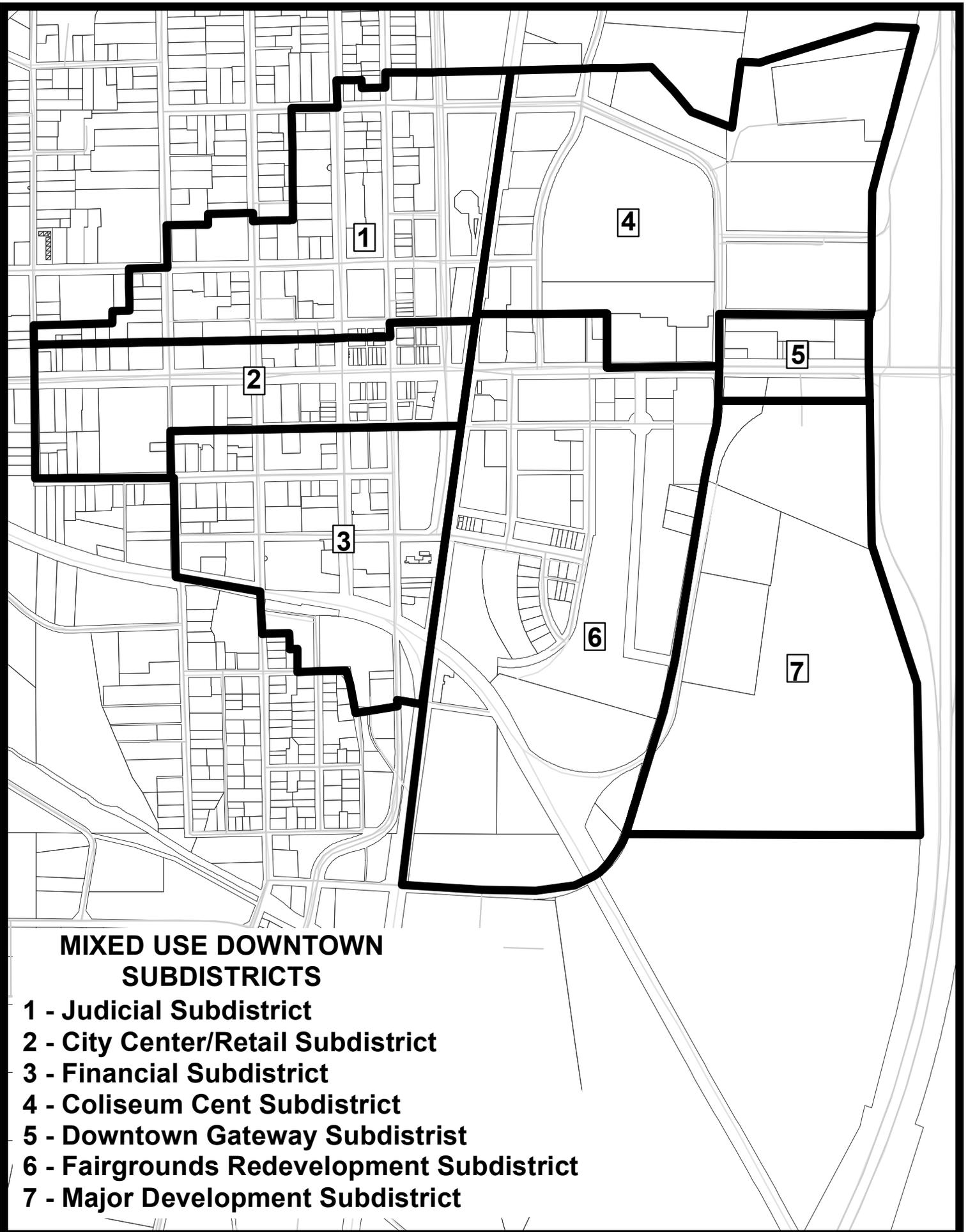


Figure 5.' .3 Mixed Use Downtown Subdistricts

## **5.4 Watershed or Drainage Basin Overlay Districts**

### **5.4.1 Purpose**

- (a) Watershed or Drainage Basin Overlay Districts are established:
- (b) To preserve and enhance the quality of the water in rivers, streams, and ponds that flow into and out of Tupelo;
- (c) To minimize future flooding problems by restricting development in flood prone areas or areas of inadequate drainage system capacity;
- (d) To preserve the water carrying capacity of watercourses, the natural water storage capacity of the floodplain, and the water carrying capacity of the man-made drainage system;
- (e) To protect land and watercourses from pollutants, sedimentation and erosion;
- (f) To retain open spaces in order to protect their environmentally-sensitive character;
- (g) To protect and conserve significant natural resources from degradation due to inappropriate development. Such natural resources include wildlife and plant life habitats, wetland areas and riparian areas;
- (h) To minimize the impact of development by controlling the location, intensity, pattern and design of development and construction activities, while recognizing the legitimate expectations of property owners and Tupelo's economic development goals.

### **5.4.2. Development Standards in Watershed or Drainage Basin Overlay Districts**

Designation of watershed or drainage basin overlay districts shall include adjustments to development standards within the districts. Standards which may be adjusted include minimum lot size, floor area ratio, lot coverage, parking requirements, street construction standards, tree preservation standards, and stormwater management standards. Development in designated watershed or drainage basin overlay districts may also be subject to additional restrictions such as impervious surface coverage. Specific standards shall be adopted based on recommendations of the city engineer, and incorporated as part of the ordinance designating the overlay district.

## **5.5 Joyner Neighborhood Conservation Overlay District**

### **5.5.1. Purpose and Applicability**

#### **(1) Purpose**

It is the purpose and intent of the Neighborhood Conservation Overlay District to protect the value of property, to enhance the attractiveness of neighborhoods, to prevent development which

would be incompatible with the established characteristics of the neighborhood, and to support improvement and investment in the neighborhood housing stock, and to promote recovery from natural disaster.

**(2) Applicability**

The requirements of this section shall apply to all property within the Joyner Neighborhood Conservation Overlay District as shown in Figure 5.5.1.

**5.5.2 Use Regulations**

Section 4.8.5, Uses in Medium Density Residential districts, shall apply with the following changes:

Patio homes/zero lot line homes are allowed by compatibility.

Townhouse dwellings are allowed by compatibility.

**5.5.3. Review procedures**

(1) A design review committee shall be established consisting of five members. Three members shall be residents of the Joyner Neighborhood Conservation Overlay District, designated by vote of the Joyner Neighborhood Association. One member shall be designated by the Mayor. One member shall be designated by the City Council representative(s) for the Joyner Neighborhood Conservation Overlay District. The members shall be confirmed by the City Council. The committee positions will be for a period of twelve months from the date of confirmation.

(2) No permit for new construction or external renovation shall be issued for any property within the Joyner Neighborhood Conservation Overlay District without approval of the design review committee.

(3) Applications for construction or renovation within the Joyner Neighborhood Conservation Overlay District shall be accompanied by complete drawings of the proposed work, including a site plan, floor plan, full elevation drawings, and exterior materials list.

(4) The design review committee shall meet to consider permit applications no later than thirty (30) days after the complete application is received by the Development Services Department.

(5) The Development Services Department shall provide a report to the design review committee describing the characteristics of the neighborhood in the immediate vicinity of the subject property.

(6) Appeals

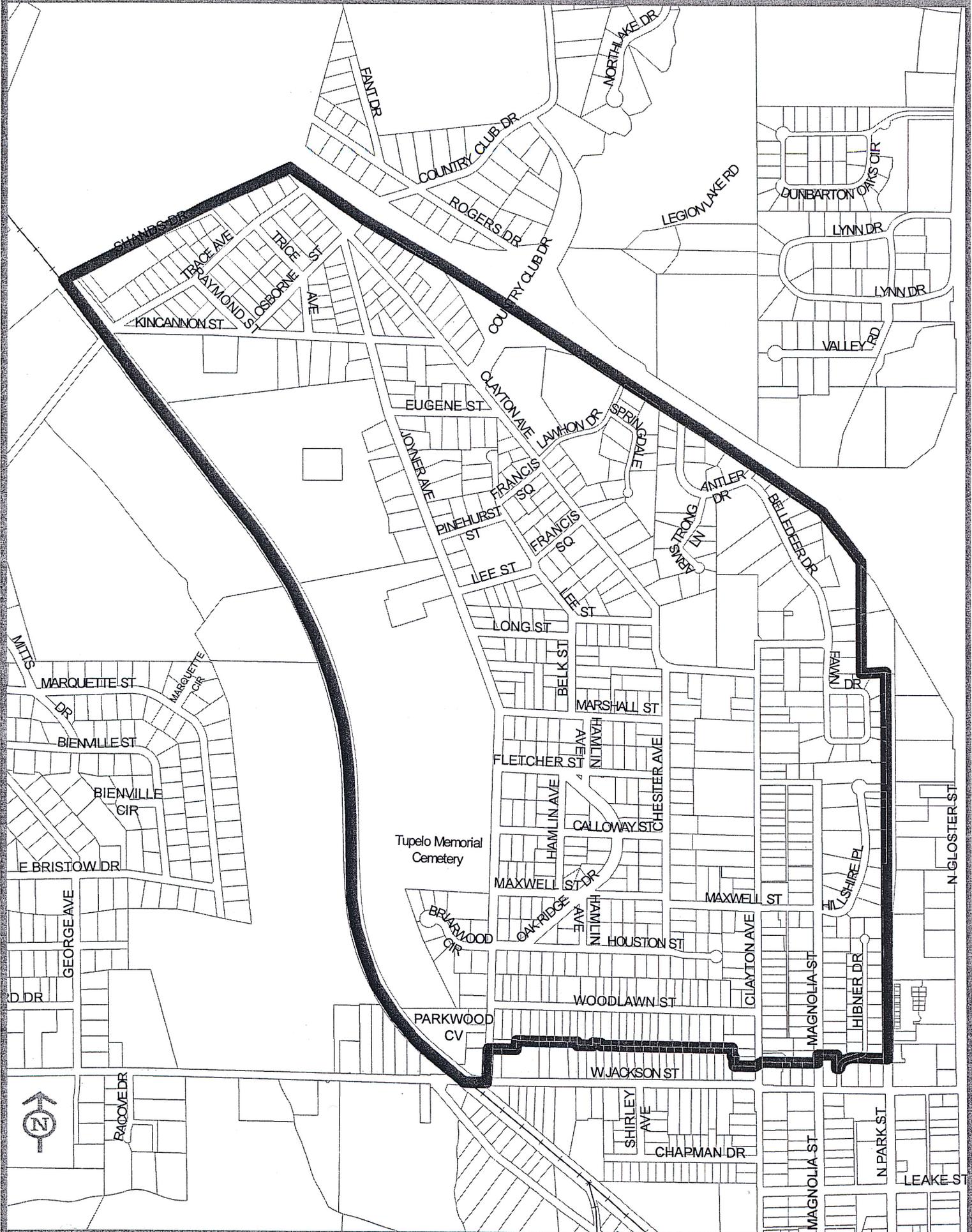
Decisions of the design review committee may be appealed to the Planning Committee.

**5.5.4 Design standards**

(1) The design review committee shall be guided by the standards for infill construction (Section 6.10), by the compatibility checklist procedure (Section 12.4.5), and by reference to existing architectural features of the immediate vicinity and of the Joyner neighborhood generally.

(2) The design review committee may prepare and propose written standards for adoption through amendment of this section.

# Joyner Neighborhood Conservation District



## **5.6 Sharon Hills Neighborhood Conservation Overlay District**

### **5.6.1. Purpose and Applicability**

(1) Purpose

It is the purpose and intent of the Neighborhood Conservation Overlay District to protect the value of property, to enhance the attractiveness of neighborhoods, to prevent development which would be incompatible with the established characteristics of the neighborhood, and to support improvement and investment in the neighborhood housing stock, and to promote recovery from natural disaster.

(2) Applicability

The requirements of this section shall apply to all property within the Sharon Hills Neighborhood Conservation Overlay District as shown in Figure 5.6.1.

### **5.6.2 Review procedures**

(1) A design review committee shall be established consisting of five members. Three members shall be residents of the Sharon Hills Neighborhood Conservation Overlay District, designated by vote of the Sharon Hills Neighborhood Association. One member shall be designated by the Mayor. One member shall be designated by the City Council representative(s) for the Sharon Hills Neighborhood Conservation Overlay District. The members shall be confirmed by the City Council. The committee positions will be for a period of twelve months from the date of confirmation.

(2) No permit for new construction or external renovation shall be issued for any property within the Sharon Hills Neighborhood Conservation Overlay District without approval of the design review committee.

(3) Applications for construction or renovation within the Sharon Hills Neighborhood Conservation Overlay District shall be accompanied by complete drawings of the proposed work, including a site plan, floor plan, full elevation drawings, and exterior materials list, as applicable.

(4) The design review committee shall meet to consider permit applications no later than thirty (30) days after the complete application is received by the Development Services Department.

(5) The Development Services Department shall provide a report to the design review committee describing the characteristics of the neighborhood in the immediate vicinity of the subject property.

### **5.6.3 Appeals**

Decisions of the design review committee may be appealed to the Planning Committee.

#### **5.6.4 Design standards**

- (1) The design review committee shall be guided by the standards for infill construction (Section 6.10), by the compatibility checklist procedure (Section 12.4.5), and by reference to existing architectural features of the immediate vicinity and of the Sharon Hills neighborhood generally.
- (2) The design review committee may prepare and propose written standards for adoption through amendment of this section.

# Sharon Hills Neighborhood Conservation District



## **5.7 Bel Air Neighborhood Conservation Overlay District**

### **5.7.1. Purpose and Applicability**

(1) Purpose

It is the purpose and intent of the Neighborhood Conservation Overlay District to protect the value of property, to enhance the attractiveness of neighborhoods, to prevent development which would be incompatible with the established characteristics of the neighborhood, and to support improvement and investment in the neighborhood housing stock, and to promote recovery from natural disaster.

(2) Applicability

The requirements of this section shall apply to all property within the Bel Air Neighborhood Conservation Overlay District as shown in Figure 5.7.1.

### **5.7.2 Review procedures**

(1) A design review committee shall be established consisting of five members. Three members shall be residents of the Bel Air Neighborhood Conservation Overlay District, designated by vote of the Bel Air Neighborhood Association. One member shall be designated by the Mayor. One member shall be designated by the City Council representative for the Bel Air Neighborhood Conservation Overlay District. The members shall be confirmed by the City Council. The committee positions will be for a period of twelve months from the date of confirmation.

(2) No permit for new construction or external renovation shall be issued for any property within the Bel Air Neighborhood Conservation Overlay District without approval of the design review committee.

(3) Applications for construction or renovation within the Bel Air Neighborhood Conservation Overlay District shall be accompanied by complete drawings of the proposed work, including a site plan, floor plan, full elevation drawings, and exterior materials list, as applicable.

(4) The design review committee shall meet to consider permit applications no later than thirty (30) days after the complete application is received by the Development Services Department.

(5) The Development Services Department shall provide a report to the design review committee describing the characteristics of the neighborhood in the immediate vicinity of the subject property.

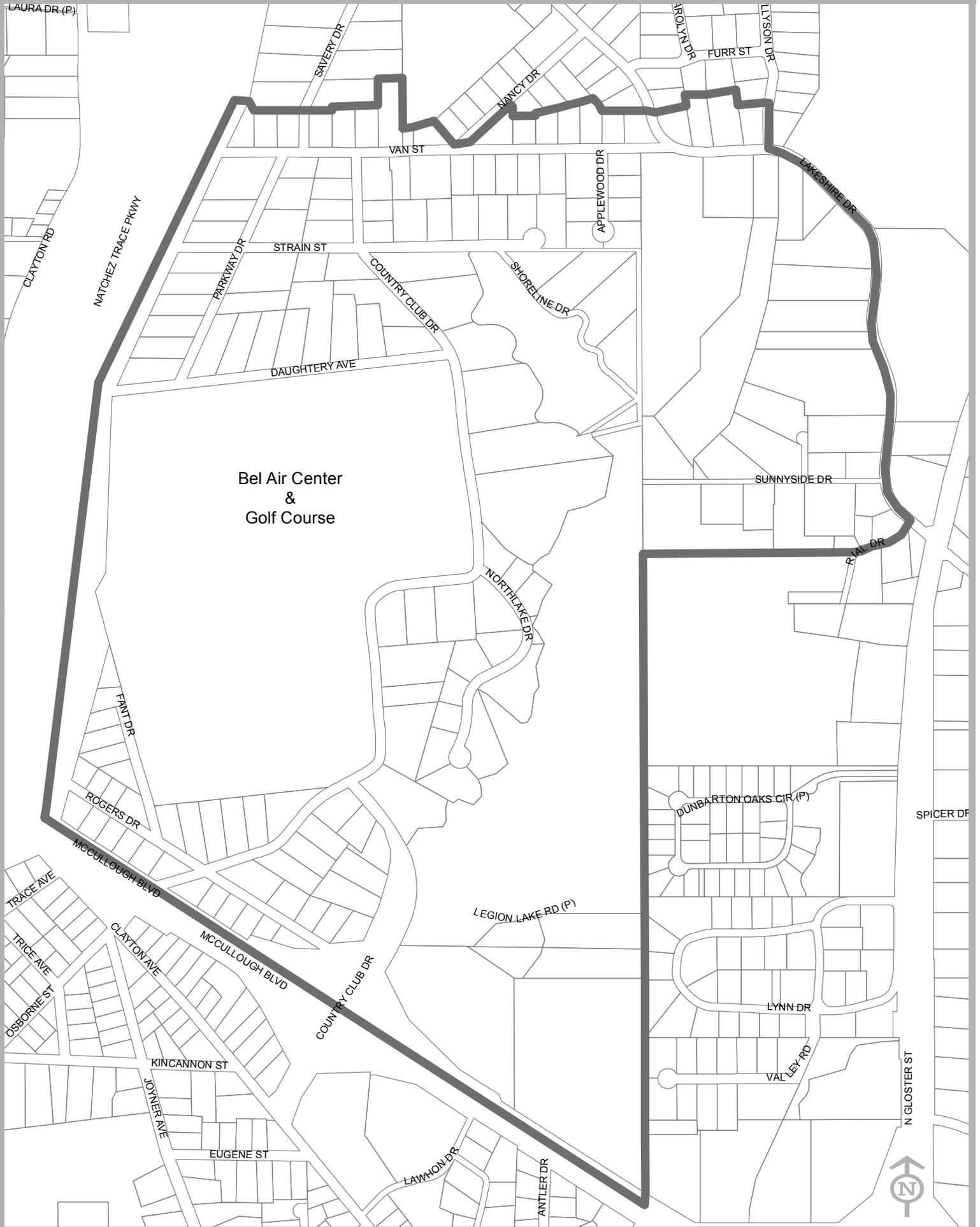
### **5.7.3 Appeals**

Decisions of the design review committee may be appealed to the Planning Committee.

#### **5.7.4 Design standards**

- (1) The design review committee shall be guided by the standards for infill construction (Section 6.10), by the compatibility checklist procedure (Section 12.4.5), and by reference to existing architectural features of the immediate vicinity and of the Sharon Hills neighborhood generally.
- (2) The design review committee may prepare and propose written standards for adoption through amendment of this section.

# Bel Air Neighborhood Conservation District



Permitted Residential Uses in Mixed Use Downtown District

use	Judicial	City Center Retail	Financial	Coliseum	Downtown Gateway	Major Development	Fairgrounds Redevelopment
upper story residential	R	R	R	R		R	R
single family detached	R	C	C				R
single family attached	R	C	C			R	R
apartment	C	F	C	C		C	C
accessory dwelling unit	R	R				R	R

**DOWNTOWN OVERLAY DISTRICT**

NAICS Code	Description	Judicial	City Center	Financial	Coliseum	Gateway	Major	Fairgrounds
			Retail				Development	
111	Agriculture						R	C
2300	Contractor's shop						C	C
3000	Light Manufacturing	C	C	C	C	C	C	C
321918	Millwork		C	C	C			C
3230	Printing & Publishing	C	C	C	C			C
5111	Newspaper publishing		C	C	C			C
4930	Warehouse/distribution			C			C	
4911	Postal Service	R	R	R	R	R	R	C
4800	Transportation services	R	R	R	R	R	R	C
5130	Broadcasting	R	R	R	R	R	C	C
	Trade Markets/Shows				R	C		C
4532	Office Supplies/equipment	R	R	R	R	R	R	C
4441	Building Materials			C	C	C	C	C
44413	General Hardware		R	C	C	C	C	C
44412	Paint/glass/wallpaper		R	C	C	C	C	C
4521	Department stores		R					C
4529	Variety Stores		R	C	C		C	C
4451	Grocery Stores	C	R	C	C	C	C	C
445291	Retail Bakeries	C	R	C	C	R		C
4452	Other Food Stores	R	R	R	R	R		R
4413	Auto Supply		R	C	C			C
4471	Gas Service Station					R	C	
441222	Boat Dealers				R	R	C	C
441221	Motorcycle Dealers		C	C	R	R	C	C
44811	Men's/Boys Specialty Clothing		R	R	R	R	R	R
44812	Women's Specialty Clothing		R	R	R	R	R	R
44815	Women's Accessories		R	R	R	R	R	R
44813	Children/Infant's Clothing		R	R	R	R	R	R
44814	Family Apparel		R	R	R	R	R	R
4482	Shoes		R	R	R	R	R	R

44819	Miscellaneous Apparel		R	R	R	R	R	R
4421	Furniture		R	C	C	C	C	C
44221	Floor Coverings		R	C	C	C	C	C
443111	Home appliances		R	C	C	C	C	C
443112	Radio/TV/Electronics		R	C	C	C	C	C
44312	Computers and software		R	R	R	R	R	R
45122	Recorded Music		R	R	R	R	R	R
45114	Musical Instruments		R	R	R	R	R	R
722	Restaurants/eating places	R	R	R	R	R	R	R
7224	Drinking places	C	R	C	C	R	C	C
44611	Drug Stores	R	R	R	R	R	R	R
4453	Wine/Liquor stores	C	R	C		R	C	C
4533	Vintage merchandise	R	R	R	R	R	R	R
4511	Sporting Goods		R	R	R	R	R	R
451211	Book stores	R	R	R	R	R	R	R
45321	Stationery	R	R	R	R	R	R	R
44831	Jewelry		R	R	R	R	R	R
45112	Hobbies, toys, crafts		R	R	R	R	R	R
45322	Gifts, novelties, souvenirs		R	R	R	R	R	R
44832	Luggage/leather goods		R	R	R	R	R	R
45113	sewing and needlework		R	R	R	R	R	R
44313	camera equipment		R	R	R	R	R	R
4541	catalog/mail order sales		R	R	R	R	R	R
4531	Florists	R	R	R	R	R	R	R
453991	Tobacco shops	R	R	R	R	R	R	R
45121	News stand	R	R	R	R	R	R	R
44613	Optical goods		R	R	R	R	R	R
453998	miscellaneous retail	C	R	C	C	C	C	C
5221	Bank	C	R	R	C	C	C	C
5222	non-depository financial	C	C	R	R		C	C
5231	Security/commodity broker	R	R	R	R		R	R
524	Insurance	R	R	R	R		R	R
531	Real Estate	R	R	R	R		R	R
	Combined real estate/insurance	R	R	R	R		R	R



**TABLE 5.3.5 A**  
**HEIGHT AND AREA REGULATIONS FOR NON-RESIDENTIAL USES**  
**MIXED USE DOWNTOWN DISTRICT**

SUBDISTRICT	Min. Parcel Area (SF)	Min. Parcel Dimensions		Min. Yard Dimensions			Min. Landscape Buffer		Max. Bldg. Height (FT) <sup>1</sup>	Max. Bldg. Coverage (%) <sup>2</sup>
		Width (FT)	Depth (FT)	Front/Street (FT)	Side (FT)	Rear (FT)	Side (FT)	Rear (FT)		
Judicial Subdistrict	None	None	None	0 <sup>3</sup>	None	20	None	None	35	None
City Center Retail Subdistrict	None	None	None	0 <sup>3</sup>	None	20	None	None	35	None
Financial Subdistrict	None	None	None	0 <sup>3</sup>	None	20	None	None	45	None
Coliseum Center Subdistrict	None	None	None	0/10 <sup>4</sup>	None	20	None	None	75	None
Downtown Gateway Subdistrict	15,000	75	100	10/40 <sup>5</sup>	None	20	None	None	55	None
Major development Subdistrict	43,560	200	100	25	None	20	10	5	55	None
Fairgrounds Redevelopment	None	None	None	0	None	0	None	None	None	None

1 Measured from the average finish grade elevation at the building line to the top of the fascia or coping of the primary building roof or parapet wall; mechanical penthouses are not included in this dimension, but should be enclosed or screened in a manner that blends with the exterior material and color of the primary structure.

2 Percentage of the total Parcel Area coverage by the cumulative "footprint" floor areas of all primary and accessory buildings located on a parcel.

3 New construction will be set back to equal the existing building line of adjoining properties. If there are no buildings within 50 feet of the side property line of the property to be developed, the required front setback is zero.

4 New construction along Main Street will have a setback of zero feet. In other parts of the subdistrict, the front setback shall be ten feet, except where buildings within 50 feet of the side property line of the property to be developed are built to a different setback. In this case, the required front setback is determined by averaging the setback of the adjoining buildings as provided in Section 10.1.3 (4).

5 Front setback is 10 feet between the railroad tracks and Franklin Street, and 40 feet between Franklin and Martin Luther King, Jr. Drive.

**TABLE 5.3.5 B  
HEIGHT AND AREA REGULATIONS FOR RESIDENTIAL USES**

**MIXED USE DOWNTOWN DISTRICT**

Subdistrict	Residential Type	Min. Parcel Area <sup>1</sup> (SF)	Max. Density U/AC	Min. Parcel Width (FT)	Landscape Buffer at Perimeter (FT)	Minimum Yard Requirements <sup>2</sup>				Max Bldg Ht. (FT)	Max. Bldg Cvrge (%) <sup>3</sup>
						Front (FT)	Rear (FT)	Side (FT)	Street (FT)		
Judicial Subdistrict	Townhouse	2,500	-	25	10	25	25	10	25	50	
	Multi-Family	43,560	20	100	10	25	25	10	25	35	50
City Center Retail Subdistrict	Townhouse	2,500	-	25	10	25	25	10	25	35	50
	Multi-Family	43,560	20	100	10	25	25	10	25	35	50
Financial Subdistrict	Townhouse	2,500	-	25	10	25	25	10	25	35	50
	Multi-Family	43,560	30	100	10	25	25	10	25	45	50
Coliseum Center Subdistrict	Townhouse	2,500	-	25	10	25	25	10	15	35	50
	Multi-Family	43,560	35	100	10	25	25	10	15	45	60
Downtown Gateway Subdistrict	Residential NOT Permitted										
Major Development Subdistrict	Single Family Detached	4,000		40	10	25	25	10	15	35	50
	Single Family Attached	2,500	-	25	10	25	25	10	15	35	50
	Multi-Family	43,560	35	100	10	25	25	10	15	45	60
Fairgrounds Redevelopment Subdistrict	Single Family Detached	3000	-	30	5	10-20 <sup>4</sup>	20 <sup>6</sup>	5 <sup>5</sup>	15	35	70
	Single Family Attached	2000	-	19	5	0-10 <sup>4</sup>	20 <sup>6</sup>	5 <sup>5</sup>	15	35	50
	Multi-Family	none	25	none	5	0-10 <sup>4</sup>	20 <sup>6</sup>	10	15	50	60

1 Minimum parcel area denotes minimum for any development under single ownership as defined for zoning purposes.

2 Minimum yard dimensions for single-family attached and multi-family apply to groups of units that involve one structure. Minimum distance between structures is 20 feet. Zero lot lines at side yards may be permitted when each unit of a town house or single-floor apartment complex is sold to separate individual owners.

3 Percentage of total Parcel Area covered by the cumulative "footprint" floor areas of all primary and accessory buildings located on the parcel.

4 Front yard ranges are to the minimum permitted but the required range. Commercial buildings must adhere to a "built-to line" consistent with the front property line.

5 Exceptions will be made for façade setbacks to accommodate outside dining or similar use so long as the street wall is reflected through some architectural treatment.

6 In order to accommodate driveways the average of a lot's two side yards shall be five feet, but the side yard featuring a driveway may be as shallow as three feet.

6 Garages or accessory structures may extend to within five (5) feet of rear alley in the Fairgrounds subdistrict.



## **CHAPTER 6. DESIGN AND DEVELOPMENT STANDARDS**

### **6.1 Purpose and Relationship to Comprehensive Plan**

The City of Tupelo adopted a comprehensive plan in 2008 that promotes a different development pattern than currently exists in much of the city, one that is more compact and walkable. This Code is written to specifically address design goals of the Comprehensive Plan. Those goals include higher density, mixing of uses, and the encouragement of infill and redevelopment. All of these goals require careful design and a flexible approach. The Code offers a number of flexibility provisions through which defined standards for building size, location on sites, architecture and site improvements can be adjustable according to the context of the development and owner needs. These mechanisms include the adoption of five mixed use zoning districts (Chapters 4 and 5) in which developers will be able to choose between walkable and conventional development standards. The code allows more uses by right in most zoning districts, and more density of development in many districts. A development review checklist (Section 12.4) is used to incentivize good design and to evaluate variance requests in terms of the project context. Providing these flexibility options requires that the code offer guidance on how much flexibility is appropriate in different situations. The descriptive material about each zoning district in Chapters 4 and 5 provides insight as to the Comprehensive Plan's intent for each district. This chapter will focus on the relationship of the individual development to its context and its own functional requirements. While a code with an emphasis on flexibility is more complex to administer, attention to detail in the design and review of new development should ensure that new developments can be integrated appropriately into existing neighborhoods or commercial areas.

### **6.2 General Provisions**

#### **6.2.1 Applicability**

This chapter applies to any application for development approval, except as otherwise provided. The chapter provides design standards for residential development and for walkable and conventional mixed-use and nonresidential development. These standards include site design, which includes the visual quality of the property in relation to its context, and the design of buildings themselves. The chapter also provides standards for site infrastructure.

#### **6.2.2 Administrative Exceptions**

- (1) To facilitate flexibility in design while maintaining the safety, health, and welfare of the public, the Director of Development Services may grant administrative exceptions to the following technical design requirements found in the following sections of this chapter:
  - (a) Open Space Standards, 6.6;
  - (b) Stormwater management , 6.7;
  - (c) Street design and transportation, 6.8;
  - (d) Utilities, 6.9.

(2) No administrative exception shall be granted unless:

- (a) The Director of Development Services certifies that the proposed exception does not conflict with the goals and policies of the comprehensive plan; and
- (b) The applicant demonstrates, through documentation and/or studies based on generally accepted engineering principles, that the proposed exception would not pose a threat to health and safety.

### **6.2.3 Variances**

Where an administrative exception is not granted, or where an administrative exception is not permitted (as in the case of street connectivity, maximum parking requirements, and other items not enumerated in this section), the applicant may seek a variance pursuant to Section 13.16 of this code.

### **6.2.4 Construction Standards**

All construction shall conform to City of Tupelo Design Standards and Construction Specifications manual to the extent consistent with this chapter.

### **6.2.5 Sampling and Testing**

Sampling and testing of materials, and laboratory inspection of materials and processes, shall be performed at the expense of the developer. Firms providing construction materials testing services must have an established in-house laboratory whose tests meet the standards of the American Society for Testing and Materials requirements.

### **6.2.6 Americans With Disabilities Act**

- (1) Infrastructure construction and improvements of facilities shall comply with the Americans with Disabilities Act (ADA) of 1990. Applicants shall consult both the Title III *Technical Assistance Manual* and the Title II *Technical Assistance Manual*.
- (2) 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*.

### **6.2.7 Operation and Maintenance**

All improvements required by this chapter shall be operated and maintained by either dedication to the City of Tupelo, by a Homeowners Association as described in this section, or by the property owner.

**6.2.7.1** 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.

**(1) Dedication of Land**

Dedication of the improvement to the City of Tupelo satisfies the requirements of this section as follows:

- (a) Dedication shall take the form of a fee simple ownership.
- (b) The City of Tupelo may accept the improvement if such land is accessible to the residents of the City of Tupelo;
- (c) There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance.
- (d) The improvement conforms to the applicable standards of this chapter.

**(2) Homeowner’s Association**

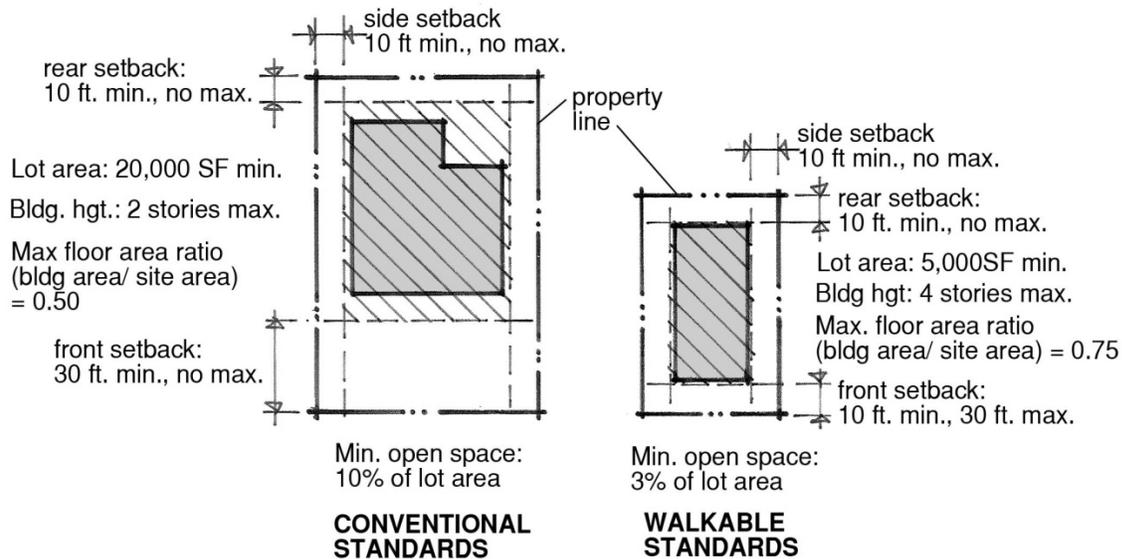
- (a) Improvements that are owned in common by all owners of lots or units in a subdivision or condominium are required by this chapter to be operated and maintained by an HOA established in the covenants, conditions, and restrictions (CC&Rs) adopted as a condition of development approval.
- (b) The 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 Tupelo 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.
- (c) 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.

**6.3 Development Design Standards**

**6.3.1 Purpose and Relationship to Comprehensive Plan**

The City of Tupelo 2025 Comprehensive Plan includes a number of goals for better design, with the intent that future growth of the city be more attractive, more accessible, and more economically productive. This division provides for lots, blocks, buildings, and structures that provide a pedestrian scale, offer alternative paths for vehicular traffic, and accommodate on-street parking. Standards are provided to ensure that lots have adequate access and conform to the zoning provisions of the Development Code. The City of Tupelo finds and determines that long blocks lined with homes and other buildings reduce street connectivity and impair the efficiency of public and safety services while increasing distances between residences and nonresidential destinations or public gathering places. Exceptions to these standards are made for nonurban districts and zoning districts that require greater flexibility in order to encourage environmental protection or economic development.

## 6.3.2 Pedestrian Scale and Conventional Standards Distinguished



For the purposes of implementing the goals and objectives in the land use plan, the City of Tupelo has adopted two types of development standards, one intended to provide for a walkable, pedestrian-friendly environment and one to accommodate conventional development pattern focused on access by automobiles. The basic development standards of the Mixed Use Downtown, Mixed Use Residential, and Medium Density Residential zoning districts are pedestrian scale. The basic development standards of the Industrial, Regional Commercial, Low Density Residential, and Agriculture/Open Space zoning districts are conventional. In the other zoning districts, both sets of standards are provided. Developers may choose to apply either pattern, with a few exceptions as follows:

- (1) The traditional housing development option requires the use of pedestrian scale standards.
- (2) On sites adjacent to and facing the same street as a property developed to pedestrian scale setback standards, the developing site must also use pedestrian scale standards.
- (3) No development shall mix the two (2) sets of standards.

## 6.3.3 Conservation Subdivisions

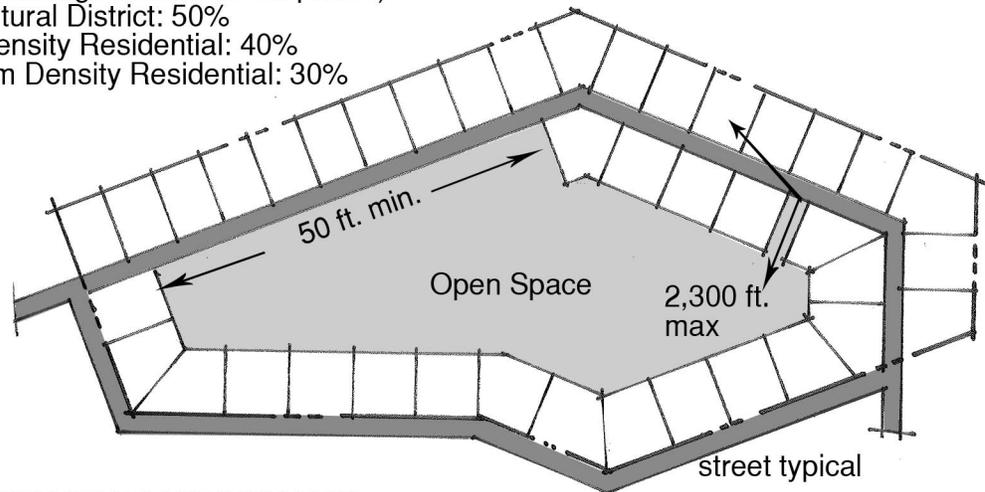
### 6.3.3.1 Purpose

To encourage innovation in residential subdivision design, conservation subdivisions shall be permitted providing for more efficient layout of lots, streets, and utilities, for the preservation of open space and recreation areas, and for the protection of unique site features and scenic vistas. Conservation subdivisions shall permit reductions in lot area in exchange for equal amounts of open space on a one-to-one basis, subject to the following standards:

- (a) **Minimum Site Area:** The minimum acreage required for a Conservation Subdivision shall be four (4) acres.
  - (b) **Lot Size:** No minimum or maximum lot size or width standard shall apply within the Conservation Subdivision.
  - (c) **Maximum Density:** The maximum density shall not exceed the maximum density permitted in the base district.
  - (d) **Housing Types:** A variety of housing types shall be permitted in a Conservation Subdivision as follows: detached dwelling, traditional dwelling, zero (0) lot line/semi-attached dwelling.
  - (e) **Stormwater Management:** Street drainage may be provided by swales rather than curb and gutter. Low impact management facilities are encouraged and street geometry may be modified to accommodate such alternative designs.
  - (f) **Open Space:** The subdivision shall include minimum designated common open space as follows:
    - i. **Agricultural/Open Space District:** 50% of total area
    - ii. **Low Density Residential District:** 40% of total area
    - iii. **Medium Density Residential District:** 30% of total area
- (1) **Accessibility:** A minimum of fifty percent (50%) of lots shall directly abut a protected open space. Pedestrian access by sidewalk or trail shall be provided from all other lots to open space area. A minimum of ninety-five percent (95%) of the lots shall be within a two thousand-six hundred (2,600) foot walking distance of accessible, usable open space.

Lots with direct frontage: min. 50%

Open space minimums  
(as percentage of total development):  
Agricultural District: 50%  
Low Density Residential: 40%  
Medium Density Residential: 30%



### CONSERVATION SUBDIVISIONS

- (2) **Protection:** Open space in a conservation subdivision shall be designated and protected in accordance with Section 6.6, Open Space.
- (3) **Perimeter Treatment:** Property on the edge of conservation subdivisions shall either:
  - (a) Be set aside in open space that includes a Type C or higher type buffer, as set forth in Chapter 9, Landscaping and Buffering; or
  - (b) Be platted in lots that conform to the conventional single-family detached house requirements for the district; or
  - (c) Be platted in lots no less than seventy-five percent (75%) of the average size of the nearest adjacent residential-zoned lots.

### 6.3.4 Traditional Housing Development

In any zoning district where single family dwellings are allowed by right or compatibility, a subdivision may be developed as a traditional housing development subject to the following standards:

- (1) **Lots:** The minimum lot size allowed in the zoning district may be reduced by up to two thousand (2,000) square feet.
- (2) **Building Design:** Residential units must meet the building design standards in Section 6.4 below.
- (3) **Setbacks:** Residential units must be developed using the minimum front setbacks of the zoning district.

(4) **Access:** All residential units must have rear alley access. No front driveway access is permitted.

(5) **Street:** Local streets may be the minimum twenty (20) foot width.

### **6.3.5 Lots**

#### **(1) Buildings to Be on a Lot**

Every building shall be located on a lot. In residential zoning districts, no more than one (1) principal building is permitted on a lot unless otherwise provided in the applicable zoning district regulations.

#### **(2) Compliance with Zoning District Regulations**

The size, width, depth, shape, and orientation of lots shall comply with the applicable zoning district regulations as provided in Chapter 4 of this code, except as provided in Section 6.10, Infill, and except where modified through the development plan process provided in Section 12.9, or the variance process as provided in Section 12.16.

The minimum lot area requirements set forth in Chapter 4 shall not include land permanently or normally inundated by water and / or other regulated waterways, such as creeks, wetlands or flood ways.

If the zoning district designation for a single lot is split into two (2) or more general use or overlay zoning districts, then the portions of the lot in each general use or overlay zoning district shall meet all requirements of that specific district.

(3) Lots intended for new detached dwellings adjacent to existing lots intended for detached dwellings shall be no less than seventy-five percent (75%) of the average area of existing contiguous lots.

(4) All lots shall front on a public or private street and shall have a minimum frontage width as indicated in the zoning district regulations. On irregularly shaped lots, a minimum street frontage of fifteen (15) feet is required.

(5) 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 two-hundred (200) feet.

(6) Residential lots shall not front on a collector street, arterial street, or parkway.

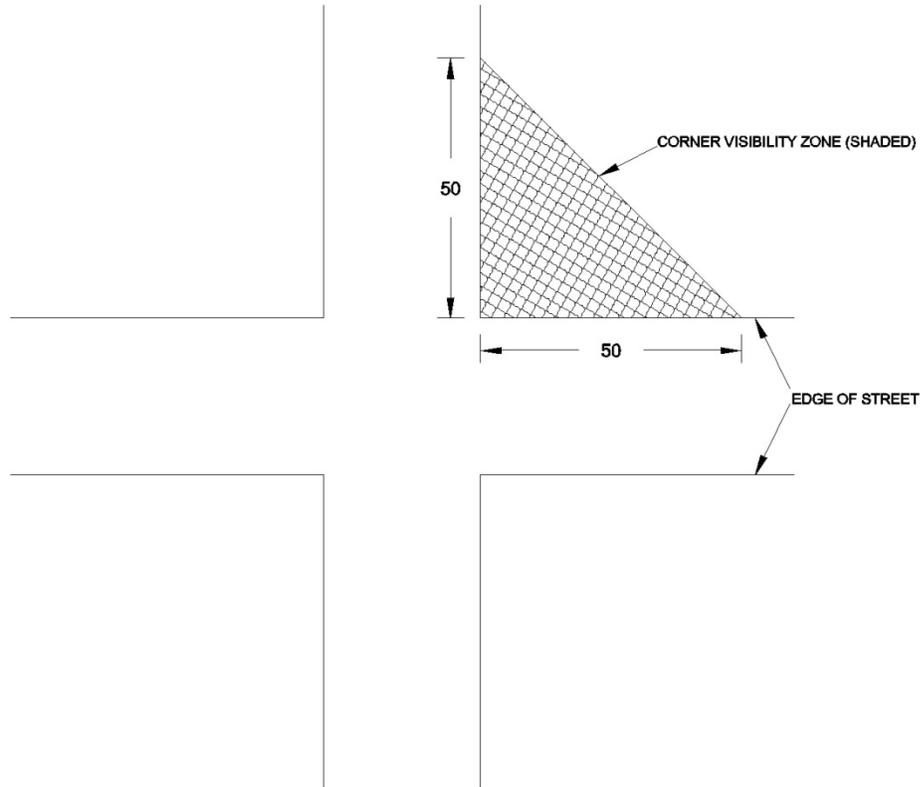
### **6.3.6. Setbacks and Required Yards**

- (1) **Front and Side Setbacks:** Front and side setbacks adjacent to streets shall be shown on all plats as required by Chapter 4, Zoning Districts, of this Code. A sub-divider may elect to impose greater setbacks through restrictive covenants. The City of Tupelo shall only enforce the setbacks required by Chapter 4. Where housing types or side setbacks are mixed on the same block face and adjacent to one another, the larger of the two (2) adjoining side yards shall be required for both units.
- (2) **Side Yard Building Line:** The building line for an existing residence having a side yard of three (3) or more feet may be maintained on any addition to the residence, but in no instance shall the side yard be less than three (3) feet.
- (3) **Yards Adjacent to Rights-of-Way and Easements:** On lots that abut a railroad right-of-way, or a utility/drainage right-of-way or easement that is not part of a platted lot, one-half of such right-of-way or easement, up to a maximum of fifteen (15) feet, may be considered as part of the minimum required rear or side yard.
- (4) **Variation in Front Yard:** In any block in which seventy percent (70) percent of the lots have front yards that are less than required by the existing zoning regulations, construction on any remaining vacant lots is permitted to the average yard of the existing improved lots
- (5) **Rear Yards on Irregular Lots:** For lots fronting on cul-de-sacs or other curved sections of roadways, and other irregularly shaped lots, a rear yard of fifteen (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 ten (10) feet to the lot line. The mean horizontal distance shall be calculated by adding the distance from the closest point of the structure to the rear property line, to the distance from the rear corner of the structure that is farthest from the rear property line, and dividing by two (2).
- (6) **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 is held in separate and different ownership from any immediately abutting lot, has a minimum area of three thousand-five hundred (3,500) square feet, and has a minimum street frontage of twenty (20) feet.
- (7) **Corner Lots:** Corner lots shall have two (2) front setbacks and two (2) side setbacks.
  - (a) The Director of Development Services 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.
- (8) **Double Frontage Lots:** Double frontage or through lots are prohibited except in commercial or industrial districts.
- (9) **Flag lots:** Flag lots shall not be allowed except through the variance process provided in Section 12.16.

(10) **Encroachments:** The buildings or structures on a lot shall not be located in whole or in part in a required yard, except as follows:

- (a) Sills, cornices, and similar ornamental features projecting from the principal building may encroach up to eighteen (18) inches into any required yard or building restriction line shown on the subdivision plat for the property;
- (b) Bay windows, covered porches, balconies, and similar features projecting from the principal building may encroach up to three (3) feet into any required yard or building restriction line shown on the subdivision plat for the property;
- (c) Decks, uncovered porches, patios, terraces, and similar features, may encroach into required yard or building restriction line shown on the subdivision plat for the property, but no closer than five (5) feet to the property line;
- (d) Accessory buildings and structures may encroach into the required yard or building restriction line shown on the subdivision plat for the property, but no closer than five (5) feet to the rear lot line or side lot lines. An accessory building or structure shall be located in the rear yard or side yard only. An accessory building or structure shall be located at least fifteen (15) feet from the principal building; otherwise, it shall conform to the yard setback requirements of the principal building.

(11) **Corner Visibility:** On a corner lot in any zoning district except MUD, and excepting properties developed to walkable standards in mixed use districts, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) and ten (10) feet above the center line grades of the intersected streets in the area bounded by the street lines of such corner lots and a line adjoining points along said street lines fifty (50) feet from the point of the intersection.



### 6.3.7 Vehicle and Pedestrian Areas for Single-Family, Duplex, Triplex, and Quadraplex Lots

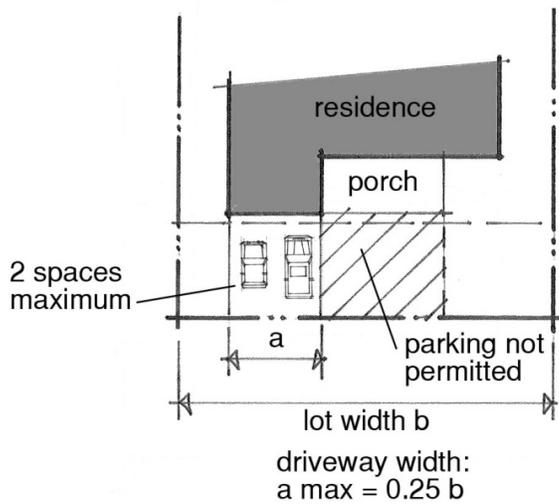
#### 6.3.7.1 Purpose and Applicability

- (1) Restrictions on driveway areas are designed to avoid the domination of front yards by large expanses of impervious surfaces, which deaden the streetscape and discourage pedestrian activity. Reducing the width of driveways can reduce total site imperviousness.
- (2) This section applies to any subdivision plat, site plan, or development approval authorizing a single-family, duplex, triplex, or quadraplex structure.

#### 6.3.7.2 Standards

- (1) If the site is served by an alley, access for motor vehicles must be from the alley and not from a street frontage.
- (2) No more than two (2) parking spaces may be located in the front setback.

- (3) Parking may be provided in the rear yard, and access may be provided through alleys where the front yard is insufficient to accommodate a driveway.
- (4) New vehicle areas may not be located between the building's porch or porches and an adjacent street.
- (5) Driveways and other impervious surfaces shall not comprise more than twenty-five percent (25 %) of the front yard area or the street frontage width.
  - (a) In order to reduce run-off and increase stormwater travel times, alternative materials for driveway surfaces, such as pervious pavers or gravel, may be approved by the Director of Development Services in any watershed or drainage basin overlay district, or in neighborhood blocks where driveways composed of such materials are found on a majority of developed lots.
  - (b) On lots of four thousand (4,000) square feet or less, the limitation of driveway area and frontage may be waived by the Director of Development Services.



**DRIVEWAYS**

**6.3.8 Blocks**

- (1) **Lots to Be Contiguous:** Lots shall be arranged in a contiguous pattern within blocks or abutting a cul-de-sac. For minor subdivisions, all lots shall be contiguous, and any new lots subdivided from a tract that has been previously subdivided shall adjoin the existing lots.

- (2) **Block Width:** Blocks to the interior of the subdivision shall have sufficient width to provide for two (2) tiers of lots. One tier of required block width is permitted in blocks adjacent to collector or arterial streets or waterways. Not more than two (2) tiers of lots shall be provided for any block.
- (3) **Block Length:** Maximum block length in the Agriculture/Open Space zoning district shall be one thousand-five hundred (1,500) feet. Maximum block length in the Low Density Residential zoning district shall be one thousand (1,000) feet. Maximum block length of residential subdivisions in all other districts shall not exceed seven hundred-fifty (750) feet.

## 6.4 Building Design Standards

### 6.4.1 Purpose and Findings

The purpose of these regulations is to provide specific criteria to implement the architectural and neighborhood design elements of the Tupelo 2025 Comprehensive Plan. These criteria are not intended to restrict imagination, innovation, or variety, but rather to assist in focusing design principles, which can result in creative solutions that will develop a satisfactory visual appearance within the City of Tupelo; preserve taxable values; and promote the public health, safety, and general welfare.

- (1) These standards:
  - (a) Provide a physical and visual connection between the living area of the residence and the street;
  - (b) Enhance public safety by allowing people to survey their neighborhood from inside their residences, places of work, or shopping areas;
  - (c) Provide a more pleasant pedestrian environment by preventing large expanses of blank façades along streets;
  - (d) Ensure that the location and amount of the living area of the residence, as seen from the street, is more prominent than the garage;
  - (e) Prevent garages from obscuring the main entrance from the street and ensure that the main entrance for pedestrians, rather than automobiles, is the prominent entrance;
  - (f) Provide for a more pleasant pedestrian environment by preventing garages and vehicle areas from dominating the views of the neighborhood from the sidewalk;
  - (g) Supplement the zoning regulations applied to site-built, modular, and manufactured homes, with additional standards and procedures that will promote a satisfactory living environment for residents of single-family homes and that will permit a mix of homes and other types of housing within the City of Tupelo;

- (h) Permit greater diversity in the types of housing communities;
- (i) Ensure that new single-family dwellings are compatible with other forms of housing; and;
- (j) Ensure the provision of single-family housing opportunities for persons or families of low or moderate income by providing for design standards that ensure compatibility among various types of housing units as an alternative to exclusionary zoning.

## **6.4.2 Height**

Building height shall conform to the requirements of the applicable zoning district regulations (Chapter 4, Zoning Districts).

### **(1) Measurement**

Building height shall be measured according to the definition of building height in Chapter 2, and as provided in the International Building Code.

### **(2) Exceptions**

- (a) Height limit shall not apply to belfries, chimneys, church roof structures not intended for human occupancy, church spires, cupolas, domes, monuments, water towers, flag poles, or similar structures, provided:
- (b) The structure does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;
- (c) The structure does not extend more than twenty-five (25) feet above the maximum permitted building height, except as allowed herein;
- (d) The structure does not exceed a maximum height of one hundred (100) feet above grade;
- (e) The structure is not constructed for the purpose of providing additional floor area in the building; and
- (f) The structure complies with the screening requirements for mechanical equipment and appurtenances in Section 9.6.
- (g) In the MUCC, MUAC, MUD, MUE, RC, and I districts, additional height up to a maximum of two (2) additional stories may be allowed if, in addition to any setback necessary to accommodate the yard requirements set forth in Part B., the building or structure is set back an additional twenty (20) feet from the front and rear property lines for each additional story, except that where a building or structure in a non-residential zoning district is located within one hundred (100) feet of the boundary of

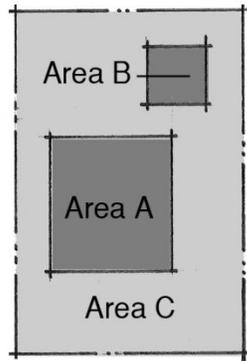
a residential zoning district, the height of the building or structure shall not exceed three (3) stories.

A Type A Landscaped buffer shall be provided between any structure qualifying for additional height under the provisions of this section and any adjoining lower intensity zoning district.

### 6.4.3 Single-Family Residential Dwellings

Unless otherwise specified in this ordinance, this section applies only to housing proposed as a traditional housing development.

- (1) **Size Limitations:** No single-family dwelling unit, duplex, or triplex shall exceed eight thousand (8,000) square feet in size, nor exceed a floor area ratio (FAR) of .60. The total area of all dwellings and accessory structures shall not exceed a FAR of .75.



Area A max = 8,000 SF  
Area A = or < 0.60 Area C  
Areas A + B = or < 0.75 Area C

#### SIZE LIMITATIONS

- (2) **Main Entrance:** Location of main entrance: The main entrance of each primary structure must face the street. On corner lots, the main entrance may face either of the streets or be oriented to the corner. With buildings that have more than one (1) main entrance, only one (1) entrance must meet this requirement. A building must include a front porch, or stoop at all main entrances that face a street. The porch, pergola/arbor, or stoop shall adjoin the main entrance and the main entrance shall be accessible from the porch.
- (3) **Porches:** Porches shall be covered by a solid roof. The roof shall not be located more than twelve (12) feet above the floor of the porch. If the roof of a required porch is developed as a deck or balcony, it may be flat.
  - (a) The porch shall be at least forty-eight (48) square feet and a minimum of eight (8) feet wide. If the main entrance is for more than one (1) dwelling unit, the covered

area provided by the porch must be at least sixty-three (63) square feet and a minimum of nine (9) feet wide.

(b) **Openings Between Porch Floor and Ground:** Openings of more than one (1) foot between the porch floor and the ground must be covered with a solid material or lattice.

(4) **Covered Balconies:** The covered area provided by the balcony must be at least forty-eight (48) square feet, a minimum of eight (8) feet wide, and no more than fifteen (15) feet above grade. The covered balcony must be accessible from the interior living space of the house.

(5) **Garages - Generally:** Garages shall either be detached, set back at least ten (10) feet behind the front façade, or facing the side or rear lot line.

(a) **Detached Garages:** These standards encourage detached garages as an alternative to front-loaded attached garages. Detached garages are permitted in any zoning district. Detached garages shall be located in the rear yard. The footprint for the garage structure shall not exceed twenty-four by twenty-four (24 by 24) feet. The garage walls shall not exceed fifteen (15) feet in height or the height of the principal structure, whichever is less.

(b) A detached garage that is nonconforming due to its location in a setback may be rebuilt on its existing foundation if it was originally constructed legally. An addition may be made to these types of garages if the addition complies with the standards of this section or if the combined size of the existing foundation and any additions are no larger than twelve (12) feet wide by eighteen (18) feet deep. The garage walls shall not exceed ten (10) feet in height.

(c) Detached garages accessed from the rear are required in traditional housing developments.

(d) **Garages on Corner Lots:** Garages on corner lots may face the side street if set back the same distance as the primary building façade on the street side.

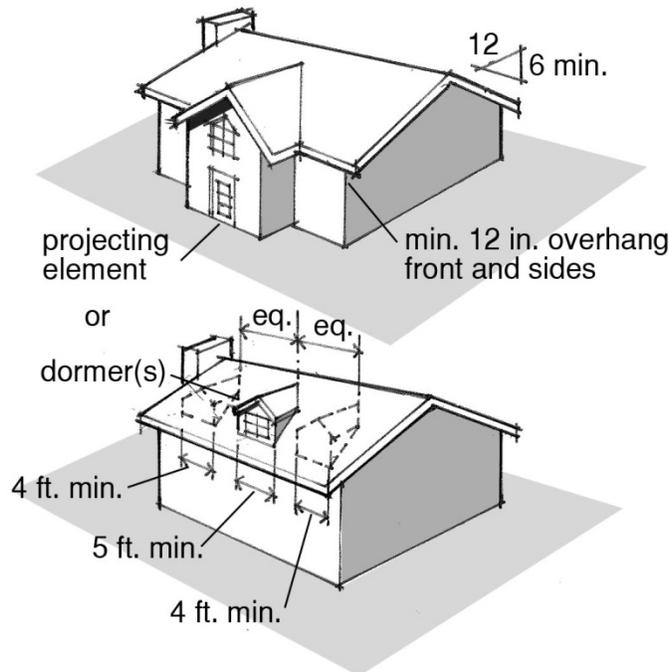
(e) **Maximum Length and Size:** The length of that portion of a garage wall facing the street shall not exceed forty percent (40) percent of the length of the street-facing building façade.

## (6) **Roofs**

(a) **Slope:** Principal structures must have a roof that is sloped, with a pitch that is no flatter than six (6) units of vertical run to twelve (12) units of horizontal rise.

(b) **Architectural Features:** The roof of a principal structure shall include at least one (1) of the following architectural details:

- (i) At least one (1) dormer facing the street. If only one dormer is included, it shall be at least five (5) feet wide and shall be centered horizontally between each end of the front elevation. If more than one (1) dormer is provided, a dormer at least four (4) feet wide must be provided on each side of the front elevation; or
  - (ii) A gable end, or gabled end of a roof projection, facing the street.
- (c) **Roof Eaves:** Roof eaves must project from the building wall at least twelve (12) inches, measured horizontally, on at least the front and side elevations.



**ARCHITECTURAL FEATURES**

- (7) **Foundation:** The ground level of the first floor, including the lowest elevation of any point of the front façade, shall be elevated at least three (3) feet from the horizontal surface of the street or sidewalk. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not visible by more than three (3) feet above the finished grade level adjacent to the foundation wall.
- (8) **Exterior Finish Materials:** Concrete block, plain concrete, corrugated metal, plywood, and sheet pressboard are not allowed as exterior finish material. Composite boards manufactured from wood or other products, such as hardboard or hardiplank, may be used when the board product is less than six (6) inches wide.
- (a) Where wood products are used for siding, the siding must be shingles or horizontal siding and not shakes.

(b) Where horizontal siding is used, it must be shiplap or clapboard siding composed of boards with a reveal of three to six (3 to 6) inches, or vinyl or aluminum siding that is in a clapboard or shiplap pattern where the boards in the pattern are six (6) inches or less in width.

(9) **Windows and Entryways:** At least fifteen percent (15) percent of the area of a street-facing façade must include windows or main entryways. Street-facing windows shall comply with the following requirements:

(a) Each window must be square or vertical—at least as tall as it is wide; or

(b) A horizontal window opening may be created by grouping two (2) or more vertical windows.

#### 6.4.4 Duplexes, Triplexes, and Quadraplexes

(1) Duplexes, triplexes, and quadraplexes shall include at least two (2) of the following architectural elements:

(a) **Dormers; Front Porches; Bay Windows; and Balconies:** Duplexes or triplexes may provide a covered balcony on the same façade as the main entrance instead of a front porch.

(b) Windows shall have a vertical-to-horizontal ratio of at least 1.5:1 and less than 3:1, which are recessed into the face of the building and broken up with smaller panes of glass.

(2) **Roofs:** The roof of each attached unit must be distinct from the other through either separation of roof pitches or direction, or other variation in roof design.

#### 6.4.5 Manufactured Homes:

Manufactured homes shall conform to the requirements for Single-Family Residential Dwellings of this chapter and to the following standards and criteria:

(1) **Zoning Standards:** Any manufactured home on an individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, and square-footage standards and requirements that would be applicable to a conventional, single-family residential dwelling on the same lot.

(2) **Foundation:** The dwelling shall be attached to a permanent foundation system in compliance with the International Building Code as adopted by the City of Tupelo; and the following requirements:

(3) All wheels, hitches, axles, transporting lights, and removable towing apparatus shall be permanently removed prior to installation of the dwelling unit;

- (4) The foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas excepting vents and crawl spaces. The foundation shall either not be located above grade or shall include masonry skirting; and
- (5) All manufactured homes shall be anchored to the ground by means of anchors attached both to the frame and with straps extending over the top and completely surrounding the sides and roof, consistent with building code requirements. In addition, test data giving certified results of pull tests in soils representative of the area in which the anchors are to be used shall be submitted to the Director of Development Services. Minimum load in direct pull shall be five thousand-four hundred (5,400) pounds. Anchors shall be marked so that, after installation, the identification is in plain view for inspection.
- (6) **Orientation:** Manufactured homes that are narrower than sixteen (16) feet in width shall be oriented on the lot so that the long axis is parallel to the street.

**6.4.6. Multi-Unit Dwellings:** Unless otherwise specified in this ordinance, this section applies to any townhouse or attached dwelling where located on a lot exceeding ten thousand (10,000) square feet:

- (1) For purposes of computing the number of dwelling units to determine applicability of the standards of this section, the number of existing or proposed dwelling units within any tract of land plus all existing or proposed multifamily dwellings on any adjacent property under common ownership shall be counted.
- (2) **Entryways:** For developments of forty (40) or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided. Median design shall conform to the standards in Section 6.8 Street Design and Transportation of this chapter.
- (3) **Common Open Space:** Common open space areas shall be required in accordance with Section 6.6 Open Space of this chapter.
  - (a) The Director of Development Services may waive up to fifty percent (50%) of the open space requirement if all units within the development are located within one thousand (1,000) feet of a public park as measured along a public sidewalk. The open space requirements of this section shall not apply to multifamily residential developments that are second floor units above first-floor commercial development, or to any residential developments in the Mixed Use Downtown zoning district.
  - (b) Open space provided pursuant to this requirement shall be accessible to all residents of the development and shall measure at least thirty (30) feet across its narrowest dimension.
- (4) **Pedestrian Facilities:** Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations, such as, but not limited to, parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or

greenways, and on-site amenities, such as recreation areas. These interior sidewalks shall be constructed in accordance with the standards for sidewalks in Section 6.8 Street Design and Transportation of this chapter.

- (a) Sidewalks shall be provided adjacent to all public streets that provide access to the development.

(5) **Building Design:** Building design for multifamily buildings shall:

- (a) Provide interesting and aesthetically attractive multifamily developments;
- (b) Avoid monotonous, “barracks”-style buildings;
- (c) Ensure that multifamily buildings have a multifaceted exterior form in which articulated façades are combined with window and door placements as well as other detailing; and
- (d) Create an interesting and attractive architectural design.
- (e) These standards limit flat walls with minimal features.

(6) **Standards:** The following standards shall apply to building design:

- (a) Buildings shall not exceed one hundred twenty (120) feet in length;
- (b) Façades greater than fifty (50) feet in length, measured horizontally, shall incorporate wall plane changes of at least two (2) feet. Ground-floor façades that face public streets shall have arcades, windows, entry areas, awnings, or other such features for at least sixty percent (60%) of their horizontal length;
  - (a) Buildings facing streets shall provide a minimum of four (4) of the following design features: Dormer windows, recessed entrance, covered porch or balcony, pillars or pilasters, box or bay windows, eaves with exposed rafters and a minimum of twelve (12) inch projection, or a parapet wall with articulated design rather than simple rectilinear form;
  - (b) Building facades shall include brick, stone, or fibrous cement siding for a minimum of seventy-five (75%) percent of the net façade area;
  - (c) Buildings shall be arranged so that they are aligned parallel to a sidewalk or around common open space, such as courtyards, greens, squares, or plazas; and Entryways shall face a street, sidewalk, or common area. Buildings shall not face the rear of other buildings on the same lot or parcel.

(7) **Utilities:** All utility lines shall be located underground. Outdoor area lighting shall be provided for security. Such lighting shall be shielded to direct light downward and not into

dwelling units on, or adjacent to, the multifamily site. Lighting shall be provided to illuminate the intersections of primary interior driveways and building entryways.

#### **6.4.7 Commercial Buildings**

(1) **Purpose:** These standards are designed to:

- (a) Promote a quality, urban streetscape;
- (b) Promote a pedestrian-friendly environment;
- (c) Establish a variety of mixed uses in the core of the community;
- (d) Provide an orderly development pattern;
- (e) Maintain a supply of developable land while preserving the compact development;
- (f) Improve traffic circulation and promote alternatives to automobile travel;
- (g) Provide housing opportunities within walking distances of employment, service, and retail opportunities;
- (h) Maintain an overall design theme;
- (i) Preserve a human scale for new buildings;
- (j) Provide economic development opportunities through clean industry, office, and commercial uses; and
- (k) Provide for the daily needs and services of the community.
- (l) These standards are not intended to restrict imagination, innovation, or variety.

(2) **Applicability:** Unless otherwise specified in this chapter, this section applies to any commercial building or structure of five thousand (5,000) square feet or more gross floor area. Subsections 7, 8, and 9 shall not apply to commercial buildings or structures of five thousand (5,000) square feet or more gross floor area, located on property developed or to be developed to conventional standards as provided in Chapter 4 and Section 6.3.2. of this code.

(3) **Flexibility:** The standards in this section are intended to be applied with flexibility, allowing substitution of materials or construction methods, as long as the modification does not materially detract from the “Flexibility Options” section in Chapter Four provisions for the zoning district.

(4) **Pedestrian Facilities:** Continuous internal pedestrian walkways shall be provided to connect off-street parking areas with primary building entrances. At least one (1) internal pedestrian walkway with a minimum width of five (5) feet shall be provided from the on-site pedestrian network to the public sidewalk. In the case of corner lots, a connection shall be made to the sidewalk of both streets. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of surface materials such as pavers,

bricks or scored or stamped concrete or asphalt to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

(5) **Building Structure:** Base, middle, and cap: Buildings exceeding two (2) stories shall incorporate a base, a middle, and a cap described as follows:

(a) The base shall include an entryway with transparent windows as set forth in the ground-floor design standards of this chapter, and a molding or reveal placed between the first and second stories or over the second story.

(b) The molding or reveal shall have a depth of at least two (2) inches and a height of at least four (4) inches;

(c) The middle may include windows and/or balconies; and

(d) The cap shall include the area from the top floor to the roof of the building, and shall include a cornice or a roof overhang.

(6) **Exterior Materials:** The materials used on building facades shall include a percentage of masonry equal to the highest percentage of masonry on any building in the immediate context area consisting of the same property, adjacent properties, and other properties facing the same street segment, except that:

(a) Where none of the lots in the immediate context area are developed, the following exterior materials may be used: brick, stone, cementitious stucco, integrally colored unit masonry, split face block or similar designer block, with up to twenty-five percent (25%) of a façade consisting of exterior insulating finish system materials; and

(b) In redevelopment areas or industrial zoning districts where no existing buildings have more than fifty percent (50%) masonry on building façades facing a street, new buildings shall provide a minimum of fifty percent (50%) masonry on the building façade(s) facing a street.

(7) **Ground-Floor Design**

(a) All buildings subject to this section shall have their principal entrance opening to a street, square, plaza, or sidewalk. The principal entrance shall not open onto a parking lot.

(b) Pedestrian access from the public sidewalk, street right-of-way, or driveway to the principal structure shall be provided through an improved surface.

(c) The ground floor of the entryway shall align with the sidewalk elevation. Sunken terraces or stairways to a basement shall not constitute entryways for purposes of this section.

(d) It is not the intent of this section to preclude the use of below-grade entryways, provided, however, that such entryways shall not constitute a principal entryway and shall not be used to satisfy the distancing requirements of the Windows and Entryways section of this chapter.

(8) **Street Wall:** Where a maximum front setback has been established, the front building wall or courtyard shall adjoin the sidewalk. The side setback shall be a minimum of zero (0) feet and a maximum of ten (10) feet.

(9) **Windows and Entryways**

(a) Windows above the ground floor shall have a minimum ratio of height to width of 2:1.

(b) The ground floors of all buildings shall be designed to encourage and to complement pedestrian scale activity by the use of windows and doors arranged so that the uses are visible from and/or accessible to the street on at least fifty percent (50%) of the length of the first (1<sup>st</sup>) floor street frontage.

(c) Where windows are used, they shall be transparent.

(d) Solid walls shall not exceed twenty (20) feet in length.

(e) All street-level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access that may be provided. This standard shall not apply to any lot with a street frontage of less than twenty-four (24) feet.

(f) Doors shall be recessed into the face of the building to provide a sense of entry and to add variety to the streetscape. An entryway shall not be less than five percent (5%) of the wall area of the façade or ten percent (10%) of the length of the façade. In all cases the entry way shall not be less than twenty (20%) square feet.

(g) The maximum setback requirements may be waived by the Director of Development Services for an area not to exceed ninety percent (90%) percent of the frontage in order to accommodate courtyards.

(h) Canopies, awnings, and similar appurtenances may be constructed at the entrance to any building, subject to the criteria established in the International Building Codes.

(10) **Mechanical Equipment**

Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, shall be screened from view at the front property line. Solid waste containers shall be screened from view from all directions.

(11) **Screening**

- (a) Exterior screening materials shall be the same as the predominant exterior materials of the principal building, except that solid waste containers shall be enclosed with a solid masonry wall and opaque gate.
- (b) In cases where the front property line is higher than the roof line of the subject building, no screening shall be required for a line of sight exceeding five (5) feet six (6) inches above the finished elevation of the property at the front property line.

**6.4.8 Exterior Lighting**

**6.4.8.1 Purpose:** All exterior lighting shall be designed and installed to maintain adequate, safe illumination levels in public areas and on private lands, using durable light fixtures and minimal mounting heights that minimize objectionable off-site glare, including upward glare (light pollution).

**6.4.8.2 Application:** Unless exempted, the provisions of this section shall apply to residential, non-residential, and mixed use development.

- (1) **Public Light Poles:** For the purposes of this section, public light poles and fixtures shall refer to lighting intended to illuminate rights of way or streets, and private lighting fixtures shall refer to lighting intended to illuminate private parking areas and access drives.
- (2) **Exemptions:** Lighting and fixtures identified as historic by the Department of Development Services, or approved as part of a Certificate of Appropriateness issued by the Historic Preservation Commission, shall be exempt from the standards of this section.
- (3) **General Standards for Exterior Lighting:** A lighting plan shall be submitted as part of any major or basic site plan, subdivision preliminary plat, or development plan.
- (4) **Illumination Direction:** Lighting shall:
  - (a) Be arranged to minimize glare and reflection on adjacent land;
  - (b) Be aimed or directed to preclude light projection beyond immediate objects intended to be illuminated;
  - (c) Not distribute light onto surrounding lands beyond an angle of thirty-five (35) degrees from a vertical plane;
  - (d) Use low-wattage architectural lighting for upwardly-directed lighting intended to illuminate structures or landscape elements.

- (5) **Equipment and Location:** Public lighting poles or light standards shall be of a type approved by the Tupelo Water and Light Department. The final installation location and quantity of all street lights shall be determined by Tupelo Water and Light Department.
- (6) **Private Lighting Poles:** Private lighting poles may be located within landscaped areas or planting islands, but in no instance shall poles be located in a manner that conflicts with required landscape elements such as canopy trees.
- (7) **Ground-Oriented, Pedestrian-Scaled Lighting** shall be considered as an alternative to pole-mounted fixtures along pedestrian walkways.
- (8) **Exterior Lighting:** No exterior lighting shall have any blinking, flashing or fluttering lights or other illuminating device that has a changing light intensity, brightness, or color.
- (9) **Maximum Lighting Height:** In mixed use zoning districts where walkable development standards are applied, and in residential and mixed use developments in all districts, public and private lighting fixtures shall not exceed sixteen (16) feet in height, measured from finished grade to the highest part of the fixture or pole assembly.
  - (a) The height and style of public lighting fixtures in all other locations shall be exempt from the standards of this subsection.
  - (b) Private lighting fixtures in all other locations shall not exceed twenty-five (25) feet in height, measured from finished grade to the highest part of the fixture or pole assembly, except that fixtures within fifty (50) feet of residential dwelling units or land with active approval for residential development shall not exceed sixteen (16) feet in height.
- (10) **Lighting Fixtures:** Within residential and mixed use development where walkable development standards are applied, exterior lighting shall be of a pedestrian scale with a historic or ornamental fixture. Shoe box or cobra head style fixtures shall be prohibited.
- (11) **Shielding:** No interior light source shall be positioned, aimed, or configured so as to result in the light source being visible from land occupied by existing residential development.
- (12) **Wall Mounted Lights, Floodlights, and Spotlights:** Wall mounted lights or other decorative lighting fixtures may be used provided that the source of illumination is not visible from adjacent land and provided that the maximum illumination levels comply with the above standards.
- (13) **Floodlights and Spotlights** shall be selected, located, aimed and shielded so that direct illumination is focused exclusively on an architectural element of a building or other site feature and away from adjoining lands or right of way.
- (14) **Lighting Levels:** All lighting shall have the intensities and uniformity ratio consistent with the *Lighting Handbook* of the Illuminations Engineering Society of North America

(IESNA) and shall be designed and located so that the illumination measured in foot-candles at the finished grade shall comply with the following standards.

- (a) Minimum light level in parking lots: 0.2
- (b) Maximum illumination at property line: 1.0
- (c) Maximum illumination at right of way: 1.0 for residential uses, 2.0 for non-residential uses.

#### **6.4.8.3 Exemptions for Security Plan**

Government facilities, parks, public safety facilities or other uses that may warrant illumination levels higher than the maximum permitted may submit to the Development Services Department a Site Security Plan requesting external lighting that deviates from the standards of this section. The Director of Development Services may approve the Site Security Plan, with or without conditions, on finding that the deviation from the standards are necessary for protection of the public and will not have a significant adverse effect on neighboring lands.

**6.4.8.4 Outdoor Sports Fields and Performance Areas:** In addition to the above light level standards, fixtures used in lighting outdoor sports or performance areas shall be equipped with a glare control package and aimed so that their beams are directed and fall within the primary playing or performance area.

**6.4.8.5 Sign Lighting:** Lighting fixtures illuminating signs shall comply with the standards of this subsection, and such fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign face.

#### **6.5 Transitional Features**

- (1) Transitional features are architectural elements or site aspects used to provide a transition between certain land uses which may conflict with each other. They are an alternative to conventional landscape buffers. The intent of these standards is to limit the excessive consumption of land in vegetated buffers and to provide more connectivity between uses where it is appropriate. The Department of Development Services, the Planning Committee, or the City Council may require the use of a landscaped buffer in lieu of or in addition to a transitional feature where such buffer is necessary to reduce potential adverse impacts between incompatible uses, or where a transitional feature is not feasible. Table 9.9.1. displays the situations in which transitional features are required or encouraged.
- (2) In areas where a transition between different uses or building types is needed, one (1) or more of the following approaches shall be used:
  - (a) Use setbacks that are within twenty-five percent (25%) of the average setbacks for existing uses on the same block provided that no new use is closer to the right of way than any existing use;

- (b) Ensure the façade width and height of structures on opposing sides of a street are consistent with each other such that neither façade exceeds the other's dimensions by more than twenty-five (25%) percent;
- (c) Graduate building height and mass in the form of building step-backs or other techniques so that structures with a higher intensity have a comparable scale with adjacent structures housing lower intensity uses;
- (d) Use similarly sized and patterned architectural features such as windows, doors, awnings, arcades, pilasters, wall offsets, building materials and other building articulations present on the lower intensity or existing use;
- (e) Locate off-street parking and service areas to the rear of structures, adjacent to similar site features on adjacent sites;
- (f) Avoid abrupt changes in roof form by using similar roof types, slopes, or arrangements on the developing site;
- (g) Orient primary building facades directly across from opposing primary facades regardless of use type; and
- (h) When dealing with multi-building developments, establish a continuum of use intensity where uses of moderate intensity are sited between high-intensity uses and lower intensity uses.

## **6.6 Open Space**

### **6.6.1 Purpose**

Open space adds to the visual character and uniqueness of each development and allows for recreational and aesthetic enjoyment by the residents. In the Agriculture/Open Space zoning district, open space is provided by land in agricultural use or floodplains. In the residential zoning districts, improved open space provides centrally located community gathering spots, and play spaces that are integral to the livability of the neighborhoods, while the preservation of natural areas ensures habitat. In the Mixed Use districts, a limited quantity of open space is required as relief from the intensity of the built environment. Except for Ownership and Management of Open Space, the requirements of this section do not apply to conservation subdivisions under Sec. 6.3.3, Conservation Subdivision.

### **6.6.2 Required Open Space**

Open space shall be required in all proposed uses of land which require development approval by the Planning Committee and/or City Council, in all districts except Agriculture/Open Space, Mixed Use Downtown, Regional Commercial and Industrial. The amount of open space shall be determined by applying the percentage shown in the development standards in Chapter 4, Zoning

Districts, and Table 4.16, General Development Standards, to the total area of the property to be developed.

### **6.6.3 Use of Required Open Space**

Required open space may consist of any of the following, up to the maximum percent credit shown.

- (1) Naturally vegetated areas, including wooded areas, riparian buffers, floodways, and steep slopes: one hundred percent (100%)
- (2) Areas developed for active or passive recreational uses, including walking tracks, bike paths or trails, greenways, picnic areas, benches, shelters, play areas, common greens, plazas and courtyards: one hundred percent (100%)
- (3) Tree replacement areas, required buffer areas, required landscape areas: seventy-five percent (75%)
- (4) Stormwater detention or management areas: fifty percent (50%)

**6.6.4 Open Space Calculation:** Streets, driveways, vehicular use areas and required yard spaces provided for residences may not be counted toward the open space requirement.

**6.6.5 Ownership/Dedication:** Land set aside as open space in residential developments shall be held in common ownership or dedicated to the public rather than platted as part of individual private lots.

**6.6.6 Minimum Dimension:** Within the Mixed Use Downtown, Mixed Use Commercial Corridor, Mixed Use Residential, and Mixed Use Activity Center zoning districts, a horizontal dimension of at least ten (10) feet shall be the minimum required to be considered open space.

Within all other zoning districts, a horizontal dimension of at least twenty-five (25) feet shall be the minimum required to be considered open space.

**6.6.7 Useable Open Space Design General:** Useable open space shall constitute at least one-third (1/3) of the required open space, except in the Agriculture/Open Space district, where no useable open space shall be required. Areas designated as useable open space, other than walking paths and bicycle trails, shall have at least one (1) side with street frontage of at least fifty (50) feet in length, and shall be accessible by sidewalks.

**6.6.7.1** For developments proposing residential uses within the Mixed Use Commercial Corridor, Mixed Use Residential, and Mixed Use Activity Center zoning districts, useable open space shall be located so that ninety-five percent (95%) of the residential units in the subdivision or development are within a One thousand-three hundred (1,300) foot walking distance of an accessible, useable open space.

**6.6.7.2** For developments proposing residential uses within all other zoning districts, useable open space shall be located so that ninety-five (95%) of the residential units in the subdivision or

development are within a two thousand (2,600) foot walking distance of an accessible, usable open space.

**6.6.8. Ownership and Management of Open Space:** Prior to approval of a final plat, a program for continued maintenance of all open space areas shall be submitted. The submission shall include agreements, contracts, deed restrictions, sureties, or other legal instruments acceptable to the City, as appropriate, to guarantee the provision and continued maintenance of such common areas and facilities.

**6.6.8.1** The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

- (1) A permanent conservation easement in favor of either:
- (2) A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements (the organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions). If the entity accepting the easement is not the City, then a third party right of enforcement favoring the City shall be included in the easement; or
- (3) A governmental entity with an interest in pursuing goals compatible with the purposes of this section acceptable to the City.
- (4) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
- (5) An equivalent legal tool that provides permanent protection, if approved by the City.
- (6) Dedication of the land to an established homeowner's association (with legal standing in the property) that accepts permanent maintenance responsibility.

**6.6.8.2** The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this Article, as well as any further restrictions the applicant chooses to place on the use of the open space.

**6.6.8.3** Open space that has been dedicated to an established homeowner's association may be transferred with a permanent conservation easement to a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements pursuant to this section, if approved by the appropriate governing body.

## **6.7 Stormwater Management**

### **6.7.1. Purpose and Intent**

The purpose of this section is to provide adequate measures for the retention, detention, and distribution of stormwater in a manner that minimizes the possibility of adverse impacts on both water quantity and water quality during development and on adjoining properties during and after development.

### **6.7.2 Applicability**

This section applies to any application for subdivision plat, site plan, or development approval except as otherwise provided in this chapter. A stormwater report shall be provided as set forth in the City of Tupelo Design Standards and Construction Specifications for Streets, Storm Water, Sanitary Sewer and Water Distribution.

### **6.7.3 System Criteria**

**6.7.3.1 Design Conditions:** Stormwater management facilities shall normally be designed for proposed development. Three (3) development conditions shall be analyzed for each development as follows:

- (1) **Existing Conditions:** Current development conditions in the watershed and on site. Use as the baseline analysis for determining the impact of development.
- (2) **Proposed Conditions:** Existing conditions with the proposed development added. Use to determine if the increased run-off from the proposed development results in an adverse impact to other properties.
- (3) **Ultimate Conditions:** Ultimate development conditions within the watershed used to design the drainage facilities. Ultimate development conditions may be used in lieu of proposed conditions to determine if the increased runoff from the ultimate watershed development results in an adverse impact to other properties, or for projects located within designated watershed protection districts, at the discretion of the City Engineer.

### **6.7.4.2 Design Storm Event**

All drainage facilities shall be designed for a twenty-five (25) year storm. Facilities that are to convey drainage along the flooding source of a designated Special Flood Hazard Areas (SFHA) or one hundred (100) year floodplain as defined on the Flood Insurance Rate Maps (FIRM) must be designed using the one hundred (100) year (one percent (1%) chance) flood event.

### **6.7.4.3 Responsibility to Accept Stormwater**

The owner or developer of property to be developed is responsible for the conveyance of all stormwater flowing through the property. This responsibility includes stormwater flowing onto the property by any other developed property as well as the drainage naturally flowing through the property by reason of topography. Future upstream development shall be accounted for by assuming ultimate development when sizing drainage systems as specified in this section.

#### **6.7.4.4 Level of Service for New Development/Redevelopment**

Peak stormwater run-off rates from all new development and redevelopment projects (due to zoning or re-platting) shall be less than or equal to the peak run-off rates from the site's predevelopment or existing conditions for the twenty-five (25) and one hundred (100) year design storm events. Special consideration may be given to developments that discharge runoff directly to major drainage ways such as creeks and streams, provided the increased runoff will not adversely impact the stream in question or adjoining properties.

#### **6.7.4.5 Low Impact Stormwater Management Design**

Use of low impact stormwater management, integrated management practices, and design features that are consistent with the practices described in *Low-Impact Development Design Strategies: An Integrated Design Approach* and *Low-Impact Development Hydrologic Analysis*, which are incorporated by reference and are referred to as the "LID Manuals", are encouraged by reference in the Plan Goals and Design Options Checklist, Section 12.4.6.

**6.7.4.6** Where applicable, compliance with the National Pollution Discharge Elimination System (NPDES) permit process is required.

### **6.8 Street Design and Transportation**

**6.8.1 Purpose:** These regulations are designed to:

- (1) Ensure that the design of streets conforms to the recommendations of the comprehensive plan;
- (2) Provide for the safety for both vehicular and pedestrian traffic;
- (3) Provide for livable residential and commercial environments;
- (4) Provide economy of land use, construction, and maintenance; and
- (5) Provide safe and efficient access to property.

#### **6.8.2 Intent**

Unlike the situation in traditional subdivision regulations, one intent of this section is to permit narrower street widths while requiring greater connectivity in order to more efficiently disperse traffic, to protect pedestrians from high vehicular speeds, and to enhance the streetscape. The City of Tupelo further finds and determines that street layout and design can have a very significant influence on the total imperviousness and hydrology of a site. Alternative road layout can result in significantly reducing imperviousness, reducing stormwater run-off, protecting water quality, and providing cost savings for developers and home buyers.

**6.8.3 Applicability:** This section applies to:

- (1) Any application for subdivision plat approval; and
- (2) Any application for site plan or development plan approval if no subdivision plat is required.

**6.8.4 Classification**

Classification of an existing or proposed street not already identified on the major street plan, for the purpose of determining the appropriate design of a roadway or development, or for the purpose of determining the appropriateness of a location for a proposed use, shall be done by the City Engineer. Pursuant to the major street plan, the following classification system, as described in Table 6.8, is adopted. Additional information on street classification and standards is provided in Appendix A, City of Tupelo Design Standards and Construction Specifications for Streets, Stormwater, Water Distribution, and Sanitary Sewer.

<b>Type of Street</b>	<b>ROW Width, Ft. (min)</b>	<b>Pavement Width, Ft. (min)</b>	<b>Design Speed, mph</b>	<b>*Sidewalks Req'd</b>	<b>Curb &amp; Gutter Req'd</b>
Arterial	50-80	24	55	Yes	No
Major Collector	50-80	24	45	Yes	No
Minor Collector	50	22	45	Yes	No
Local	40	20	30	Yes	No
Alley	15	10	n/a	No	No

\*See exceptions to sidewalk requirements in section 6.8.7.2.

**6.8.4.1 Arterials**

Arterials may be classified as either principal or minor, but for purposes of this manual and within the context of the City of Tupelo, no such separate distinction will be made. Arterials are defined as corridors generating the highest traffic volumes with the longest trip desires and are commonly referred to as major thoroughfares. The arterial system generally will consist of multiple lanes of traffic, will serve the major centers of activity and will be the primary routes entering and leaving the urban area as well as providing routes for intra-area travel, such as between business districts and outlying residential areas. Gloster Street, Main Street and McCullough Boulevard are examples of arterials within the City of Tupelo. For design considerations of this manual all arterials within the City of Tupelo will be assumed to carry five percent (5%) heavy truck traffic.

**6.8.4.2 Collectors**

The collector system provides land service access and traffic circulation within business districts, residential neighborhoods and industrial areas. A collector gathers traffic from within specific land use zones and distributes it to the arterial system. Collectors within the City of Tupelo may be classified as either major or minor. Major collectors function as primary routes between land

use zones and tie directly into the arterial system. They will carry high volumes of traffic (ADT > 2,000) both commercial and residential. Green Street, Thomas Street and West Jackson Street are examples of major collectors within the City of Tupelo. For design purposes of this manual all major collectors within the City of Tupelo will be assumed to carry two percent (2%) heavy truck traffic unless the designer is directed to accommodate a higher or lower percentage by the city engineer. Minor collectors generally serve outlying residential and smaller confined business districts. They will distribute traffic between neighborhoods and major collectors carrying less volume (ADT < 2,000) than a major collector. They may or may not tie into the arterial system. Butler Road, Lakeshire Drive and Wilson Street are examples of minor collectors within the City of Tupelo. Heavy truck traffic will be considered negligible on minor collectors unless special consideration is ordered by the city engineer.

#### **6.8.4.3 Local Streets**

Local streets comprise all facilities that cannot be categorized into one of the other two classifications. These include mainly residential streets within distinct neighborhoods and subdivisions. They function to distribute traffic to the collector system and beyond and will often carry very low traffic volumes (ADT < 400). Except for industrial districts, local streets will be assumed to carry no truck traffic. In newly developed subdivisions local streets shall be designed so that blocks do not exceed one thousand-five hundred (1,500) feet in the Agriculture/Open Space zoning district, one thousand (1,000) feet in length in the low-density residential zoning district, or seven hundred-fifty (750) feet in other residential zones unless severe topographic constraints or other unusual features make an excessive length necessary. Connections between streets shall be created in such a way that they do not encourage the use of such streets by substantial through traffic. A local street open at only one (1) end should have a cul-de-sac turn around at the closed end. Such dead end streets should be kept to minimum length as possible and in no instance should a dead end street exceed six hundred (600) feet in length.

#### **6.8.4.4 Alleys**

Alleys are small, low volume streets that provide access to the side or rear of individual parcels of land in medium to high density residential and commercial areas. They are categorized separately from local streets in that they are intended, in many cases, to serve only a few individual parcels. In commercial districts they may be used primarily for loading and unloading of goods and other materials. In residential districts they may serve as few as two (2) or (3) three separate homes and provide a safer alternative to on street parking on the primary local and collector routes. Alleys are generally intended for one way traffic only. Alleys for rear vehicle access are required in traditional housing developments. Dead end alleys may be permissible in certain situations and where allowed should be equipped with a turn around. Minimum design criteria for turnarounds are shown on Figure 1.D of the Appendix. Because of their intended use the geometric criteria for their design will be somewhat less intrusive than that of a local street and is illustrated in Figure 1.D of the Appendix.

**6.8.4.5 Factors to be Considered:** In determining the classification of a street, factors to be considered include the following existing or proposed features:

- (1) Facility geometrics, including the number and width of traffic lanes, turning lanes, and parking lanes;
- (2) Access conditions, including any restrictions on access, the spacing of private accesses, and average lot frontages;
- (3) Traffic characteristics, including average daily traffic, percentage of trucks, average operating speed, percentage of turning movements, origin-destination characteristics of the traffic, and peak-hour characteristics of traffic; and
- (4) Adjacent land uses.

**6.8.4.6 Geometric Design:** Interior streets within the subdivision or development parcel shall conform to the standards described in Table 6.8. and the City of Tupelo Design Standards and Construction Specifications Manual.

### **6.8.5 Street Names and Signage**

**6.8.5.1** Names of new streets shall not duplicate the names of existing streets unless the new street continues or aligns with an existing street. All new street names shall be submitted to and approved by the U.S. Postal Service and Lee County E911 office.

**6.8.5.2 Street Name Signs:** Street name signs shall be installed at all intersections within and abutting the subdivision. Such signs shall be manufactured and installed by the subdivider in accordance with specifications of, and subject to plan reviews and inspections by, the Director of Public Works. Street name signs shall not be accepted by the City of Tupelo until the street has been accepted for maintenance by the City of Tupelo, unless approved by the Director of Development Services in order to provide mail service.

**6.8.5.3 Warning and Regulatory Traffic Signs:** Within the City of Tupelo limits, warning and regulatory traffic signs shall be installed within and abutting the subdivision in accordance with the Manual of Uniform Traffic Control Devices.

**6.8.5.4 Street Lights:** Street lights shall be provided in all subdivisions within the City of Tupelo. Street lights shall conform to the City of Tupelo Design Standards and Construction Specifications manual.

### **6.8.6 Private Streets**

**6.8.6.1 Applicability:** Private streets are permitted within commercial or residential subdivisions in any district.

**6.8.6.2 Private Street Geometric Design:** The design standards and construction specifications of private streets shall be the same as for public streets.

**6.8.6.3 Certification:** Upon completion of construction, the Director of Development Services shall be provided with a written certification signed by a professional engineer, certifying that the private streets and sidewalks were designed and installed as required by this section.

**6.8.6.4 Maintenance:** Private streets and sidewalks shall be owned and maintained by a Home Owners Association (HOA), a community association, or other legal entity established for this purpose.

**6.8.6.5 Gated Subdivision Streets:** Gates may be placed on private streets only.

**6.8.6.6 Pavement Management:** The applicant shall include with the HOA documents a forecast and schedule of street maintenance costs prepared by a professional engineer. A maintenance account with seed money shall be established by the developer to enable the HOA to meet the maintenance schedule until the HOA is self-sufficient. Any HOA requesting that the City of Tupelo acquire their private streets shall produce documentation that the maintenance schedule set forth in the HOA's original pavement management plan as part of the HOA documents has been followed.

**6.8.6.7 Fire Lanes:** The HOA documents shall require the HOAs to identify and enforce a no-parking restriction in fire lanes throughout the community.

**6.8.6.8 Master Key Security System:** A master key security system shall be provided on all gates. The security system shall include the following:

- (1) A gate override in case of power failure; and
- (2) A master key provided to the fire department, the school district, and the police department.

## **6.8.7 Sidewalks**

**6.8.7.1 Applicability:** Sidewalks are required on both sides of all internal streets and the subdivision side of all adjacent or perimeter streets, except as specified below. Reverse frontage lots shall have sidewalks provided on both street frontages.

**6.8.7.2 Sidewalk Exceptions:** The planning commission may waive all or part of the sidewalk requirements in the following situations:

- (1) When the Director of Development Services determines that the sidewalks will interfere with or disrupt drainage;
- (3) The Director of Development Services determines that public construction that requires sidewalk replacement will take place on the street within three (3) years; and
- (4) In single (1) or two (2) family residential subdivisions with a density less than one (1) dwelling unit per acre.

## **6.8.7.3 Payment in Lieu of Sidewalk Construction**

The requirement of sidewalks on any proposed development where no sidewalks are existing to connect with may be met by a payment in lieu of twenty-five dollars (\$25) per linear foot of right of way frontage, at the applicant's option. The city of Tupelo shall apply all such payments in lieu to construction of sidewalks in areas of the city where the existing sidewalk system can be extended or completed.

**6.8.7.4. Location:** The field inspector may approve changes in the sidewalk location for a maximum linear distance of two hundred (200) feet without amending the street plan or utility layout provided if the plans are annotated with a note stating that intent. During the plat review process, reviewing agencies may designate areas where prior approval of the agency is necessary for any alteration to the sidewalk location. No other changes are permitted without the approval of all agencies that approved the original utility layout.

**6.8.7.5. Continuity:** Sidewalks shall align vertically and horizontally with abutting sidewalks. Sidewalks shall not be installed in such a manner that they conflict with or are obstructed by power lines, telephone poles, fire hydrants, traffic/street signs, mailboxes, trees, buildings, barriers, light poles, or any other structure. The grades of sidewalks shall be such that changes of grades greater than ten (10%) percent are not encountered within blocks. When there is an existing or anticipated obstruction, the sidewalk shall be installed around the object and shall provide the required sidewalk width. When utility layouts are required as part of a plat, the location and extent of sidewalks within the subdivision shall be shown on the utility layout and shall be subject to the approval of the Director of Development Services and the utility agencies.

### **6.8.8 Access and Driveways**

**6.8.8.1 Applicability:** This section applies to all driveways. A lot that is a part of an approved plat, which does not otherwise limit access, which was approved by the City of Tupelo and filed for record as of the effective date of this section, and which does not have sufficient frontage to meet the driveway approach spacing requirements in this section, is allowed one (1) driveway approach.

**6.8.8.2 Single Family Residential Subdivision:** Lots occupied by single-family dwelling units shall not front on a collector or arterial streets except as provided below. Access points that permit vehicular access lots subject to this subsection are prohibited.

(1) **Exceptions:** The subsection above does not apply if:

- (a) The lot is at least one (1) acre in size; and
- (b) The lot includes a permanent vehicular turnaround to prevent backing onto the collector or arterial street. This restriction shall be noted on the plat.
- (c) If conditions are such that vehicular access to such lots cannot be provided other than from the collector or arterial street, the Director of Development Services may permit the creation of a marginal access street or easement to serve two (2) or more lots. The marginal access street or easement shall be designed to permit entry to the

thoroughfare without requiring a motorist to execute a backing maneuver. Marginal access streets or easements shall be included on the subdivision plat.

**6.8.8.3 Nonresidential, Multifamily, or Mixed-Use Developments:** Lots in all other zoning districts, or lots that are not used for single-family or duplex dwellings, are permitted vehicular access from a collector or higher-order street subject to this section. The number of access points shall not exceed one (1) for every two hundred (200) feet of frontage.

**6.8.8.4 Cross Access:** All lots in commercial or mixed-use zoning districts that front an arterial or collector street shall provide an access connection to abutting parking areas that is at least twenty-two (22) feet in width. The applicant may grant a common access easement across the lot or recorded deed covenant providing common access across the lot with adjacent lot or lots as a traffic mitigation measure in support of a traffic special use permit as provided in Section 12.6. Where adjacent land is vacant, a stub for future cross access shall be provided.

**6.8.8.5 Location of Access Points:** The location of access points shall be based on the following criteria:

- (1) The access point shall not conflict with vehicle turning movements; and
- (2) The access point shall be located at least fifty (50) feet from an intersection. On collector or higher-order streets in a commercial zoning district, the driveway approaches shall be separated by a distance of at least ninety percent (90) of the frontage length, or one hundred-twenty-five (125) feet, whichever distance is less.

**6.8.8.6 Alignment:** Access points shall align with opposing driveway approaches, if any, or shall be offset by at least one hundred-twenty-five (150) feet. The Director of Development Services may waive this requirement if the applicant provides a cross access as provided above.

**6.8.8.7. Width:** Non-residential driveways shall be a minimum fifteen feet in width and a maximum of thirty-five feet in width, except where access is controlled by the Mississippi Department of Transportation, and except where the City Engineer approves a width up to fifty feet for sites requiring truck access.

Residential driveways shall not exceed twenty five percent (25%) of the street frontage width. More than one driveway entrance may be used as long as the total width is not exceeded.

## **6.9 Utilities**

**6.9.1 Utilities:** This section provides for design and construction policies and standards for utility and transportation infrastructure, capital improvements projects, public facilities, and development projects that reinforce neighborhood centers and provide diverse, pedestrian-friendly neighborhoods. It encourages utility and telephone line locations to be in the rear of property, underground, or otherwise give aesthetic and economic consideration to alternative locations.

**6.9.2 Applicability:** This section applies to all persons, and political subdivisions of the state, designing or installing or causing to be designed or installed the following:

- (1) Sanitary sewers;
- (2) Storm sewers;
- (3) Water transmission or distribution lines;
- (4) Electric power lines, including those that provide incentive to and encourage the use of solar and other renewable energy sources;
- (5) Telephone lines; Natural gas lines;
- (6) Cable television lines; and
- (7) Rain water capture systems.

**6.9.3 Easements:** Easements shall be provided for the utilities set forth above. Easement widths shall comply with the City of Tupelo Design Standards and Construction Specifications manual.

**6.9.4 Central Water and Sewer Required:** The proposed development shall connect to the City of Tupelo Water and Sewer System, except as provided in Private Water System a water supply and distribution system is not required for subdivisions that meet all of the following conditions:

- (1) The subdivision is located outside the service area included within the City of Tupelo Water and Sewer Master Plan;
- (2) Each lot has a minimum size of two (2) acres;
- (3) A potable groundwater supply that meets the Mississippi or Lee County Health Department drinking water standards underlies each lot, and such water is available in sufficient quantity to furnish the domestic water needs of the improvements to be constructed on the individual lots within the subdivision; and
- (4) The plat of the subdivision is annotated with the following note: *I certify to the best of my knowledge that at the time of planning committee approval, a potable groundwater supply that meets the current standards as established by the Mississippi or Lee County Health Department for drinking water underlies each lot, and such water is of sufficient quantity to supply the domestic needs of the improvements to be constructed on the individual lots within the subdivision. Each individual property owner is responsible for the construction of an individual water well that is in compliance with the rules and regulations of the Mississippi or Lee County Health Department. Professional Engineer Sworn and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_ [YEAR]. Notary Public*

**6.9.5 Private Wastewater System:** Connection to a central sanitary sewer system is not required for a subdivision that complies with the following conditions:

- (1) The subdivision is located outside the service area included within the City of Tupelo Water and Sewer Master Plan;
- (2) Connection to a central sanitary sewer system will require unreasonable expenditure when compared with other methods of sewage disposal. Such cost estimates shall be prepared by a professional engineer and shall be approved by the Public Works Director; and
- (3) The Mississippi or Lee County Health Department approves the onsite sewage disposal system.

## **6.9.6 Easements**

### **6.9.6.1 Generally**

**6.9.6.2** Easements are permitted for a specific purpose when requested by a particular utility. Such specific use easements shall be a part of a lot or lots unless designated to be converted into a public street right-of-way. Easements may be designated to be converted into a public street right-of-way on a subsequent plat without vacating and re-platting. Such easement shall be annotated with the following note: *Easement to expire upon incorporation into a platted public street right-of-way.*

**6.9.6.3 Use of Easements:** If the owner of the property upon which a utility easement is located desires to use it for lawn purposes, fencing across the easement is permitted if gates along the side lot lines are provided. The gates shall be sixteen (16) feet wide (two (2) eight (8) foot gates) and shall be capable of being opened and closed at all times. The gates shall remain unlocked at all times. The property owner is responsible for the maintenance of the unused easement area even though it may be located beyond the rear fence of the property.

**6.9.6.4 Maintenance:** The property owner shall maintain the utility easement. The property owner shall keep the area clear of any structure, debris, vegetation, trees, shrubs, or landscaping, except that lawn grass that is regularly mowed is permitted.

**6.9.6.5 Connection of Easements:** Where utility easements are not straight within each block, or if they do not connect on a straight course with the utility easements of abutting blocks, an additional easement shall be provided for the placing of guy wires on lot division lines in order to support poles set on curving or deviating rights-of-way or alleys.

**6.9.6.6 Structures Within Easements:** No portion of a structure shall be placed within an easement, except for fences, as provided in Section 7.5, Fences and Walls, of this Code.

**6.9.6.7 Overhang Easements:** Alleys shall include overhang easements for electric and telephone lines of at least four (4) feet on each side of the alley strip with a minimum height of eighteen (18) feet.

**6.9.6.8 Developments Outside City of Tupelo:** Developments outside the corporate limits of the City of Tupelo may be served with City sewer and/or water service provided that:

- (1) The developer of the project executes a development agreement with the City of Tupelo which includes a request that the City annex the property, and;
- (2) The project meets all City of Tupelo infrastructure specifications and physical development standards, based on submittal of construction plans for city review, approval, inspection and acceptance.

## **6.10 Infill Development**

**6.10.1 Applicability:** This section shall apply to any residential or non-residential development located on a site of two (2) acres or less that is surrounded on all sides by existing development of the same general type. Development of parcels in compliance with the standards of this section shall not be required to obtain variance under the provisions of Section 12.16. Infill development on sites greater than two acres shall be reviewed under the provisions of Sections 12.4.2 and 12.4.3.

**6.10.2 Lot Width:** The minimum width of a lot shall be the smaller of the average width of adjacent lots fronting on the same block; or the average of the widths of all other lots fronting on the same block.

### **6.10.3 Setbacks**

**6.10.3.1** The minimum front setback shall be the average front setback of the two (2) adjoining parcels, if both parcels are developed and share the same zoning district as the parcel proposed for development; or

**6.10.3.2** The average front setback of all developed parcels in the same block face and the same zoning district as the parcel proposed for development, if either of the adjoining parcels is not developed.

**6.10.3.3** Side setbacks shall not be less than the side setback of adjoining developed property.

**6.10.4 Landscaping:** Infill development shall continue the pattern of street trees that has been established on parcels within one hundred-fifty (150) feet of the parcel to be developed.

**6.10.5 Buildings:** The context area for standards in this section shall consist of the same property, adjacent properties, and other properties facing the same street segment.

- (1) New construction shall not exceed the average building width for existing structures in the context area by more than twenty-five percent (25%), unless a building articulation of at least six (6) feet in depth at a point that matches the average building width in the context area is provided.
- (2) The maximum height of new buildings shall not exceed the lesser of the following:

- (a) The maximum height permitted by the zoning district; or
- (b) Twenty-five percent (25%) above the height of any adjacent structure, except for those portions of the new or modified structure that lie more than twenty-five (25) feet from the existing adjacent structure.

**6.10.6 Vehicular Access:** The placement, orientation and access of garages and parking areas shall match the prevailing characteristics of similar structures in the context area.

**6.10.7 Post Disaster Infill:** In the event of a natural or man-made disaster in which a substantial portion of existing structures are destroyed or substantially damaged, the City Council may, on the recommendation of the Director of Development Services, designate districts in which new development or reconstruction:

- (1) May maintain the prevailing development standards prior to the disaster;
- (2) Shall maintain the prevailing development standards prior to the disaster; or
- (3) Shall meet the current development standards of the applicable zoning district(s).

## **CHAPTER 7. ACCESSORY AND TEMPORARY STRUCTURES AND USES**

### **7.1 Purpose and Intent**

This section authorizes the establishment of accessory structures and uses that are incidental and subordinate to principal structures and uses. Standards for principal structures may be found in Chapters 4 and 6. The intent of this section is to allow a broad range of accessory structures and uses, so long as they are located on the same site as the principal use, they comply with the standards set forth in this section, and they do not create adverse impacts to the surrounding community. Accessory structures include satellite dish antennae; swimming pools; fences and walls; storage buildings; storm shelters; commercial-grade playground equipment; and accessory dwelling units. Accessory uses include home occupations; home businesses; small and large day care homes; dog kennels; outdoor dining; outdoor display of merchandise; and outdoor storage of merchandise. Signs are considered accessory structures and are governed by the standards and sign permit procedures set forth in Chapter 10.

### **7.2 Standards for Accessory Structures**

#### **7.2.1 All accessory structures shall:**

- (1) Directly serve the principal use or structure;
- (2) Be accessory and clearly incidental to the principal structure;
- (3) Be clearly subordinate in area, extent, and purpose to the principal structure;
- (4) Be owned or operated by the same person as the principal structure;
- (5) Be located on the same lot as the principal use or structure;
- (6) Be subject to all applicable design and development standards for the zoning district and the principal use;
- (7) Be constructed on or after the date when the principal structure is constructed;
- (8) Not have any adverse impact on surrounding property;
- (9) Be maintained in a safe, sanitary, and secure fashion.

#### **7.2.2 Residential accessory structures shall:**

- (1) Be no more than thirty-five percent (35%) of the gross floor area (GFA) or two thousand (2,000) square feet, whichever is less, when accessory to a principal residential use (the square footage of all accessory uses and structures shall be combined to determine the total);
- (2) Not exceed the height of the principal structure.

- (3) Accessory buildings to be located in a side yard shall be constructed with a similar design and construction materials as the principal building or be screened from view from the front and side property lines by a solid board fence or opaque landscaping that shields the structure from view. See Chapter 9 for standards on opaque landscaping.

**7.2.3 Structures accessory to non-residential uses shall:**

- (1) Be no more than forty percent (40%) of the gross floor area (GFA) of the principal building or buildings on a lot;
- (2) Not be located in front of the primary structure, except for fences meeting height and location restrictions in Section 7.5;
- (3) Not encroach on any required setback;
- (4) Not be located within the side and rear yards of lots adjacent to Low Density Residential, Medium Density Residential, and Mixed Use Residential districts.

**7.3 Review of Accessory Structures**

Pre-manufactured storage buildings, pools, pool houses, accessory dwelling units, storm shelters, fences and walls, and any accessory structures requiring a permanent foundation shall require site plan approval prior to issuance of a permit.

**7.4 Accessory Dwelling Unit (ADU)**

**7.4.1** Accessory Dwelling Units are permitted as accessory structures to single-family dwellings. Only one ADU is permitted per lot. ADUs shall be located behind the front line of the principal structure. The ADU shall have off-street parking provided on the lot behind the front line of the principal structure. Where the structure is on a corner lot with two (2) front setbacks, the parking shall be located behind both front lines.

**7.4.2** If the ADU is to be new construction rather than redevelopment of an existing structure, it shall have a roof pitch, siding, and window proportions similar to that of the principal dwelling in order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence.

**7.4.3** The accessory dwelling shall be connected to the central water and sewer system of the principal dwelling.

**7.4.4** The property owner must occupy either the principal dwelling or the accessory dwelling as his/her permanent residence. 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.

**7.4.5** 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.

**7.5 Fences and Walls**

**7.5.1 Height:** The maximum height of a fence or wall shall be as shown in the table below, unless a higher fence or wall is required by other provisions of this Ordinance or if the fence is associated with a recreational facility, such as a tennis court, or an electrical substation.

<b>Fence Heights</b>	<b>Front yard</b>	<b>Side yard</b>	<b>Rear yard</b>
Residential Zoning Districts	4feet	8 feet	8 feet
Industrial Zoning District	6 feet	12 feet	12 feet
All Other Zoning Districts	6 feet	6 feet	8 feet

**7.5.1.1** On residential lots, including corner lots, fences and walls between the principal structure and the side lot lines may be built to side yard height if are located no closer to the street than the closest point of the principal structure on either the same or the adjacent lot. Fences or walls closer to the street than the principal structure may not exceed front yard height, except that fences and walls on double frontage lots, between major collector or higher order streets and the rear of residential structures, may be eight (8) feet.

**7.5.1.2** Adjustments to the height limits may be permitted by the Development Services Director, or designee, due to field conditions or in order to accommodate decorative features on the fence or wall.

**7.5.1.3** The Development Services Director may approve a compatible use permit to allow fences or walls up to eight feet in height where all of the following findings are made:

- (1) That the fence or wall does not impede the natural light from reaching the subject or surrounding properties to their detriment;
- (2) That normal circulation of air is not unreasonably impeded by the fence or wall for the subject or surrounding properties;
- (3) That the fence or wall will not hinder access to the subject or surrounding properties for emergency services;

- (4) That the fence or wall shall be reasonably compatible with the surrounding properties in that it will not adversely affect property values; and
- (5) That vision clearances for pedestrian and vehicular traffic will not be impeded. Conditions may be specified to protect the welfare of the neighborhood and adjacent properties.

#### **7.5.2 Fences**

- (1) The finished side of all fences shall face off site. If support posts are located or visible on one (1) side only, that side shall be deemed the unfinished side.
- (2) Razor wire, concertina wire, barbed wire, and similar fencing materials shall be prohibited in all residential districts except Agriculture/Open Space or when required for protection of electrical substations.

#### **7.5.3 Walls**

- (1) Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, exposed aggregate concrete, brick, stone, wrought iron or architectural block in a structurally safe and attractive condition. Alternative walls may be permitted with the approval of the Development Services Director, or designee, if such alternative walls provide a similar level of opacity to that of the listed materials and are in keeping with the architecture of the development. No walls of exposed, plain or painted-only concrete cinder block shall be permitted.
- (2) No wall shall be located within any required drainage, utility or similar easement.
- (3) Pedestrian connections through walls that connect to adjacent neighborhoods or other uses shall be encouraged. In addition, barbed wire may be used for additional protection of electrical substation in conjunction with other fencing materials in any residential district.
- (4) Retaining Walls may be located within required yards.

#### **7.5.4 Permits for fences and walls**

A building permit shall be required for all new fences and walls.

#### **7.6 Swimming Pools**

- (1) Swimming pools are permitted as accessory structures to residential uses and overnight accommodation facilities.

- (2) Swimming Pools at residences shall be located in the rear or side yard. Pools that are proposed to be located in the side yard must be approved as a minor conditional use and shall be screened from view from the street. The pool shall be a minimum of five (5) feet from the side and rear property lines, as measured from the water's edge. Conditional use review and approval of a swimming pool shall include review and approval of the fence required for screening.
- (3) Construction, fence, and other regulations of the Swimming Pool Code adopted by the City shall apply.

## **7.7 Standards for Accessory Uses**

**7.7.1 Home Occupation:** A home occupation may be permitted as accessory to a dwelling unit in any zoning district, provided that:

- (1) The principal person or persons providing the business or services resides in the dwelling on the premises;
- (2) The business or service is located within the dwelling or an accessory building thereto and does not exceed twenty percent (20%) of the combined floor area of the structures or five hundred (500) square feet, whichever is less;
- (3) There are no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building;
- (4) No outdoor display or storage of goods or services associated with the home occupation are or will be visible from the street or adjoining properties;
- (5) The occupations causes no change in the external appearance of the existing buildings and structures on the property or in effects such as noise, vibration, odor, glare, or other effects that can be detected from adjoin properties;
- (6) There are no employees on the premises and no more than one (1) customer or client on the premises at a time;
- (7) All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood. No more than one (1) vehicle used in connection with the home occupation may be kept on the premises.

**7.7.2 Home Business:** A home business may be permitted as accessory use to a dwelling unit, in certain zoning districts as provided in Chapter 4, Zoning Districts, provided that the home business shall be operated as a home occupation as defined in Chapter 2 of this ordinance, except that additional activities are allowed as specified below:

- (1) Customers are allowed on the premises of the home business, but not more than five (5) per day. An adequate number of off street parking spaces for said customers, as approved by the city, shall be provided. This shall be in the form of a double driveway or other arrangements in character with the surrounding residential area.
- (2) The making of crafts and other similar activities, as approved by the city, may be approved in an accessory building.
- (3) No business involving the sale, repair, restoration, refinishing, or painting of vehicles, farm equipment, boats, small engines, or recreational vehicles may be approved as a home business.

**7.7.3 Day Care Home, Small:** A small day care home may be permitted as an accessory use to any dwelling unit. It is a home business that permits the care and keeping of fewer than six (6) unrelated persons. Such use may be permitted provided that:

- (1) If an outdoor play area is provided, it is fenced with a minimum four (4) foot high fence;
- (2) If less than two (2) off-street parking spaces are provided for the home, additional parking spaces are provided for customers.

**7.7.4 Day Care Home, Large:** A large day care home may be permitted as an accessory use to a single-family dwelling subject to zoning approval as provided in Chapter 4 of this ordinance. It is a home business that permits the care and keeping of more than five (5) but fewer than sixteen (16) unrelated persons. Such use may be permitted providing that:

- (1) All State and Federal regulations are satisfied;
- (2) A solid fence at least four (4) feet in height is provided around the play area;
- (3) Landscaping is provided in order to blend the home into the neighborhood, screen its purely functional aspects from the street and neighboring yards, and absorb and/or deflect any excessive noise;
- (4) Any lights used at the home will be pedestrian-scaled and shining on the premises only and not on adjacent property;
- (5) The dwelling in which the home is located is similar in appearance to the character of the neighborhood and no building modification is made to the structure to accommodate the home except those required by the Building Code;
- (6) Adequate parking and loading spaces are provided as required by Chapter 8 of this Code;
- (7) Access to the facility from nearby streets is adequate based on the projected number of participants attending the home.

**7.7.5 Dog Kennel:** Dog kennels for five (5) or more dogs may be permitted as an accessory use to a veterinarian clinic or animal shelter. Dog kennels permitted as a home business for grooming, day care, or a similar use shall be permitted for up to four (4) dogs per day. In addition, dog kennels shall:

- (1) Be located at least thirty (30) feet from all property lines;
- (2) Be screened from the view of all adjacent streets and properties by fencing or vegetation, as shall runs or pens for dogs.

**7.7.6 Outdoor Dining:** Restaurants may establish on-site outdoor dining areas as an accessory use. Such dining areas shall be reviewed and approved subject to the following conditions:

- (1) Outdoor dining areas shall be exempt from parking requirements unless the area is equal to twenty-five percent (25%) or more of the total indoor square footage.
- (2) Outdoor dining areas are permitted in the front, side, or rear of the property.
- (3) An outdoor dining area located adjacent to a parcel of land zoned LDR, MDR, or MUR shall have a fence, wall, or opaque landscaping to shield the café from the adjacent parcel.
- (4) No amplified music shall be allowed within four hundred (400) feet of a residential or overnight accommodations property, except through compatible review.
- (5) The hours of operation of an outdoor café shall coincide with those of the associated business.
- (6) If alcohol may be served in the outdoor dining area, fencing may be required in order to comply with state and federal alcohol regulations.

**7.7.7 Outdoor Display:** Outdoor display is the display of goods accessible to the public in parking areas, sidewalks, and other locations outside of an enclosed building, and it is permitted pursuant to an approved site plan. Outdoor display shall not be permitted unless the site plan shows the location, area, and boundaries of the outdoor display. Temporary display of agricultural items shall be permitted as per Section 7.8.8, Seasonal Agricultural Sales.

- (1) Outdoor display of retail goods, wares, and merchandise including vehicles is permitted as an accessory use in the MUCC, MUAC, and RC districts. Such display shall be permitted under the same standards as for the principal use.
- (2) Outdoor display of produce and plant materials, other than as provided in Section 7.8.8, Seasonal Agricultural Sales, may be permitted as an accessory use in the MUR, MUAC, MUE, MUCC, MUD, I, and RC districts subject to the following restrictions:

- (a) Only the business or entity occupying the principal use or structure shall sell merchandise in the outdoor display areas.
- (b) Such outdoor display is permitted in any yard, subject to a minimum setback of twenty (20) feet from the right-of-way and any adjoining property line.
- (c) Outdoor display of retail goods, wares, and merchandise shall be screened from view along any property line abutting a residential zoning district by a buffer as required by Section 9.9 of this code. Any buildings that screen views from adjacent streets and residential properties may be considered to be part of the required screening in lieu of landscaping, fences, walls, or enclosures. Produce and plant materials shall be exempt from this requirement.
- (d) The height of displayed merchandise shall not exceed ten (10) feet.
- (e) All outdoor displays permitted as accessory uses must be located on the same lot as the principal use.
- (f) Areas used for such display shall be furnished with an all-weather hard surface of a material such as asphalt or concrete paving.
- (g) Merchandise shall not be placed or located where it will interfere with vehicular or pedestrian access; parking; utilities or easements.
- (h) Outdoor display areas shall not be located on any parking spaces needed to comply with parking requirements.

**7.7.8 Outdoor Storage:** Outdoor storage is a permitted use for both residential and non-residential uses, subject to the following restrictions:

- (a) Residential outdoor storage may consist of typical outdoor or yard furniture and equipment. Residential outdoor storage of household appliances, discarded or indoor furniture, household wares, boxes, building materials, garbage, junk, commercial lawn maintenance equipment, or automobile parts shall be prohibited on any property with a primarily residential use because such storage may increase the likelihood of a fire, conceal dangerous conditions, be a breeding place or habitat for mosquitoes, mice, rats, or other pests, or may create an unattractive condition or visually blighted property. A dwelling unit with an attached carport may store lawn maintenance equipment for personal use in the carport. Residences are permitted temporary outdoor storage of material for garbage pick-up for up to thirty-six (36) hours at or near the front curb.
- (b) Non-residential outdoor storage areas are not normally accessible to the public. Such storage may include vehicles; retail goods, wares, and merchandise that is not displayed for sale; contractors' yards; building supply sales; coal sales and storage; scrap metal storage; and paper and rag storage. Temporary storage incidental to construction activities is permitted in all zoning districts. Outdoor storage is permitted pursuant to an

approved site plan that shows the location, area, boundaries, and screening of the outdoor storage.

- (c) Outdoor storage of retail goods, wares, and merchandise including vehicles shall be permitted as an accessory use in RC, I, MUCC, MUE, and MUAC. Such storage shall be permitted under the following standards:
- i. The goods, wares, and merchandise being stored are intended for outside use.
  - ii. Storage yards shall be enclosed by a non-climbable fence or wall between six (6) and eight (8) feet in height for all outdoor storage except vehicles for sale. The Director of Development Services may allow a landscaped buffer to substitute for a fence or wall, pursuant to a site plan submitted by the applicant and as provided in Section 9.9, Project Boundary Buffers.
  - iii. The parcel proposed for development is not contiguous to a parcel of land which is designated as residential on the Zoning Map unless the principal use is the sale of living plant material.
  - iv. The parcel proposed for outdoor storage fully conforms to all applicable landscaping requirements.
  - v. The height of non-living goods and materials stored outdoors shall not exceed eight (8) feet in RC, MUAC, and MUCC, or fifteen (15) feet in I zoning district.
  - vi. No materials shall be visible from a public right-of-way except for vehicles for sale.

**7.7.9 Satellite Dish Antenna:** Satellite Dish Antennae are permitted as accessory uses in all districts and do not require a permit. Standards for satellite dish antennae are intended to minimize any health and safety hazards created by mounting satellite dish antennae on residential buildings, to control the location and screening of satellite dish antennae to mitigate negative impacts on surrounding properties, and to preserve the City's image and character. A satellite dish antenna may temporarily exist on any property for fifteen (15) days or less without meeting the following requirements for a permanent structure. A permanent satellite dish antenna may be located in any zoning district provided that it meets the following requirements:

- (1) It may be located on the roof or the side or rear wall of a building in a non-residential district;
- (2) It may be located on the side or rear wall of a building in a residential zone if it is less than twenty-four (24) inches in diameter;
- (3) It may be located in a front yard or on the roof of a residential structure only if completely hidden from view with materials that match the structure or opaque landscaping.

- (4) It may be located in a side yard behind the front edge of the principal structure if under twenty-four (24) inches in diameter; if over twenty-four (24) inches in diameter, compatible use approval shall be required;
- (5) It shall not be located within ten (10) feet of a side or rear property line unless fully screened from view from the adjacent property to the side and rear.

**7.8 Temporary Structures, Use and Events:** Temporary structures, uses, and events allow property owners more flexibility with the use of their land, businesses, and structures. They may include special events provided for the enjoyment of the public, civic events in recognition of issues of public importance, sales and promotional activities intended to serve commercial interests, seasonal activities, temporary construction related activities, and similar temporary uses. Activities that support or are accessory to the primary use of the property will not normally be required to obtain a permit unless the activity is of a scope that requires public safety support or closing of a street, or involves amplified music.

- (1) Any person wanting a temporary use, structure, or event shall obtain the appropriate permit from the Department of Development Services at least two (2) weeks in advance of the proposed date of commencement and at least four (4) weeks prior to the proposed date if public safety support is requested. Some permits may require permission from additional city departments such as Public Works, Police Department or Fire Department. A Transient Vendors License will be required for a temporary use that is undertaken for profit by a commercial vendor that does not have a valid business license, as per Mississippi State Code.

#### **7.8.1 Temporary Structures, Uses, and Events**

- (1) Shall be compatible with the principal uses taking place on the site. They shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- (2) Shall have not substantial adverse effects or noise impacts on nearby residential neighborhoods;
- (3) Shall not include permanent alterations to the site;
- (4) Shall not maintain temporary signs associated with the use or structure after the activity ends;
- (5) Shall not violate the applicable conditions of approval that apply to a site or use on the site;
- (6) Shall not violate any building code, building design, zoning, parking, or setback requirements;

- (7) Shall not interfere with the normal operations of any permanent use located on the property; and
- (8) Shall contain sufficient land area as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

**7.8.2 Temporary Events:** The following uses may be established as temporary events in any district, subject to approval by the Director of Development Services: circuses, carnivals, fairs, side shows, religious services, and musical and other similar types of events; civic and cultural events.

- (1) All applications for temporary events shall include the following information:
  - (a) The location of the property on which the proposed activity (hereafter "event") will take place, the event's starting date and time, the event's ending date and time, the date and time preparatory activities will commence on the property, and the date and time of completed cleanup of the property.
- (2) A description of the proposed event, including:
  - (a) The type of event, and general nature of the program to be presented, if applicable;
  - (b) The number of persons expected to attend, and, where applicable, the number of ticket to be placed on sale or the number of invitations distributed;
  - (c) The planned use of sound amplification equipment.
- (3) A security plan, including information regarding each of the following:
  - (a) The number of security guards to be provided, their duties and responsibilities;
  - (b) The agency providing security guards, its address and telephone number;
  - (c) The site supervisor designated by the security agency and contact telephone number;
  - (d) Public safety support requested from the City of Tupelo;
  - (e) Proposed means of contact between safety and security guards and City and other local emergency services during the course of the event, including cleanup;
  - (f) Location and description of any command center or supervisory office, and of any public safety, security, or first aid stations.
- (4) A parking plan, including information shown on the sketch plan regarding each of the following:

- (a) Locations of pedestrian, vehicular, and emergency ingress and egress over the entire property, including pedestrian access to streets, driveways, and parking areas, and obstructions of vehicular right-of-way;
- (b) Locations and numbers of available off-street parking spaces within five hundred (500) yards of the property available to individuals in attendance;
- (c) Locations and numbers of available on-street parking spaces within five hundred (500) yards of the property available to individuals in attendance;
- (d) Locations, numbers, and proposed pedestrian access plan for parking spaces located beyond five hundred (500) yards of the property available to individuals in attendance;
- (e) Locations of restricted parking zones within five hundred (500) yards of the property.

**7.8.2.1** The Director of Development Services shall issue a temporary use permit only upon finding that the proposed temporary use satisfies the following requirements:

- (1) If the property is undeveloped, it contains sufficient open space to support the temporary use;
- (2) If the property is developed, it contains an area that is not actively used which would support the proposed temporary use without encroaching into or creating a negative impact on existing buffers, open space, landscaping, traffic movements, or parking space availability;
- (3) Tents and other temporary structures will be located so as to not interfere with the normal operations of any permanent use located on the property;
- (4) The proposed temporary use will be located no closer than two hundred (200) feet to a dwelling except by approval of compatibility;
- (5) Off-street parking is adequate to accommodate the proposed temporary use;
- (6) Where the temporary use will occupy an existing parking area, the number of parking spaces left available, will be no less than the minimum required under Chapter 9 of this Ordinance for the principal, permanent use of the property, such parking being either on-site or on nearby sites that have granted written permission for such parking;
- (7) Adequate rest room facilities, if needed, are provided;
- (8) An adequate plan for security and safety will be implemented on and around the site of the event, including sufficient staffing, provision for pedestrian safety and traffic routing;

- (9) An adequate plan for public health, safety, and welfare on and around the site of the event will be implemented;
- (10) An adequate plan for public health, safety, and welfare outside the site of the event will be implemented, including a showing that the event will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the City and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic;
- (11) Any required approval by other city, county or state officials has been obtained;
- (12) All inspections and permits required by applicable construction codes have been made and approved by the Building Department;
- (13) The use has obtained a Transient Vendors License as required by Mississippi State Code 1972, Annotated, Title 75, Chapter 85, Section 7, or has proven exemption from this provision; and,
- (14) The temporary use meets all other applicable requirements of this Ordinance.

**7.8.2.2** Except for tents used exclusively for camping purposes, tents and membrane structures having an area in excess of two hundred (200) square feet and canopies in excess of four hundred (400) square feet shall be as follows:

- (1) Maintain a minimum clearance of twenty (20) feet from all other structures and tents;
- (2) Not remain in place for more than a total of thirty (30) days within a one (1) year period;
- (3) Be limited to a maximum of three (3) occurrences per parcel per year except parcels in the MUD district;
- (4) Not be placed within required landscaping areas;
- (5) Not obstruct emergency vehicle access to adjacent lots or disrupt pedestrian circulation;
- (6) Not be located in a setback; and
- (7) The lot or site shall be restored to its original condition within two (2) days of removal of the tent.

**7.8.2.3** Except for tents used exclusively for camping purposes, all tents enclosed on three (3) or more sides shall be reviewed by the Fire Marshal as part of a temporary use application.

**7.8.3 Construction Dumpster:** The placement of a temporary construction dumpster or other trash receptacle within a public right-of-way or other site owned by the city requires permission

from the Director of Public Works and shall be subject to the standards in the Tupelo Code of Ordinances.

**7.8.3.1 Temporary Trash Receptacles or Dumpsters:** The placement of temporary trash receptacles or dumpsters located outside public rights-of-way are not required to obtain a separate permit but shall:

- (1) Not be located to the side or the rear of the site, to the maximum extent practicable;
- (2) Not be located as far as possible from lots containing existing development;
- (3) Not be located within a floodplain or otherwise obstruct drainage flow;
- (4) Not be placed within five (5) feet of a fire hydrant or within a required landscaping area;  
and
- (5) Be located outside of tree protection fencing and the drip line of existing trees.

**7.8.4 Construction Trailer:** Construction trailers may be permitted on a construction site without site plan approval, provided that the trailer is:

- (1) Approved by the Department of Development Services;
- (2) Located on the same site or in the same development as the related construction;
- (3) Not located within a required open space set-aside or landscaping area; and
- (4) Associated with development for which a valid Building Permit has been issued.

**7.8.5 Real Estate Sales Office/Model Sales Home:** One (1) temporary real estate sales office or model sales home shall be permitted in a section or phase of a new residential or nonresidential development, provided that the use:

- (1) Is approved by the Department of Development Services;
- (2) Is located on a lot approved as part of a development;
- (3) Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;
- (4) Complies with the applicable standards in the zoning district and the Development Agreement if applicable;
- (5) Is operated by a developer or builder active in the same phase or section where the use is located; and

- (6) Is removed or the model home is converted into a permanent residential use once eighty-five (85%) percent occupancy in the section or phase of the development is reached.

**7.8.6 Temporary Storage in a Portable Shipping Container:** Temporary storage in a portable shipping container or portable storage unit shall be permitted to serve an existing use, subject to the following standards. A portable shipping container requires approval from the Department of Development Services, and approval will be granted to the owner or a tenant who provides written permission from the owner. A portable shipping container shall not be located:

- (1) In the front yard;
- (2) In a right-of-way;
- (3) Within ten (10) feet of any lot line or structure;
- (4) In a manner that impedes ingress, egress, or emergency access; and
- (5) On an individual parcel or site for more than thirty (30) total days over any two (2) year period except as an accessory use for a valid building permit. Parcels in the I district are exempt from this requirement.

**7.8.7 Garage Sales:** Regulations for garage sales may be found in the City of Tupelo Code of Ordinances Section 15-106.

**7.8.8 Seasonal Agricultural Sales:** Seasonal agricultural sales, including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards. Persons engaged in such sales shall not be considered transient vendors and shall not be permitted to make residential door to door sales.

#### **7.8.8.1 Location**

- (1) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.
- (2) The sale of goods shall not occur within the public right-of-way or within one-hundred (100) feet of a dwelling.
- (3) A minimum pedestrian walkway of at least five (5) feet in width along the front of the display shall be maintained.

**7.8.8.2 Range of Goods Limited:** The range of goods or products available for sale shall be limited to products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables;

nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pine straw; bees and beekeeping products; and dairy products.

**7.8.8.3 Hours of Operation:** The hours of operation of the seasonal sale of agricultural products shall be from no earlier than 7:00 A.M. to no later than 9:00 P.M., or the same hours of operation as a principal use on the same lot, whichever is more restrictive.

**7.8.7.4 Duration:** Seasonal sales shall be allowed on an individual lot for no more than one hundred-twenty (120) days per calendar year.

## **CHAPTER 8. OFF-STREET PARKING**

### **8.1 General**

#### **8.1.1 Purpose**

Parking lots, loading areas, and similar features are necessary elements in the built environment. However, these infrastructure improvements can often cause negative impacts. They increase stormwater volume and velocity, surface pollutants, and surface level heat and glare. Poor design can increase the risk of collision for motorists, pedestrians, and cyclists. To mitigate these negative impacts, and to provide adequate service, the City of Tupelo has enacted standards to regulate the construction, expansion, and renovation of such facilities. These standards are intended to relieve traffic congestion in streets, minimize detrimental effects on adjacent properties, and ensure uniform development of parking areas throughout the City. Additionally, good design of parking lots can improve safety and help maintain the aesthetic character Tupelo currently has.

#### **8.1.2 Off Street Parking Required**

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, permanent off-street parking spaces in the amount specified by this Section. A change in use in an existing building may also require different parking standards. In the MUD district, the Director of Development Services or designee will determine whether the proposed development shall be exempt from parking requirements. Such determination shall be based on the building's size and location and the presence of available on-street or shared off-street parking.

### **8.2 Basic Standards**

#### **8.2.1 Minimum and Maximum Parking Standards**

- (1) Table 8.2.7, Off Street Parking Standards, lists parking requirements for each use and shall be used to calculate parking spaces needed for a proposed development. All site plans shall include the location and dimensions of all off-street parking in accordance with this Section the Code. Such plans shall include disabled parking spaces according to the requirements of the currently adopted building code. This information shall be in sufficient detail to enable Development Services staff to determine if the minimum standards have been met.
- (2) Multi-family and non-residential development shall be permitted to apply for additional parking. A development with a total parking requirement of twenty (20) or fewer spaces may provide up to twenty-five percent (25%) more spaces as a permitted use. Such development may apply for a compatible use permit for twenty-six to fifty percent (26%-50%) more parking spaces and a flexible use permit for fifty-one percent (51%) or more parking spaces. A development of twenty-one (21) or more spaces may provide up to

twenty-five percent (25%) more spaces as a permitted use. Such development may apply for a compatible use permit for twenty-six to fifty percent (26%-50%) more parking spaces and a flexible use permit for fifty-one percent (51%) or more additional spaces.

- (3) The process of obtaining a compatible or flexible use permit shall allow the developer to show how mitigation strategies or design alternatives shall offset the additional stormwater runoff and other impacts the increased parking will create. These measures could include grass parking, pervious pavement, stormwater islands, bio-retention areas, increased landscaping, or other tools. In determining whether to approve a conditional use permit, the City of Tupelo shall also consider the site design of the development and the visual effect of additional parking. Developers are encouraged to locate parking in an area that is less visible from the street and thus mitigates any adverse visual impact.

### **8.2.2 Combination of Required Parking Space**

A development which incorporates two (2) or more uses may combine required parking space for those uses in one (1) lot. In such cases, some of the required space assigned to one (1) use may be shared by another if the peak use times are likely to be different (for instance, an office and a church). Up to one-half ( $\frac{1}{2}$ ) of the required parking space for each use may be shared. The Development Services Director shall determine the uses based on signed contracts from tenants, a site plan which clearly demonstrates the future use of each space, or another means.

### **8.2.3 Shared Parking**

The joint use of shared off-street parking between two (2) uses may be made by contract or written permission between two (2) or more adjacent property owners. Entities that have peak hours at different times may jointly use or share the same parking spaces with a maximum of half ( $\frac{1}{2}$ ) of the parking spaces credited to both uses. Where feasible, shared parking shall be adjacent to the principal use or connected by a pedestrian walkway and shall not be separated from the principal use by a major thoroughfare.

### **8.2.4 Remote Parking Space**

If some or all of the off-street parking spaces required by this Code cannot reasonably be located on the same lot as the principal use, then such spaces may be provided on land within four hundred (400) feet on the main entrance to such principal use, provided that:

- (1) Such land is owned by the same person or persons as the principal use;
- (2) Such land is not separated from the principal use by a major thoroughfare or arterial street.
- (3) Such land is located in a zoning district within which the principal use would be allowed as a permitted or special use;

- (4) There is a pedestrian walkway or sidewalk connecting the parking area to the use it serves or will be before certificate of occupancy is issued.
- (5) In such cases, the applicant for a building permit or certificate of occupancy for the principal use shall submit, along with his or her application for such permit or certificate, a legal instrument, duly executed and acknowledged which subjects and restricts the land to use for parking in connection with the principal use. Upon the issuance of a building permit or certificate of occupancy, the applicant shall register the legal instrument in the Chancery Clerk's Office.
- (6) The restrictions of this Section shall not apply to those uses which share parking spaces as provided above.

### **8.2.5 Reduction in Parking Space**

- (1) As part of the review and approval of a site plan, the Development Services Director may approve a request for the reduction in the number of parking spaces required by this Section upon finding that the reduced number of parking spaces will be sufficient to satisfy the demand for parking expected for the use, considering the nature of the use, the number of trips generated by the use, the times of day when the use generates the most trips, any shared parking agreement in effect, and the extent to which other establishments are located on the same property and may reduce the number of vehicle trips required between different establishments.
- (2) In cases where no site plan is required, or where a previously approved site plan remains in effect for the property, the Planning Committee may grant a variance from the parking requirements above only upon finding that the reduced number of parking spaces will be sufficient to satisfy the demand for parking expected for the use, considering the nature of the use, the number of trips generated by the use, the times of day when the use generates the most trips, and the extent to which other establishments are located on the same property and may reduce the number of vehicle trips required between different establishments, in addition to finding that the variance meets the general standards for variances set forth in this Section.

### **8.2.6 Timing of Construction**

All parking areas required under this Section shall be completed prior to the issuance of a certificate of occupancy for the use or uses which they serve. In some cases, provided the owner shall execute an agreement to complete the required parking within six (6) months of the date of occupancy of the building, the Building Official may authorize such an extension.

## 8.2.7 Off-Street Parking Standards

The following minimum number of off-street parking space(s) shall be provided for each use:

Use Category	Parking Spaces Required
<b>Residential</b>	
Detached Dwelling	2
Accessory Dwelling Unit	1
Manufactured Home Subdivision	2 per home
Duplex/Semi-Attached Unit	2 per unit
Zero-Lot-Line/Patio Home	2
Townhouse	2
Upper-Story Residential Unit	1.5 per one-bedroom unit; 2 per two-bedroom unit; 2.5 per three-bedroom unit
Apartment Development	1.5 per one-bedroom unit; 2 per two-bedroom unit; 2.5 per three-bedroom unit
<b>Non-Residential</b>	
Adult Entertainment Establishment	1 per 100 SF
Aircraft Sales and/or Service	1 per 300 SF
Airport	As approved by the Airport Authority
Animal Shelter	1 per 400 SF
Asphalt and/or Concrete Plant	1 per employee
Assisted Living Facility	0.25 per bed plus 1 per employee
Bed and Breakfast	1 per room plus 2 for owner's residence
Broadcasting Facility, Radio and/or Television	1 per employee
Campground/RV Park	1 per campsite plus 1 per employee
Car Wash Facility	1 per 300 SF
Cemetery	1 per employee
Conference Center	1 per 200 SF
Contractor Shop	1 per 1,000 SF or 1 per employee
Convenience Store with Fuel Sales	1 per 200 SF. Parking at fuel islands shall be included as parking space
Correctional Facility	1 per employee plus 1 per 20 prisoners
Crematory	1 per employee
Day Care Center	1 per employee plus drop-off lane with space for 1 vehicle per 8 children
Day Care Home, Large or Small	3 per home plus a drop-off lane for at least 2 cars
Drinking Establishment	1 per 50 SF of floor area for public use or 1 per 2.5 persons in approved occupancy, whichever is greater

Educational Facility, College or University	As approved by the City of Tupelo
<b>Educational Facility, K-12</b>	
a. K-8	2.25 per classroom
b. 9-12	1.2 per classroom plus 1 per 5 students
Educational Facility, Vocational Training	2 per classroom plus 1 for every 3 students at maximum enrollment
<b>Engine Repair</b>	
a. Small Engine Repair	1 per 300 SF
b. Large Engine Repair	1 per employee plus 1 per 500 sq. ft.
Farm	N/A
Financial Establishment	1 per 300 SF
Firing Range	1 per 2 slots
Forestry	N/A
Funeral Home	1 per 4 seats in chapel
Golf Course and/or Country Club	4 per green and 1 per 3 seats in restaurant if applicable
Golf Driving Range	1 per 3 slots
<b>Government Facility</b>	
a. Library	1 per 300 SF
b. City, county, state, or federal government office	1 per 300 SF floor area plus 1 per 3 employees
c. Post Office	1 per 200 SF
Group Home	1 per employee plus 1 per 3 adult residents or 2 for visitors to a youth group home
Home Business	2 for residence plus 1 for business
Home Occupation	N/A
Hotel or Motel	1 per sleeping room plus 1 per 100 SF of restaurant, conference, or lounge area
Manufacturing, Heavy or Light	1 per 2 employees on largest shift, plus 5 for visitors
Medical Facility, Hospital	1 per 2 beds plus 1 per employee
Museum	1 per 500 SF
Office	1 per 400 SF
a. Medical Office	1 per 300 SF plus 1 per employee
b. Rehabilitation Center	1 per 300 SF
Open Air Market (define)	1 per 200 SF display area
Park and/or Open Space	As approved by the Parks and Recreation Department
Passenger Terminal	1 per 300 SF
Place of Assembly and/or Worship	1 per 4 seats
Printing and/or Publishing Facility	1 per 1.5 employees

Public Safety Station	1 per 500 SF
Public Utility Facility	1 per employee
Railroad Station and/or Yard	1 per employee
<b>Recreation Facility</b>	
a. Theaters and Similar Fixed-Seating Establishments	1 per 4 seats
b. Bowling Alleys	4 per alley/lane
c. Swimming Pool	1 per 75 SF of pool area
d. Race Track	1 per 3 seats
e. Tennis or Racquetball Court	3 per court
f. All Other recreation	1 per 250 SF
Recycling and/or Salvage Facility	1 per 500 SF
Recycling Drop-Off Facility	A drop-off lane for at least 2 cars
Research and Development Facility	1 per 500 SF
Resource Extraction	1 per employee
<b>Restaurant</b>	
Minimum	1 per 250 SF floor area
Maximum	1 per 50 SF
Retail Sales and/or Service	Minimum 1 per 400 SF Maximum 1 per 100 SF Warehouse area 1 per 1000 SF
a. Plant Nursery or Greenhouse	1 per 500 SF
b. Barber or Beauty Shop	2 per employee
c. Furniture, Appliance, Music and Hardware Stores	1 per 400 SF
d. Laundry or dry-cleaning establishments	1 per 300 SF and stacking space for 3 vehicles per drive-in window
e. Lumber Yard or Building Materials	1 per 400 SF
e. Medical Supplies	1 per 300 SF
Self-Serve Storage Facility	1 per 300 SF office area
Social and/or Community Service Facility	1 per 500 SF floor area
Telecommunications Facility, Other	1 per employee
Telecommunications Tower	N/A
Trade Market Facility	1 per 1,000 SF
Trucking Company	1 per employee
Utility	1 per 1,000 SF enclosed floor area
Vehicle Sales and/or Rental	1 per 300 SF
Vehicle Service	2 plus 3 per service bay
Veterinarian Clinic	1 per 300 SF plus 1 per 400 SF of proposed outdoor kennel
Warehouse and/or Distribution and/or Freight Facility	1.3 per employee

Waste-Related Service Facility	N/A
Wholesale Facility	1 per 500 SF or 1 per 2 employees on largest shift
Woodworking or Cabinet-Making Facility	1 per employee

## **8.2.8. Computation of Off-Street Parking Requirements**

### **8.2.8.1 Calculations**

When measurements of the number of required spaces result in fractions, the space requirements shall be rounded upward to the next highest whole number.

### **8.2.8.2 Different Use Areas**

Except as provided for in this Section, parking shall be calculated separately for the area of each different use in a building or on a site, including all accessory uses. For instance, a building which has a portion open to the public as retail and a portion used by the business as warehouse space shall have parking computed based on the floor area open to customers and the floor area used as a warehouse.

### **8.2.8.3 On-Street Parking**

Except as provided for in this Section, on-street parking within public or private streets, driveways, or drives, shall not be used to satisfy the off-street parking or overflow requirements prescribed by Section 8.2.

### **8.2.8.4 Unimpeded Parking**

No parking spaces shall be located so as to require the moving of any vehicle on the premises in order to enter or leave any other space. Notwithstanding the above, the Development Services Director may, on a case-by-case basis, allow stacking spaces provided for auto-related uses (e.g. fleet vehicles) to count toward the minimum required parking, as long as such spaces are not part of areas required for site ingress or egress, or areas intended for fueling.

### **8.2.8.5 Parking Space Adjacent to Alleys**

Where off-street parking facilities are located adjacent to an alley, the width of such alley may be accounted as a portion of the required maneuvering and access area, but not as part of the parking spaces required.

### **8.3 Improvement, Design and Location Standards**

#### **8.3.1 Residential Parking Standards**

- (1) Residential uses shall provide paved parking areas according to the standards in table 8.2.7.
- (2) Driveways in Agriculture/Open Space and Low Density Residential Districts on residential lots of two (2) or more acres may be surfaced with gravel or crushed stone.
- (3) Residential uses shall not have recreational vehicles, commercial vehicles, boats, trailers of fifteen (15) feet or less, or similar vehicles stored in front of the front edge of the house. They may be stored in the side yard, back yard, garage, or in a carport or driveway behind the front edge of the house. Any such vehicle shall be stored within the side setback, at least five (5) feet from the rear setback, and on a concrete pad or driveway.
- (4) Commercial vehicles rated greater than three-quarter ( $\frac{3}{4}$ ) ton, buses, trailers exceeding fifteen (15) feet in length, tractors, tractor trailers, heavy equipment such as bulldozers and road graders, and similar vehicles are prohibited in all subdivisions and on lots of forty thousand (40,000) sq. ft. or less, except for unloading, loading, or construction as approved by a City of Tupelo building permit. Under no circumstances shall any of the above mentioned items be stored in front of the front edge of a house or closer than fifty (50) feet to any property line.
- (5) A recreational vehicle shall not be used for sleeping quarters while in a residential district for greater than fifteen (15) days per year.

#### **8.3.2 Non-Residential and Apartment Development Parking Standards**

- (1) All off-street parking in non-residential and apartment developments, including exits, entrances, maneuvering areas, drive aisles, and parking spaces shall adhere to the following standards:
  - (a) They shall have access to a dedicated street or other access approved by the Department of Development Services.
  - (b) They shall be permanently maintained by the owner(s) in compliance with the approved site plan and/or preliminary subdivision plat.
  - (c) All parking and loading spaces shall be covered with an all-weather surface designed to support anticipated loads as specified in the City of Tupelo Design Standards and Construction Specifications for Streets, Storm Water, Sanitary Sewer and Water Distribution manual. Grass parking may be permitted for up to seventy-five percent (75%) of required parking for places of worship and/or assembly and on a case-by-case basis for similar uses that have very limited hours of peak service. A porous

pavement system may be allowed in place of conventional paving materials, subject to the approval of the City Engineer.

- (d) All off street parking areas shall be required to have curbing around the entire parking lot unless waived by the Development Services Department because landscape islands, stormwater islands, bio-retention areas, low-impact parking methods, increased landscaping, or other tools will capture stormwater on site.
- (e) They shall meet the parking lot landscaping standards of Section 9.7, Vehicular Use Area Landscaping.
- (f) They shall be located and designed to avoid undue interference with the use of public streets. Parking areas for nonresidential and apartment development uses shall provide suitable maneuvering room so that all vehicles may enter an abutting street in a forward direction. Backing into public streets is prohibited for all nonresidential uses and for apartment developments.
- (g) They shall have a cross easement to adjacent parcels to provide vehicular and pedestrian connections between parking lots of abutting developments. Cross easements are required in order to reduce traffic and increase safety on main thoroughfares and to allow customers to visit multiple establishments without moving their vehicles.
- (h) They shall have all parking spaces striped with four (4) inch lines.

#### 8.4 Parking Space Dimensional Standards

<b>Handicap Space</b>	<b>Per the International Building Code</b>
Minimum Single-Lane Drive Thru for Banks, Pharmacies, Fast Food restaurants, or other similar use	Width – Twelve (12) feet
Minimum Turning Radii	Twenty (20) feet
On-street diagonal parking	May be approved by the City of Tupelo Engineer if a parking plan is developed and sealed by a registered engineer with expertise in parking facility and street design and if the City of Tupelo Engineer determines that such parking does not create traffic safety issues.

<b>Parking Angle</b>	<b>Minimum Parking Bay Width (ft.)</b>	<b>Minimum Parking Bay Depth* (ft.)</b>	<b>Minimum Aisle Width (ft.) One-Way</b>	<b>Minimum Aisle Width (ft.) Two-Way</b>
Parallel	9'	22'	13'	15'6"
30-degree	9'	17'	13'	15'6"
45-degree	9'	19'	13'	15'6"
60-degree	9'	20'	17'6"	20'
90-degree	9'	18'	20'	25'

\* The parking bay dimensions are based on an allowance of a two (2) foot overhang. If the parking configuration is such that a wheel stop is being proposed, then the minimum depth of the parking bay shall be twenty (20) feet. If wheel stops are proposed for handicap accessible spaces only, the minimum parking bay depth does not need to be increased by two (2) feet.

**8.4.1 Modification of Requirements:** Parking spaces using geometric standards other than those specified in this Code may be approved if developed and sealed by a registered engineer with expertise in parking facility design subject to a determination by the City of Tupelo Engineer, or his/her designee, that the proposed facility will satisfy off-street requirements as adequately as would a facility using standard Code dimensions.

#### **8.4.2 Location of Non-Residential Parking Lots**

Parking lot location will vary based on zoning district. In some districts a developer may choose between Type 1, Walkable, or Type 2, Conventional. Parking to the side and rear has lower landscaping requirements than parking to the front, as provided in Section 9.7, Vehicular Use Area Landscaping. Also, an application for variance to exceed maximum parking standards may be granted only if the additional parking is located to the side or rear.

##### **8.4.2.1 Type 1 – Walkable Development**

Zoning districts that require walkable development standards are Medium Density Residential, Mixed-Use Residential and Mixed-Use Downtown. The zoning districts with the option of either walkable or conventional development are Mixed-Use Commercial Corridor, Mixed-Use Employment, and Mixed-Use Activity Center.

Parking in walkable developments will be to the side and rear of buildings rather than the front.

##### **8.4.2.2 Type 2 – Conventional Development**

Zoning districts that have conventional development regulations are Regional Commercial and Industrial. Zoning districts with the option for either conventional or walkable development are Mixed-Use Commercial Corridor, Mixed-Use Employment, and Mixed-Use Activity Center. Conventional developments may have parking in the front, side, or rear of buildings. Landscape requirements for front parking lots are shown in Section 9.7, Vehicular Use Area Landscaping.

#### **8.4.3 Interior Design for All Parking Lots**

The following requirements shall apply to all parking lots:

- (1) Within a parking lot, a pedestrian walkway or landscaped divider shall be provided for every three (3) parking aisles. The use of the walkway or divider shall alternate across the parking lot. When using parking aisles running parallel to the building, one perpendicular pedestrian walkway shall be provided which connects the main entrance of the building to the parking area.

- (2) Sidewalks or walkways of at least five (5) feet wide shall connect the parking lot to the building entrance(s). Where sidewalks or walkways abut parking spaces, they shall be a minimum of six and one-half (6 ½) feet wide. Ramps shall be provided at intervals along the sidewalk or walkway to allow adequate access to the parking lot.
- (3) Sidewalks or walkways shall provide a distinct linkage between a main entrance to the building and a concentration of vehicle parking spaces in order to encourage its use by pedestrians.
- (4) Landscaping shall be provided in all parking lots as provided in Section 9.7.6, Vehicular Use Area Landscaping.
- (5) Landscaped islands with raised curbing may be used to define parking lot entrances, the ends of all parking aisles, and the location and pattern of primary internal access drives, to provide pedestrian refuge and accommodate sidewalks and walkways.
- (6) All off-street parking and loading areas shall provide curbs, motor vehicle stops, or similar devices to prevent vehicles from overhanging a public right-of-way, sidewalk, walkway, landscape area, or adjacent property.
- (7) The lot layout shall specifically address the interrelationship of pedestrian, vehicular and bicycle circulation in order to provide continuous, direct pedestrian access with a minimum of driveway and drive aisle crossings.

## **8.5 Lighting**

Access ways, walkways, and parking area shall be lighted by lighting fixtures, which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind. All lighting proposed in access ways, walkways, and parking areas shall meet the minimum specifications in Chapter 6: Design and Development Standards.

## **8.6 Prohibited Uses**

Non-residential uses may apply for accessory use permits for outdoor storage of vehicles and merchandise. Without such permit, non-residential parking lots shall not have overnight parking of vehicles and/or containers, including but not limited to, semi trucks, semi trailers, tractor trailers, recreational vehicles, mobile homes and other vehicles providing transient residency, or similar uses; outdoor storage or display of merchandise; and other vehicles and/or containers used for storage. Fleet vehicles for use with the business are excepted. The term non-residential parking lots shall not include multi-family and hotel parking lots. Temporary on demand storage boxes, portable shipping containers, or portable storage units are permitted for up to thirty (30) days. Vehicles and storage containers associated with permitted construction or renovation projects are permitted until a certificate of occupancy is obtained. See Chapter 7: Accessory and Temporary Structures and Uses for more information.

## **8.7 Off-Street Loading Requirements**

Every structure or building used for trade, business or industry hereafter erected shall provide spaces as indicated herein for the loading, unloading, and maneuvering space of delivery vehicles. For the purpose of this section an off-street loading space shall have minimum dimensions of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above grade. The loading area cannot be located in public right-of-way, private roads, drive aisle or parking spaces. Businesses that have deliveries that occur during non-business hours can use drive aisles and parking spaces, and a designated loading area is not required.

## **CHAPTER 9. LANDSCAPING AND BUFFERING**

### **9.1 General**

#### **9.1.1 Purpose and Intent**

The standards of this section provide for the preservation of existing vegetation and for the installation and maintenance of new vegetation and other landscape architectural features. The purpose of these standards is to:

- (1) Improve property and community appearance without compromising community safety, including minimization of the visual impact of extensive land disturbance;
- (2) Allow for the ecological benefits provided by plant materials, including protection of land from unnecessary erosion and watercourse sedimentation, reduction of stormwater runoff, improvement of air quality, and provision of wildlife habitat;
- (3) Reduce the heat island effect;
- (4) Enhance the beauty of the built environment; and
- (5) Enhance the attractiveness and value of commercial areas and the privacy and welfare of residential areas by buffering incompatible land uses, where potential impacts cannot be mitigated through design compatibility concepts or transitional features.

#### **9.1.2 Applicability**

- (1) The landscaping and buffering standards of this section shall apply to all proposed development for which a minor or major site plan, development plan, or preliminary plat is required.
- (2) Land used toward achieving the requirements of the section need not hold the same zoning designation as the use to which the landscaping and buffer applies, unless the property is zoned with a development plan showing all requirements met onsite. If the landscaping or buffer is not on site, the landscaping shall either be on the same lot or on contiguous property under the same permanent possession or control as the lot on which the use is located.

**9.1.3 Variations:** The approving authority may modify the buffer and landscape standards of this chapter where:

- (1) There are special considerations of site design and/or topography.
- (2) The plantings or planting area would conflict with utilities, easements, or overhead power lines, or encroach upon City trees.

- (3) Proposed street widening not provided by the developer will consume the landscaping area.
- (4) The approving authority may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.

## **9.2 Landscape Design Principles**

The following standards are intended to ensure that community appearance, the value of property, environmental quality, or the safety of residents and visitors are not compromised through poor landscape design. These standards shall be balanced against other objectives of landscaping, such as sheltering, buffering and screening purposes in the review of landscape plans.

- (1) Landscaping should contribute to the livability of the environment.
- (2) A “water-wise” approach to landscape materials (including mulch), design and installations is encouraged. The amount of irrigation and maintenance required for landscaping should be minimized.
- (3) Landscaping in the Agriculture/Open Space and Low Density Residential zoning districts should be clustered to provide a natural impression. Landscaping in the other zoning districts may be arranged more formally.
- (4) Landscaping should be selected, installed and maintained so that it allows unobstructed views of vulnerable doors and windows from the street and other properties and avoids blind spots and hiding spaces.
- (5) Landscape materials should be selected and arranged to add variety and visual interest.
- (6) Site landscaping and streetscapes should be compatible and complement one another.
- (7) Site landscaping shall not conflict with utility placement.
- (8) Landscaping should be used to define property lines and private areas with planting areas, pavement treatments, or walls and fences.
- (9) Landscaping, fences, walls and paving treatments should be designed to guide visitors to desired entrances and away from private areas.
- (10) Plant placement in buffers may include clustering; however, such clustering should be reflected in plant placement that provides the maximum protection of neighboring properties.
- (11) Landscaping should be used to divide parking areas into smaller lots.

### 9.3. Basic Plant Types

#### 9.3.1 Definitions

There are five (5) basic plant types referred to in this section, and all shall require the use of locally-adapted plants. They include canopy trees, evergreen trees, deciduous understory trees, evergreen understory trees and shrubs, defined as follows:

- (1) Canopy Trees: Large deciduous shade trees with a mature height of twenty (20) feet or greater.
- (2) Evergreen Trees: Trees at least twenty (20) feet tall at maturity that usually have green foliage throughout all seasons of the year.
- (3) Deciduous Understory Trees: Small deciduous trees or large deciduous shrubs with a mature height of ten to thirty (10 to 30) feet, except under overhead utilities, where lower heights at maturity may be required.
- (4) Evergreen Understory Trees: Trees or large shrubs at least ten (10) feet tall at maturity that usually have green foliage throughout all seasons of the year.
- (5) Shrubs (Deciduous and Evergreen): Prostrate or upright woody plants, either evergreen or deciduous, with a mature height usually less than ten (10) feet. Evergreen shrubs usually have green foliage throughout all seasons of the year.

**9.3.2 Plant Material Requirements:** Unless specified elsewhere in this Code, plant material shall meet the minimum requirements listed below. When determining the quantity of plant material required, the quantity shall always be rounded up to the nearest whole number. All plant material shall meet or exceed size and shape relationships and quality standards specified in the latest edition of The American Standard for Nursery Stock published by the American Association of Nurserymen.

- (1) Trees: Canopy trees shall have a minimum size of two (2) inch caliper at time of planting, except that trees planted to meet requirements of Section 9.5, Street Trees, shall be of minimum three (3) inch caliper size at time of planting, measured at six (6) inches above the ground or root base of the tree.
  - (a) Evergreen trees shall have a minimum height of eight (8) feet at the time of planting.
  - (b) Deciduous understory trees with single stems shall have at a minimum size of one (1) inch caliper and a minimum height of eight (8) feet at the time of planting.
  - (c) Multi-stemmed deciduous understory trees shall have a minimum height of eight (8) feet at the time of planting.

(d) Evergreen understory trees shall have a minimum height of six (6) feet at the time of planting.

(e) All trees shall be at least fifteen (15) gallon container size.

### 9.3.3 Mixing of Tree Species

When more than twenty (20) trees are required to be planted on a site to meet these regulations, a mix of species shall be provided. The following table indicates the maximum percentage of trees of the same genus and species that may be planted.

Total Trees Planted on Site		Maximum Percentage of Any Species
20 trees or fewer	1	not applicable
21 to 50 trees	2	70%
51 to 100 trees	3	50%
Over 100 trees	4	40%

### 9.3.3 Shrubs

(1) All shrubs shall be cold hardy and heat tolerant.

(2) Upright shrubs shall be a minimum of fifteen (15) inches in height at the time of planting and at least three (3) gallon size.

(3) Shrubs shall not be planted closer than one half (½) their mature size. Shrubs shall not be planted closer than one half (½) of their mature size to or infringe in the root ball of planted trees, nor within six (6) feet of existing protected trees. No more than twenty-five percent (25%) of the root protection zone of an existing tree may be disturbed with new plantings.

(4) When planted as a hedge, the maximum spacing for twenty-four (24) inch high deciduous shrubs shall be thirty-six (36) inches on center. Spacing for other size shrubs shall be determined by the Development Services Director or designee based on the proposed species.

### 9.3.4 Mixing of Shrub Species

When more than twenty (20) shrubs are required to be planted on a site to meet these regulations, a mix of species shall be provided, as long as it does not negatively affect the overall planting design of the development. The following table indicates the maximum percentage of shrubs of the same genus and species that may be planted.

<b>Total Trees Planted on Site</b>		<b>Maximum Percentage of Any Species</b>
20 trees or fewer	1	not applicable
21 to 50 trees	2	70%
51 to 100 trees	3	50%
Over 100 trees	4	40%

**9.3.4.1 Plant Variations:** The Development Services Director, or designee, shall have the authority to allow variations in the mix of plants required, up to a maximum of twenty percent (20%) of the total required plant type, in order to encourage creativity in landscape design, to more effectively create a buffer or screen, to handle unique site issues such as existing tree species or topography, or to allow for more efficient irrigation or water use practices.

**9.3.4.2 Preferred Species:** The Departments of Development Services and Public Works shall maintain a list of plants by type and their preferred location or use on sites developed in the City of Tupelo. The list shall include drought tolerant species.

### **9.3.5 Prohibited Plants**

The Departments of Development Services and Public Works shall maintain a list of plants that are not permitted for any use due to their invasive tendencies. Such species shall not be planted as landscaping for any purpose.

## **9.4 Landscape Plans**

Professional Preparation required.

Landscaping plans shall be prepared and sealed by Mississippi licensed landscape architects or other Mississippi licensed design professionals, as indicated by the Mississippi Landscape Architect Registration Act, or persons with a Mississippi Landscape Gardening License issued by the Mississippi Bureau of Plant Industry.

### **9.4.1 Installation**

- (1) Trees may be planted in access or utility easements, including stormwater management facilities, provided that they are a species adapted for the nature of the easement and, in all easements other than overhead utilities, the entity responsible for the easement approves the location of the trees proposed for planting prior to installation.
- (2) Existing trees may remain in dry detention ponds provided that the natural grade is undisturbed to the tree line, they are a species adapted to seasonal flooding and the pond can be adequately maintained.
- (3) Shrubs shall be installed at least five (5) feet away from the flow line of a swale, unless the planting is specifically designed for stormwater management practices such as a bio-swale.

- (4) Shrubs may be planted in a public utility easement provided they are planted only within the outer three (3) feet of the easement and are approved by the utility provider prior to installation.
- (5) Groundcovers may be planted around trees, provided they do not infringe on the root ball of the planted tree. Organic mulch shall be used in all areas where no other ground cover or grass is used to avoid bare spots and promote “water-wise” landscaping. The use of gravel or crushed stone as ground cover shall not be used except with the approval of the Development Services Director prior to installation.

## **9.4.2 Certification**

The Development Services Director may authorize Mississippi licensed landscape architects to certify that landscape plantings have been installed in conformance with the approved landscaping plan including planting sizes, species, and installation techniques in lieu of inspection by the Development Services Department.

## **9.5 Street Trees**

### **9.5.1 Applicability**

All development shall be conducted in accordance with this section except that additions to existing residential buildings and residential development in the Agriculture/Open Space District shall be exempt from the provisions of this section.

### **9.5.2 Required Street Trees**

- (1) In all developments except residential development in the Agriculture/Open Space District, the developer shall either retain or plant trees such that there is an average of at least one (1) street tree for every forty (40) feet of street frontage along the sides of all existing and proposed rights-of-way (except alleys), and private street easements.
- (2) Street trees shall be located within the right-of-way or street easement unless the City Public Works Director or MDOT, or designees as appropriate, authorize their location outside a right-of-way or where the location of the street trees in the right-of-way will conflict with public utilities. If a conflict exists with public utilities, street trees shall be located in the required front yard.
- (3) The location of street trees may be varied, as long as there is a minimum of one (1) tree every one-hundred (100) feet of street frontage, unless the Public Works Director or designee approves an alternate pattern to allow design flexibility for location of access points, sight clearance, or other similar factors.
- (4) Street trees shall be of a species included on the Public Works Director’s list of acceptable street tree species.

### **9.5.3 Credit for Existing Trees**

- (1) Developers may use existing trees to meet the requirements of this section, as long as existing trees are protected in accordance with the standards of Section 9.11.2, Tree Protection.
- (2) Trees preserved to meet other requirements of this Ordinance may be used to meet the requirements of this section as well, provided they meet the minimum size and location requirements of this section.

### **9.5.4 Street Tree Installation**

- (1) Required street trees shall be clearly noted on any site plan, preliminary plat, or final plat.
- (2) Street trees shall be at least three (3) inch caliper, unless an alternate size which addresses unique site characteristics is approved by the Development Services Director, or designee.
- (3) In the Agriculture/Open Space and Low Density Residential zoning districts, at least two hundred-fifty (250) square feet of contiguous growing area without encroachments shall be provided for each tree. The Public Works Director, or designee, shall have the authority to approve a street tree growing area of smaller size where special features are utilized in the site design to provide for adequate growth of street trees.
- (4) In all other zoning districts, at least two hundred (200) square feet of contiguous growing area, without encroachments other than sidewalks, shall be provided for each tree. The Public Works Director, or designee, shall have the authority to approve a street tree growing area of a smaller size where special features are utilized in the site design to provide for adequate growth of street trees.
- (5) Planting location shall take into consideration any roadway widening identified on approved thoroughfare plans but not provided by the development.
- (6) Required street trees shall be planted before a Certificate of Compliance is issued, unless the planting has been postponed to the appropriate season in accordance with the requirements of Sec. 9.12.3., Extensions.

## **9.6 Screening**

### **9.6.1 Applicability**

- (1) This section shall apply to the following:
  - (a) Air handlers and similar mechanical equipment in multifamily or nonresidential development;

- (b) Outdoor storage;
- (c) Loading areas;
- (d) Trash handling facilities, including dumpsters and recycling; and
- (e) Uses for which screening is required as a condition of approval.

(2) The features and uses listed above need not be screened from similar features and uses on adjacent lots, or within the Industrial zoning districts, except where project boundary buffers would be required pursuant to Section 9.9, Project Boundary Buffers.

**9.6.2 Standards:** Features and uses specified above shall provide a visual obstruction from adjacent properties in conformance with the following standards:

- (1) The screen may be composed of view-obscuring vegetation used individually, or in combination with a wall, opaque fence, or berm to provide a fully opaque barrier of at least eight (8) feet in height. Utilities and trash handling facilities shall be screened with a masonry enclosure and an opaque gate to the height of the facilities plus six (6) inches.
- (2) When vegetation is the primary source of screening, evergreen shrubs at least two (2) feet tall at the time of installation and capable of reaching the desired height within two (2) years of planting shall be installed, at a maximum of three (3) feet on center.
- (3) Except for screening around roof-top equipment, one upright shrub of an evergreen species shall be installed per four (4) linear feet of any wall or fence that faces off-site.
- (4) Plant material in project boundary buffers may be counted towards the requirements of this section when located to serve both functions.

## **9.7 Vehicular Use Area Landscaping**

### **9.7.1 General**

### **9.7.2 Vehicular Use Area Defined**

For the purposes of this section, areas used for vehicle service, parking (including structured parking), parking lot drive aisles, and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive-up service, shall be considered vehicular use. Driveways that are perpendicular or nearly perpendicular to the street and serve as an entrance to the site shall not be considered vehicular use areas for purposes of this section.

### **9.7.3 Applicability**

The following areas shall meet the requirements of this section:

- (1) Any new off-street parking area containing ten (10) or more spaces or vehicular use area of three thousand-five hundred (3,500) square feet or more.
- (2) Any expansion of an existing off-street vehicular use area consistent with the dimensions identified above.
- (3) Any redevelopment of a site if the vehicular use area associated with the building meets the standards listed above. Projects involving building renovation only shall not be required to meet these standards unless change in building use requires additional parking to be provided.

### **9.7.4 Exception**

Landscaped area and planting requirements for automobile dealership display areas may be satisfied by installation on other parts of the property or in alternative locations as approved by the Development Services and Public Works Directors. Customer and employee parking areas on automobile dealership properties must meet landscaping standards.

### **9.7.5 General Standards**

- (1) Irrigation shall be provided on all sites for which five thousand (5,000) square feet or more of area planted with trees, shrubs, or bedding plants as required under this section 10.7.
- (2) Irrigation plans to be bid shall be prepared and sealed by a Mississippi licensed landscape architect or other Mississippi licensed design professional, as indicated by the Mississippi Landscape Architect Registration Act.
- (3) No canopy trees used for vehicular use area landscaping credits shall be planted farther than ten (10) feet from the edge of the vehicular use area. No understory trees or shrubs shall be planted farther than fifteen (15) feet from the edge of the vehicular use area. All shrubs and trees shall be located at least three (3) feet from either the back of curb of the vehicular use area or back of wheel stops.
- (4) Plant materials shall be located to facilitate safe sight distances within parking lots. Plants located at the end of parking lot islands, within the sight distance triangles, or in medians shall be a species with a maximum mature height of thirty (30) inches.
- (5) Tree planting and site lighting shall be coordinated to reduce conflicts between mature trees and light standards.

### **9.7.6 Vehicular Use Area Perimeter Landscaping**

- (1) **Vehicular Use Areas Visible From Streets:** Any vehicular use area subject to this section that has exposure to a public or private street (except an alley), and is located within fifty (50) feet of a right-of-way or access easement shall provide a landscaped area, adjacent to and outside of the street right-of-way or access easement, equal to five (5) square feet for each linear foot of street frontage, less driveways, which may cross required landscape areas if constructed at angles perpendicular or nearly perpendicular to property lines.
- (2) Street trees provided to meet the requirements of Section 9.5, if not located within the right of way, shall be placed in this landscape area.
- (3) Any landscaped area used for credit shall be a minimum of three (3) feet in width.
- (4) Shrubs shall be planted at the rate of one (1) fifteen (15) inch high shrub per three (3) linear feet of property line abutting public streets less driveways. The spacing may be varied based upon size of installed plant materials.
- (5) Except within sight distance triangles, such shrubs shall be of a species expected to reach a minimum height of thirty (30) inches and a minimum spread of thirty (30) inches within three (3) to five (5) years of planting. At least sixty percent (60%) of shrubs shall be evergreen.
- (6) A wall consistent with the requirements of Section 7.5, Fences and Walls, at least thirty (30) inches tall and not exceeding four (4) feet in height may be substituted for the required shrubs.

### **9.7.7 Vehicular Use Areas Visible from Adjacent Property**

- (1) Any vehicular use area subject to this section on projects not required to provide a project boundary buffer pursuant to Section 9.9, Project Boundary Buffers, shall provide a landscaped area between the edges of the vehicular use area pavement and the side property lines, unless the property lines fall within a vehicular use area in common use.
- (2) The minimum width of the landscaped area shall be large enough to accommodate the plant materials required below, but shall not be less than five (5) feet per linear foot of vehicular use area edge facing off site, unless wheel stops are provided, in which case the minimum width may be reduced to four (4) feet.
- (3) Required landscaping shall consist of the following materials:
  - (a) Understory trees, at the rate of one (1) per twenty-five (25) feet, with a contiguous growing area of one hundred-twenty-five (125) square feet and a minimum dimension of seven and one half (7 ½) feet.

- (b) Evergreen shrubs, fifteen (15) inch minimum height, at the rate of one (1) per five (5) linear feet of required planting area.
- (c) When adjoining properties are already developed with parking lots adjacent to the proposed site and have landscaping installed comparable to the requirements of this section, fifty (50%) of the required plant materials shall be required.

### **9.7.8 Interior Landscaping**

- (1) Development with vehicular use areas exceeding three thousand-five hundred (3,500) square feet (including accessory drives and aisles but excluding areas under canopies and within structured parking, and excluding enclosed storage or service areas to the rear of principal buildings) shall provide and maintain landscaped areas based upon the surfaced vehicular use area.
- (2) Areas used for landscaping shall be provided in the amount equivalent to at least twelve percent (12%) of the vehicular use area located between the principal building and the street right of way, and eight percent (8%) of vehicular use area located behind the front line of the principal building, which shall be used for planting trees and shrubs according to the standards below.
- (3) Minimum curb radii of three (3) feet shall be required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. All islands or medians shall have curbs, raised edging or other devices (such as wheel stops) around them to protect plants from being damaged by motor vehicles.
- (4) Trees shall be planted at a rate of one (1) two (2) inch caliper canopy tree per two thousand-five hundred (2,500) square feet of vehicular use area located between the principal building and the street right of way, and one (1) two (2) inch caliper canopy tree per five thousand (5,000) square feet of vehicular use area located behind the front line of the principal building. Tree planting areas shall be located such that no parking space is farther than fifty (50) feet from a canopy tree trunk.
- (5) Landscaped areas surrounded by impervious surfaces shall have a minimum width of ten (10) feet when they include canopy or understory trees, and shall contain at least two hundred (200) square feet of growing area per tree. Larger growing areas may be required, depending on the species of tree planted.
- (6) One (1) shrub shall be required per two hundred-fifty (250) square feet of vehicular use area located between the principal building and the street right of way, and one (1) shrub per five hundred (500) square feet of vehicular use area located behind the front line of the building.

- (7) This rate may be varied by the Development Services Director or designee considering alternate shrub heights, ground covers, or other factors in accordance with the Development Services Department's landscape standards.
- (8) Alternate planting designs may be approved by the Development Services Director, or designee, provided the design demonstrates that at least thirty-five percent (35%) of the vehicular use area shall be shaded during the summer months within fifteen (15) years of planting.
- (9) All canopy trees located within vehicular use areas shall be limbed up to a height of six (6) feet to allow for clear views under them.

## **9.8 Existing Vegetation Credits for Required Landscaping**

**9.8.1** A developer may use existing healthy vegetation that is classified as a preferred species to meet some or all applicable landscaping requirements. Vegetation to be saved shall meet all requirements of Section 9.11, Tree Protection and Tree Coverage Preservation.

### **9.8.2 Existing Trees**

- (1) Healthy trees may be retained and credited toward landscaping requirements if each tree proposed for credit has a caliper of at least four (4) inches and all requirements of Section 9.11, Tree Protection and Tree Coverage Preservation are satisfied. Credit given for existing, healthy, protected trees shall be a number equal to the two (2) times the value of the diameter at breast height of each protected tree for requirements expressed in total caliper inches, such as the mitigation of removed trees. For requirements expressed as a number of trees, the total caliper inches of qualifying retained trees shall be divided by the applicable minimum size in caliper inches.
- (2) In order to receive credit for any retained trees, at least eighty percent (80%) of the root protection zone shall remain undisturbed. Trees whose root protection zones fall outside the protected area but are within larger groups of trees, shall not count toward any landscaping requirements but shall be left in place unless they are diseased or otherwise hazardous to the integrity of the buffer or the development.

### **9.8.3 Sampling**

- (1) As an alternative to a full site tree survey, the Development Services Director may approve the use of sampling. Where authorized, all trees, shrubs and groundcover within a minimum twenty (20) foot by twenty (20) foot area for each unique stand of vegetation proposed to be retained shall be inventoried and identified on the landscape plan.
- (2) Photographs may be used to supplement the sample but shall not replace it. For purposes of determining preserved tree coverage, shrubs and groundcover need not be included in the sampling.

- (3) The Development Services Director may require additional sample areas as needed to ensure a representative sample of the existing vegetation.

## **9.9 Project Boundary Buffers**

### **9.9.1 Applicability**

- (1) Project boundary buffers shall be required when making application for all site plan, development plan, or preliminary plat approvals when a proposed use is of higher intensity or impact than an adjacent use or adjacent zoning district.
- (2) “High impact uses” include multi-family housing developments of nine (9) or more units, adult entertainment establishments, airports, animal shelters, asphalt or concrete plants, correctional facilities, crematories, dog kennels, drinking establishments, engine repair establishments, firing ranges, junkyards, manufacturing, railroad facilities, recycling facilities, resource extraction, trucking companies, truck stops, major utilities, vehicle services, warehouse and distribution facilities, retail buildings greater than forty thousand (40,000) square feet, and waste related facilities.
- (3) Project boundary buffers with varying width and planting requirements, or transitional features, shall be provided according to Table 9.9.1. Buffers may also be required as a condition of approval of a compatible or flexible use or development plan.
- (4) Some uses may require additional buffering, as set forth in Chapter 11, Additional Standards for Certain Permitted Uses.
- (5) No project boundary buffers shall be required for property in the MUD District.
- (6) Location: Required project boundary buffers shall be provided along the perimeter of any lot or development except adjoining street or railroad rights-of-way.
- (7) Project boundary buffers shall be designated and dimensioned on all site plans and preliminary plats.

**TABLE 9.9**

<b>TRANSITION AND BUFFER REQUIREMENTS</b>						
Existing Use	High Impact Non-res./9+ units	Other non-res.	2-8 units Residential	Mixed Use	Single Family Residential	Undeveloped
Developing Use						
High Impact Non-Res./Multi-Family 9+	N/A	Buffer B	Buffer A	Buffer A	Buffer A	Buffer B
Other Non. Res.	[Buffer C]	N/A	Buffer B	Transition	Buffer B	Buffer for most protected use allowed
2-8 Unit Multi-Family	[Buffer C/ Transition]	[Buffer D or Transition]	N/A	Transition	Buffer C	As above
Mixed Use	[Buffer B]	[Transition]	[Transition]	N/A	Buffer C or Transition	Buffer D
Single Family	[Buffer A]	[Buffer B]	[Buffer B]	[Transition]	N/A	N/A

*Note: Bracketed items are suggested, not mandatory.*

**9.9.2 Walls, Berms and Fences in Buffers:** Where walls, berms or fences are built within any required project boundary buffer, they shall meet the following requirements:

- (1) All walls, when located within a buffer, shall be planted on the side facing the adjacent property with at least one (1) upright shrub for every six (6) feet of wall length. Where shrubs are planted adjacent to a wall, the minimum distance between the wall and the property line shall be four (4) feet.
- (2) The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.
- (3) Berms located within a buffer shall have side slopes of not less than three (3) feet horizontal for each one (1) foot vertical and a minimum crown width of two (2) feet.
- (4) Prior to issuance of the first certificate of compliance, berms shall be planted to ensure coverage by live plant material within three (3) to five (5) years.
- (5) Fences shall be maintained in a structurally safe and attractive condition and with finished faces and plantings located towards the adjacent property with at least one (1) upright shrub for every six (6) linear feet of fence length.

**9.9.3 Separate Parcels for Stormwater Management:** Where a separate legal parcel is permitted for stormwater management, buffers consistent with those required for the remainder of the project shall be required.

#### **9.9.4 Permitted Activity Within Project Boundary Buffers:**

- (1) Driveways or walkways may cross a project boundary buffer, provided they cross at as near a perpendicular angle as practical. Walking paths or trails may be placed within project boundary buffers.
- (2) Existing specimen trees, as defined in Section 9.6, Protection of Existing Vegetation, that are located within a required project boundary buffer shall be retained, except where the approving authority determines that the removal of such trees is required to provide safe and reasonable access to the property.

#### **9.9.5 Variations in Buffer Width**

Buffer width shall normally be calculated as perpendicular to the property line, however, design variations may be allowed and shall be calculated based on the average width of the buffer per one hundred (100) feet or portion thereof. In no case shall the minimum width of the buffer be less than one-half ( $\frac{1}{2}$ ) the required width. The maximum width, for the purposes of installing required landscaping or receiving credit for existing vegetation, shall not be more than one and one-half ( $1\frac{1}{2}$ ) times the required buffer width.

#### **9.9.6 Off-Site Vegetation**

Existing plant material on adjacent property may be credited toward buffer requirements, provided that such material is in a permanently protected area such as a conservation or landscape easement or similarly preserved area. Credit for offsite plant material shall be calculated as provided in Section 9.8.

#### **9.9.7 Standards**

- (1) Constructed Buffer: The following four (4) basic buffer templates and two (2) alternatives are to be used as specified in table 9.9.
  - (a) The Type A Opaque Buffer is used between high impact uses and residential or mixed uses. It provides a continuous, solid screen to the height of six (6) feet, serving as a sight and noise barrier. The buffer width is fifty (50) feet. Trees required may not have greater than five (5) foot opening between mature canopies. Fifty percent (50%) of trees and one hundred percent (100%) of shrubs must be evergreen.
  - (b) The Type B Opaque Buffer is used in cases of lesser degrees of incompatibility, such as between non-residential uses that are not high impact and residential uses. Its planting requirements are the same as the Type A buffer but with a thirty (30) foot width.
  - (c) The Type C Semi-Opaque Buffer is used in relatively low incompatibility cases; such as between mixed use development and detached dwellings. It provides a semi-solid screen allowing views between properties. The buffer width is twenty (20) feet.

Trees required may not have greater than ten (10) foot opening between mature canopies. No understory trees and fewer shrubs are required.

- (d) The Type D Open Buffer provides a tree buffer while allowing view between properties. The buffer width is ten (10) feet with three (3) canopy trees and three (3) understory trees per one hundred (100) feet of length. The buffer width is ten (10) feet. Canopy spacing is not to exceed twenty (20) feet.
  - (e) The Type E Overhead Utility Buffer shall be permitted only where overhead utilities make larger tree planting impractical. It is defined as the applicable Type A, B, C, or D Buffer with canopy trees replaced by understory trees.
  - (f) The Type F Intense Buffer is an alternative allowing reduction of buffer width by replacing shrubs with a wall, fence or berm. Type A buffers may be reduced to thirty-five (35) feet, type B buffers to twenty-five (25) feet, Type C buffers to fifteen (15) feet.
    - i. Use of Type F Buffers may be approved as part of site plan, preliminary plat, development plan, compatible use, or flexible use approval. The approving authority may allow comparable flexibility in buffer plantings or dimensions if the design intent of the applicable buffer type is satisfied.
  - (g) All shrubs used to meet constructed buffer requirements shall be upright shrubs.
- (2) Natural Buffers: Existing healthy, natural forest cover and other vegetation shall be used to meet buffer requirements in the Agriculture/Open Space and Low Density Residential Districts as follows:
- (a) Where the existing tree cover exceeds fifteen (15) feet in height; and
  - (b) Where the existing tree canopy covers seventy-five percent (75%) or more of the required buffer area.
  - (c) The minimum width of a required natural buffer shall be fifty (50) feet.
- (3) Natural Buffer as an Option: In zoning districts that do not require use of a natural buffer, a natural buffer may be employed. A minimum natural buffer width of twenty-five (25) feet or the width required to satisfy the applicable constructed buffer requirement, whichever is greater, shall be provided in these instances.
- (a) Tree Protection in Natural Buffers
  - (b) In addition to the requirements of Section 9.11, Tree Protection and Tree Coverage
  - (c) Preservation, trees within natural buffers shall be protected as follows:

- (d) For the trees with a diameter at breast height of thirty (30) inches or less, seventy-five percent (75%) of the root protection zone shall be undisturbed; and
  - (e) For trees over thirty (30) inches diameter at breast height, at least ninety percent (90%) of the root protection zone shall be undisturbed.
- (4) Additional Planting: The Development Services Director, or designee, may require additional planting in a natural buffer if it does not meet the vegetation standards required for the applicable constructed buffer. Sampling of existing vegetation within a natural buffer shall be required to determine if it meets this standard.

### **9.9.8. Land Disturbance Buffers**

- (1) Land disturbing activity of five (5) acres or more where no other site improvements are proposed shall require perimeter buffers at all exterior lot lines pursuant to this section.
- (2) Buffers required by this section shall no longer be required if a site plan for other site improvements (other than preliminary plat) has been approved, although buffers may be required by other provisions of this Ordinance.
- (3) If such a site plan or a final plat is approved, the required land disturbance buffer shall be retained until a project boundary buffer pursuant to Section 9.9.1., Constructed Buffers, is installed, or a natural buffer pursuant to Section 9.9.2. Natural Buffers, is approved.
- (4) No grading shall be allowed within land disturbance buffers except to provide reasonable access and for utility installation. Utilities shall be located to limit disturbance to existing vegetation and shall be approved prior to installation.
- (5) Perimeter land disturbance buffers adjoining other properties (along exterior property lines), a minimum of thirty-two (32) feet in width, measured perpendicular to the boundary of the site, shall be in place prior to any land disturbing activity, unless the adjoining property is undeveloped and has had no applications for development filed, in which case no perimeter land disturbance buffers shall be required on those sides of the site proposed for disturbance.
- (6) Such buffers, when required, shall consist of existing vegetation with supplemental vegetation added, when necessary, that meets or exceeds the requirements of Table 9.9, Constructed Buffer.
- (7) Land disturbance buffers along public right-of-way at least fifty (50) feet in width measured perpendicular to the boundary of the site shall be in place prior to any land disturbing activity.
- (8) Such buffers shall consist of preserved vegetation with supplemental vegetation added, when necessary, that meets or exceeds the standards of Table 9.9, Constructed Buffer, exclusive of areas for reasonable access or for utility installation.

- (9) Exemptions: Forestry activities conducted in conformance with a Forest Management Plan that uses the current best management practices as adopted by the Mississippi Forestry Commission shall not require a land disturbance buffer.
- (10) Revegetation: Revegetation is required where land disturbing activity has taken place, and no site plan for improvements has been approved within two (2) years.
- (a) An owner shall have two (2) years from the date that a site plan is approved for land disturbing activity subject to this section where no other tract improvements are proposed either to secure site plan approval for development of the tract or to revegetate the site.
- (b) Revegetation required by this section shall not be required upon approval of a site plan for site improvements (other than a preliminary plat) for that portion of the development tract with such improvements proposed. The remainder of the development tract shall continue to require revegetation until a site plan showing other site improvements (other than a preliminary plat) is approved.
- (c) Standards: So long as the required land disturbance buffers pursuant to this section have been provided and maintained, revegetation of a tract with a ground cover sufficient to restrain erosion shall satisfy the requirement for revegetation.
- i. If the required land disturbance buffers were not provided and maintained, revegetation of a tract shall create a biological community composed of a mixed and variable assemblage of native vegetation which is appropriate for the existing site conditions with at least three (3) different species of trees native to Mississippi and a tree density of at least two hundred (200) living trees per acre, with at least fifty percent (50%) of those trees having the potential of attaining a two and one-half (2 ½) inch or greater diameter at breast height within seven (7) years.

## **9.10 Riparian Buffers**

### **9.10.1 Purpose**

The primary purpose of the riparian buffer protection standards is to maintain land adjacent to streams in a vegetated state in order to enhance and maintain water quality, protect stream channel wetlands, minimize stormwater runoff, reduce sedimentation and erosion, conserve plant and wildlife habitat and protect movement corridors.

**9.10.2 Types of Riparian Buffers and Naturally Occurring Ponds and Lakes:** Riparian buffers shall be clearly indicated on all development plans, site plans, preliminary plats and final plats.

Where maps show a difference in stream type for a particular reach of stream, the map that shows the greater level of stream protection shall apply.

- (1) Riparian Buffer Size: Riparian buffers shall apply on each side of the stream and shall begin at the most landward limit of the top of the bank perpendicular to the direction of stream flow. Riparian buffers shall be a minimum of fifty (50) feet in width for perennial streams and thirty (30) feet in width for intermittent streams.
- (2) Riparian Buffer Use Limitations: Land within the riparian buffer shall not serve to meet minimum lot size requirements, except on property zoned A-O, Agriculture/Open Space, or LDR, Low Density Residential, where at least fifty percent (50%) of the required lot area is outside the riparian buffer.
  - (a) Buildings and other features that require grading and construction shall be set back at least ten (10) feet from the edge of the riparian buffer.
  - (b) To avoid a loss of effectiveness in protecting streams, the riparian buffer shall remain in natural undisturbed vegetation except as provided by this section or allowed pursuant to a variance approved by the Planning Committee in accordance with Section 12.14, Variances. Riparian buffers within any Mixed Use Zoning District may be landscaped rather than left in an undisturbed state, at the discretion of the property-owner in accordance with an approved revegetation plan.
  - (c) Any use allowed by this section shall be designed and constructed to minimize the amount of intrusion into the riparian buffer and to minimize clearing, grading, erosion and water quality degradation.
  - (d) Crossings by streets, driveways, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the riparian buffer. Such facilities may run generally within and parallel to the riparian buffer only where no alternative location is practical and when their design minimizes the amount of intrusion of the riparian buffer.
  - (e) Stormwater control structures and temporary erosion control structures shall be considered utilities for the purposes of this section and may be allowed in riparian buffers provided that:
    - (i) The property owner or applicant demonstrates to the satisfaction of the City Public Works Director or City Engineer, or their designees, as appropriate, that such facilities cannot be practicably located outside of the riparian buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and riparian buffer. Siting stormwater control structures away from the stream channel shall be considered preferable to siting such structures in the stream channel;
    - (ii) Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the riparian buffers; and

(iii) A vegetated buffer of a width determined by the City Public Works Director or the City Engineer, or their designees, as appropriate, may be required around the stormwater control structures.

(iv) Sanitary sewer lines, on an alignment generally parallel to the stream, may be allowed in riparian buffers, provided that:

(v) The property owner or applicant demonstrates to the satisfaction of the City Public Works Director or the City Engineer, or their designees, as appropriate, that the lines cannot be practicably located outside of the riparian buffer;

(vi) Design and construction specifications minimize damage to the stream and the possibility of line leakage; and,

(vii) The line is generally located at least thirty-five (35) feet from the top of the stream bank and the easement is no closer than twenty (20) feet from the top of the bank.

(viii) Riparian buffers may be used for passive recreational activities, such as trails, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the riparian buffer.

## **9.11 Tree Protection and Tree Coverage Preservation**

**9.11.1 Purpose and Intent:** The purpose and intent of this Section is to:

- (1) Assist in providing adequate light and air;
- (2) Prevent erosion and siltation and aid in the absorption of air pollutants through conservation of trees and other vegetation;
- (3) Provide visual buffering and enhance the beautification of the City of Tupelo;
- (4) Safeguard and enhance property values and protect public and private investment;
- (5) Provide habitat for living things that might not otherwise be found in the urban environs; and,
- (6) Protect the quality of water resources from future degradation by maintaining vegetative cover and controlling disturbance of vegetation.

**9.11.2 Applicability:** The requirements of this Section shall apply to all uses for which minor or major site plan or major subdivision approval is required pursuant to Chapter 13 of this Ordinance.

**9.11.3 Tree Protection:** The intent of this section is to minimize the removal of protected trees in commercial and residential developments. It is the further intent of this section to ensure that

developers take reasonable measures to design and locate proposed improvements so that the number of protected trees that may be approved for removal is minimized. The design shall especially protect and preserve historic and specimen trees.

- (1) **Protected Trees:** The types of trees listed below are considered protected trees for the Development Code.

**LIST OF PROTECTED TREES: Minimum Diameter: Eight (8) inches**

Butternut Hickory	Shagbark Hickory	Tulip Poplar
Shellbark Hickory	Mockernut Hickory	White Ash
Green Ash	Sycamore	American Elm
Redbud	Black Gum	American Hornbeam
Red Oak	Post Oak	Hophornbeam
Willow Oak	Water Oak	Dogwood
Shumard Oak	White Oak	Southern Magnolia
Sugar Maple	Red Maple	Pecan

- (2) In all zoning districts where commercial or residential uses are allowed as by right, compatible or flexible uses, no person shall remove or otherwise damage any protected tree prior to submittal of development plans, or during the development process, without submittal of a tree survey and the execution of an agreement between the property owner and/or developer and the city, stating any tree replacement requirements that may apply to future development of the property.
- (3) **Historic and Specimen Trees:** An historic tree is one that is designated by the City of Tupelo as being of notable historical interest and value due to its association with the physical and cultural development of the City of Tupelo. Upon identification of an historic tree, the City shall hold a public hearing for designation purposes and due notice provided to the owner of the tree.
- (a) A specimen tree is one that is designated by the City of Tupelo as being of high value due to its type, size, age and other relevant criteria. Upon identification of a specimen tree, the City shall hold a public hearing for designation purposes and due notice provided to the owner of the tree.
- (b) No historic or specimen tree shall be removed without finding by the City of Tupelo that the tree is a hazard or that it is not economically or practically feasible to develop the parcel without removing the tree.

**9.11.4 Tree Removal Procedure:** The procedures and standards for review of planned tree removal shall be as follows:

- (1) Any person desiring to remove trees in connection with, or for the purpose of, the construction or development of a development requiring minor or major site plan or major subdivision approval, shall first submit a site plan to the Development Services Department. The preliminary plat required by Section 12.10 or the site plan required by Section 12.11 shall be sufficient to satisfy this requirement provided it contains a generalized tree survey based upon the most current available information.
- (2) The tree survey shall show the approximate location, extent and type of protected trees upon the site, including common or scientific names of the major groups of trees. The survey shall indicate which protected trees are intended for removal and/or grubbing and which will be left undisturbed. For nonresidential and multifamily development, the survey may be in the form of an aerial or a field survey, and shall be accompanied by photographs illustrating areas of trees.
- (3) If site development plans have been prepared, the survey shall be prepared to the same scale or in some other manner which clearly illustrates the relationships between areas of protected trees and proposed site improvements. If site development plans are available, the survey shall be prepared to a convenient scale which clearly reveals the extent of protected trees upon the site.
- (4) The site plan and accompanying documents shall be submitted in copies sufficient to administer this Section, and shall include the name, address, and telephone number of the land owner and his agent.
- (5) The filing of a site plan shall be deemed to extend permission to the City of Tupelo employees and/or Planning Committee members to inspect the subject site if necessary for purpose of evaluating the application.

**9.11.5 Review Criteria:** No site plan or preliminary subdivision plat shall be approved authorizing the removal of a protected tree unless the developer/owner demonstrates one (1) or more of the following conditions:

- (1) A permissible use of the site cannot reasonably be undertaken unless specific trees are removed or relocated;
- (2) The tree is located in such proximity to an existing or proposed structure that the safety, utility, or structural integrity of the structure is materially impaired;
- (3) The tree materially interferes with the location, servicing or functioning of existing utility lines or services;
- (4) The tree creates a substantial hazard to motor, bicycle, or pedestrian traffic by virtue of physical proximity to traffic or impairment of vision;
- (5) The tree is diseased, insect ridden, or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or other improvements;

- (6) The removal of the tree is necessary to promote the growth of surrounding protected trees. Under this provision, the applicant must demonstrate a preference for protecting historic and specimen trees. Trees removed pursuant to this subsection are exempt from tree replacement requirements; or
- (7) Any law or regulation requires the removal.

**9.11.6 Review Procedures:** The City of Tupelo Development Services Department shall review each completed site plan or preliminary plat according to procedures stated in Sections 12.10 and 12.11.

#### **9.11.7 Replacement of Removed Trees**

- (1) Protected trees removed shall be replaced at the expense of the developer/owner. Each removed tree shall be replaced with a new tree(s) having a total tree caliper equivalent to that of the removed tree. Replacement trees shall be of species appropriate for mitigation of the specific function (canopy, ornamental, et cetera) of removed trees.
- (2) Single-trunk replacement trees shall be a minimum of two (2) inches in diameter at a point six (6) inches above the base and a minimum of six (6) feet in overall height.
- (3) A replacement tree may be a tree moved from one (1) location to another on the site.
- (4) If the developer/owner demonstrates to the satisfaction of the Development Services Department that the site cannot accommodate the total number of required replacement trees as a result of insufficient planting area, the developer/ owner shall provide the remaining replacement trees, of species approved by the city arborist, at the appropriate planting season to the City of Tupelo Public Works Department for placement on city or other public property in the City of Tupelo.
- (5) Cash payment in lieu of replacement trees may be accepted with documentation of current cost of appropriate trees.
- (6) Any replacement tree, planted for credit, which dies within one (1) year of planting, shall be replaced by a tree of a minimum of two inches in diameter and a minimum of ten (10) feet in overall height at the time of planting.

**9.11.8 Protection of Trees During Development Activities:** Generally, to assure the health and survival of protected trees that are not to be removed, the developer shall avoid the following kinds of tree injuries during all development activities:

- (1) Mechanical injuries to roots, trunk, and branches;
- (2) Injuries by chemical poisoning;
- (3) Injuries by grade changes;

- (4) Injuries by excavations; and
- (5) Injuries by paving.

**9.11.9 Tree Protection Zone:** A circular tree protection zone shall be established around each protected tree or group of protected trees as follows:

- (1) If the drip line is less than six (6) feet from the trunk of the tree, the zone shall be that area within a radius of six (6) feet around the tree.
- (2) If the drip line is more than six (6) feet from the trunk of the tree, but less than twenty (20) feet, the zone shall be that area within a radius of the full drip line around the tree.

**9.11.10 Development Prohibited Within the Tree Protection Zone:** All development activities shall be prohibited within the tree protection zone provided for any protected trees, including any construction of buildings, structures, paving surfaces, and stormwater retention/detention ponds. All temporary construction activities shall also be prohibited within tree protection areas, including all digging, concrete washing, storage of construction material, and parking of construction vehicles.

**9.11.11 Fencing of Tree Protection Zone:** Prior to the commencement of construction, the developer shall enclose the entire tree protection zone within a fence or similar barriers as follows:

- (1) Steel "T" posts shall be implanted in the ground deep enough to be stable and with at least five (5) feet above ground;
- (2) The protective posts shall be placed not more than six (6) feet apart, and shall be linked together by a rope, chain, or highly visible woven fabric;
- (3) During construction, each tree protection zone shall be clearly identified with two (2) temporary signs that is at least four (4) feet in height and at least eighteen (18) inches by twenty-four (24) inches in size.

**9.11.12 Permitted Activities Within Tree Protection Zone**

- (1) **Utility Excavation:** Excavating or trenching by duly constituted utilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case utility lines shall be tunneled beneath tree roots in order to protect feeder roots.
- (2) **Sodding and Ground Cover:** Placement of the sod or other ground covers and the preparation of the ground surface for such covers shall be permitted within the tree protection zone.

### **9.11.13 Parking Reduction for Preservation of Protected Trees**

- (1) A reduction of required parking spaces may be allowed or required by the Development Services Department when the reduction would result in the preservation of a significant tree with a trunk of twelve (12) inches in diameter or greater.
- (2) The reduction in required parking may be granted or required only if it will prevent removal of a significant tree that is located within the area of the site designated as a parking lot area.
- (3) The reduction in required parking spaces shall not exceed the number of parking spaces required to protect and maintain protected trees, or ten percent (10%) of the required number, whichever is less.

### **9.11.14 Tree Coverage Preservation**

Development proposals requiring tree protection according to Section 9.11(1) (b). above and which have ten percent (10%) or more of the property covered by trees shall be required to preserve or to mitigate the removal of some of the tree coverage area. Tree coverage preservation supersedes the tree protection procedures of Section 9.11 (4) and tree replacement requirements of Section 9.11. (5).

**9.11.14.1 Required Preservation Standards:** All tree coverage areas located within riparian buffers or project boundary buffers as required according to sections 9.9 and 9.10 shall be preserved.

Projects located in the Agriculture/Open Space or Low Density Residential zoning districts shall preserve or mitigate fifty percent (50%) of tree coverage area outside riparian or boundary buffers.

- (1) Projects located in the Medium Density Residential or Mixed Use Residential zoning districts shall preserve or mitigate thirty-five percent (35%) of tree coverage area outside riparian or boundary buffers.
- (2) Projects located in all other zoning districts shall preserve or mitigate twenty percent (20%) of tree coverage area outside riparian or boundary buffers.
- (3) For the purposes of calculating tree coverage requirements, the water surface area of ponds, streams, and other water bodies shall be excluded from the total land area of the development tract.
- (4) Insert drawings of existing tree coverage, tree coverage removal, tree coverage preservation

#### **9.11.14.2 Mitigation Plan Requirement**

- (1) In lieu of the tree survey required in the tree protection section above, a tree coverage mitigation plan may be submitted. The mitigation plan shall be prepared by a Mississippi registered forester, Mississippi registered arborist, or Mississippi registered landscape architect. The plan shall include:
  - (a) A report on the estimated number, size, species and location of trees on the site, based on an acceptable method of timber stand evaluation, as well as an estimate of the square footage or acreage of tree coverage;
  - (b) Identification of any specimen trees or trees which may be candidates for specimen tree designation;
  - (c) Identification of any tree coverage areas proposed for removal;
  - (d) An estimate of the total area required for preservation or mitigation based on the requirements above.

#### **9.11.14.3 Mitigation Options**

- (1) One hundred percent (100%) of the area of tree coverage that is preserved, including areas of mandatory preservation in buffers, shall count toward the total area required for preservation. This may include the canopy area of isolated or specimen trees.
- (2) Seventy-five percent (75%) of the area covered by the canopy of trees planted on site for landscaping purposes, estimated at ten (10) years from planting date, shall count toward the total area required for preservation.
- (3) Fifty percent (50%) of area reforested with seedlings, of a species mix similar to trees removed from site, shall count toward the total area required for preservation. Such reforestation areas shall be planted on public property as approved by the City Public Works Director, or on other areas within the City of Tupelo which are protected by permanent conservation easements.
- (4) Approved tree protection and replacement area shall be shown on all preliminary plats, final plats, site plans and development plans in order to clearly assign tree protection and replacement responsibility to future owners.
- (5) Allowable Uses of Preserved Tree Coverage Areas: Preserved tree coverage areas shall not be used for active recreational purposes, except for walking paths and foot trails constructed with minimal disturbance of tree roots and existing vegetation provided a Mississippi registered arborist, Mississippi registered forester, or Mississippi registered landscape architect has certified that the construction of the trail has been designed to minimize impact to the existing trees. No tree over ten (10) inches diameter at breast height shall be removed for the construction of trails.

- (6) All buildings shall be set back at least ten (10) feet from the edge of any preserved tree coverage area or shall be constructed in a way to minimize negative impacts to the area.
- (7) Utility lines and drainage channels shall be minimized within the root protection zones of trees to be saved. Preferably, such facilities should be located adjacent to driveways and in groupings as allowed by sound engineering practices and approved prior to installation.
- (8) Tree protection measures as stated above shall be applied to preserved tree coverage areas where needed.

## **9.12 Installation and Maintenance**

### **9.12.1 Responsibility**

Unless otherwise stated, the owner of any property where landscaping or buffering is required shall be responsible for the maintenance of all required plant material (including street trees located off-site), fences and walls. Maintenance responsibilities shall include the clearing and replacement of required material that is dead and/or dying.

### **9.12.2 Pruning**

- (1) Trees and shrubs shall be kept trimmed back from doors, windows, and walkways.
- (2) Necessary pruning and trimming shall be in accordance with the American National Tree, Shrub and Other Woody Plant Maintenance Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this Ordinance and additional plant material may be required by the Development Services Director or designee to replace or supplement the damaged plant material.

### **9.12.3 Extensions**

- (1) It is recognized that land development occurs continuously and that vegetation used in landscaping or screening should be planted at certain times to ensure the best chance of survival. In order to ensure compliance and to reduce the potential expense of replacing landscaping or screening materials which were installed at an inappropriate time or under unfavorable conditions, a letter of request for extension of compliance with landscaping requirements may be filed with the Development Services Director, or designee, which states the reasons why the request is being made. This letter shall acknowledge that the applicant is aware of all landscaping and screening requirements, and will comply with those requirements within ninety (90) days, or discontinue use of the property.

- (2) The Development Services Director, or designee, shall grant the extension on requests for planting extensions for single-family development submitted between May 15 and September 15 of each year and may grant the extensions for other uses and at other times if there are unfavorable conditions for planting.
- (3) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, an applicant may request one additional extension of up to ninety (90) days. During periods of extreme drought, the Development Services Director, or designee, may authorize additional ninety (90) day extensions beyond the one (1) extension typically allowed. These extensions may be continued throughout the period in which the extreme drought conditions remain.
- (4) The applicant shall also acknowledge that while a Conditional Certificate of Compliance may be issued, no Final Certificate of Compliance shall be issued while there is an active (pending) letter of request for extension of compliance with landscaping requirements unless a performance guarantee (such as a letter of credit or performance bond) sufficient to cover one hundred-fifty percent (150%) of the installed landscaping costs has been posted with the Development Services Department.

## **CHAPTER 10. SIGN REGULATIONS**

### **10.1 General**

#### **10.1.1 Purpose and Intent**

It is the purpose of this subchapter entitled “Sign Regulations” to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. This subchapter is not intended to censor speech or to regulate viewpoints, but instead is intended to regulate, in a content-neutral manner, any secondary effects of speech that may adversely affect aesthetics and traffic and pedestrian safety. The purpose of this subchapter is to:

- (1) Encourage the effective use of signs as a means of communication in the City;
- (2) Maintain and enhance the aesthetic environment and the City’s ability to attract sources of economic development and growth;
- (3) Improve pedestrian and traffic safety;
- (4) Minimize the possible adverse effect of signs on nearby public and private property;
- (5) Foster the integration of signage with architectural and landscape designs;
- (6) Allow signs that are compatible with their surroundings and that aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- (7) Regulate signs in a manner so as to prevent the interference with, the obstruction of the vision of, and/or the distraction of motorists, bicyclists, and/or pedestrians;
- (8) Allow for traffic control devices to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and to notify road users of regulations and provide warning and guidance needed for the safe, uniform, and efficient operation of all elements of the traffic stream;
- (9) Protect property values by precluding sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- (10) Protect property values by ensuring that the types and numbers of signs are in harmony with buildings, neighborhoods, and conforming signs in the area;
- (11) Preserve and enhance the historic character of the City; and
- (12) Enable the fair and consistent enforcement of these sign regulations.

### **10.1.2 Effect**

- (1) To establish a permit system that allows a variety of types of signs on business premises and a limited variety of signs on other premises, subject to this Code and its permit procedures;
- (2) To allow certain small, unobtrusive signs incidental to the principal use of a site without a permit if such signs meet the substantive requirements of this Code;
- (3) To prohibit off-premise advertising signs, except where billboards are permitted by state or federal law or by this Code;
- (4) To allow a variety of types of noncommercial signs subject to the same substantive and permit requirements that control on-premise signs;
- (5) To allow certain types of signs to make minor encroachments of the public right-of-way, if specially permitted; and
- (6) To prohibit all signs not expressly permitted by this Code.

### **10.1.3 Applicability**

This Section applies to signs which are intended to be viewed from a public right-of-way such highways and streets, and to signs which are intended to be viewed from outdoor areas of public and private property used for public pedestrian purposes or vehicular access to such property.

This Section does not regulate the use of materials such as noncommercial holiday signs and decorations, signs on products, product containers or dispensers, public information and safety signs placed by government entities in their own rights of way, any signs required by local State or Federal law, or building design exclusive of any commercial message.

### **10.1.4 Approval Requirement**

Except as otherwise stated in this Chapter, signs which are allowed under this Chapter shall not be erected or placed until and unless the person erecting or placing the sign or the property owner has obtained a sign permit from the Development Services Department pursuant to Section 12.13 of this Code.

All signs not specifically allowed by this Chapter are prohibited, unless a variance for their use is secured in accordance with Section 10.8 or 12.16 of this Code.

## 10.2 Interpretations and Definitions

A sign shall be any device, fixture, placard, or structure that uses color, form, graphics, words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, designs, trade names, or trademarks by which anything is made known such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, which are legible from any public street or adjacent property and used to attract attention. This definition includes the structure or the face on which a sign message is displayed.

- (1) For the purposes of this section, this definition shall not include "trade dress," i.e.; architectural features identified with a product or business, as a sign.
- (2) The words, terms and phrases set out below, when used in this subchapter, shall have the meaning ascribed to them in this subchapter, except where the context clearly indicates a different meaning.

### 10.2.1 Definitions

**ARTWORK:** A two (2) or three (3) dimensional representation that is expressed in a form and manner as to provide aesthetic enjoyment for the viewer rather than to specifically convey the name of the business or a commercial message about the products or services offered on the property upon which the artwork is displayed.

**BILLBOARD:** A permanent sign, which is not dependent upon a building for support, with a surface displaying renewable or replaceable messages, using pasted bills, paint, or other media, regardless of the content of the message, and usually communicating a commercial or non-commercial message related to an activity conducted, a service rendered or commodity sold at a location other than where the sign is located. All off-site, non-attached signs the advertising surface for which is for rent, lease or periodic fee, whether collected or not, shall be deemed a billboard sign.

**COPY:** Words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign face.

**COPY AREA:** The smallest geometric shape that encloses all graphics, letters, and logos of the sign face.

**FLAG:** Bunting or fabric of distinctive color and design that is used as an emblem, standard, decoration, or symbol and that is hoisted on a permanent flagpole or otherwise displayed from a building.

**MENU BOARD:** A structure primarily designed for the display of menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant utilizing drive-through or curbside service.

**NEON:** Lights, tubes, or other devices used to emit neon light.

**ROOF LINE:** The apex, or highest point of the roof. In a series of roofs, the apex of the lowest roof will be considered.

**SIGN, ABANDONED:** Any sign that is located on property which becomes vacant and is unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, and which sign is nonconforming to the requirements of this Section; a sign that has been blank for sixty (60) days or more; or a lawfully erected temporary sign for which the time period allowed for display of the sign has expired.

**SIGN, A-FRAMED: (also a SANDWICH BOARD)** A freestanding upright sign on a rigid supporting frame in the form of a triangle or an inverted V.

**SIGN, ANIMATED:** Any sign that moves or that appears to move by any means, including fluttering or rotating. Such signs shall also include, but not be limited to, pennants, ribbons, streamers or propellers.

**SIGN, ATTACHED:** A sign that is permanently affixed to or painted on a building, canopy, or wall and that has a permanent or changeable copy face. Attached sign types include wall signs, awning signs, canopy signs, marquee signs, projecting signs and suspended signs.

**SIGN, AWNING:** A sign that is part of or attached to the face or valance of an awning and that is constructed in the same fabric or material as the awning.

**SIGN, BANNER:** A sign made of flexible material that advertises a business, an event, or a product for sale.

**SIGN, CANOPY:** A sign that is attached to a structure constructed of rigid materials that may be attached to and supported by a building and/or that is also supported by columns, poles, or braces extending to the ground.

**SIGN, CHANGEABLE COPY:** Any sign designed so that letters or numbers physically attached to the sign can be periodically changed to indicate a different message.

**SIGN, CONVENIENCE:** A sign displayed only for the direction, safety, and convenience of the public. Convenience Signs may include, without limitation, address signs, address and name plaques, signs identifying rest rooms, parking area entrances and exits, gas station self-service or full-service pump islands, freight entrances and exits, and other facilities that may require directional signage.

**SIGN, DEVELOPMENT:** A sign located at the entrance to a residential development and constructed of masonry or natural materials, except for attached letters or logos.

**SIGN, DEVELOPMENT-IN-PROGRESS:** A temporary sign that may include, without limitation, the name of the project, the architect, the contractor, the developer, the engineer, the financing institution, or the materials supplier for the site, whose construction is active, or announcing the future development.

**SIGN, DIRECTORY:** A sign displaying the names and/or logos of two (2) or more businesses located in the same building, shopping center, or development.

**SIGN, ELECTRONIC GRAPHIC DISPLAY:** Any sign that displays still images, scrolling images or moving images, including video and animation, utilizing a series or grid of lights that may be changed through electrostatic means, including cathode ray, light emitting diode (LED) display, plasma screen, liquid crystal display (LCD), fiber optic or other electronic media or technology.

**SIGN, ELECTRONIC READER BOARD:** A sign capable of electronically displaying and changing advertising copy, but not images.

**SIGN, FREESTANDING: (also GROUND MOUNTED)**

(1) A sandwich board sign; or

(2) A sign supported by a sign structure that is secured in the ground and that is wholly independent of any building or object, other than the sign structure, for support. Freestanding signs include monument and pylon signs.

**SIGN, GOVERNMENT IMITATION:** A sign that copies, imitates, or in any way approximates an official highway sign or carries the words “Stop” or “Danger.” Also, a sign that obscures a sign displayed by public authority for the purpose of giving traffic instruction or direction, or other public information, including any authorized traffic control sign, signal, or similar device.

**SIGN, HAND HELD:** A sign that is held by or otherwise mounted on a person.

**SIGN, SUSPENDED:** A sign mounted on beams, brackets, or poles projecting from a building.

**SIGN, INTEGRAL:** A sign or plaque carved into stone, concrete, or similar material, or made of bronze, aluminum or other permanent type metal materials, and made an integral part of the structure.

**SIGN, MENU BOARD:** A structure primarily designed for the display of menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant utilizing drive-through or curbside service.

**SIGN, NON-CONFORMING:** A sign lawfully constructed or erected prior to the effective date of any ordinance or amendment containing provisions with which the sign does not comply, or any sign that was lawfully erected in compliance with the sign regulations in effect at the time it was erected, but that is no longer in compliance.

**SIGN, OFF-SITE:** Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location that is not located on the premises

upon which the sign is located. This shall not include traffic, directional or regulatory signs or notices erected by a federal, state, county, or municipal government agency.

**SIGN, PARKED VEHICLE:** Signs placed on or affixed to vehicles or trailers that are parked on a right-of-way or on public or private property so as to be visible from a public right-of-way. This term does not include signs that advertise the sale of the vehicles on which they are placed or that are placed on or affixed to vehicles but that are incidental to the primary use of the vehicle or trailer.

**SIGN, PERMANENT:** A sign that is intended for other than temporary use or a limited period. A permanent sign is usually affixed or attached to the exterior of a building or to a pole or other structure by adhesive or mechanical means or is otherwise characterized by anchoring, construction materials, or a foundation indicative of an intent to display the sign for more than a limited period.

**SIGN, POLITICAL:** A temporary sign erected on private property for the purpose of supporting a political candidate or stating a position regarding a political issue or similar purpose.

**SIGN, PORTABLE:** A temporary sign or device that is located on the ground, is easily movable, and is not permanently attached to the ground. Portable signs include, but are not limited to, counterbalance signs, trailer signs, and any variations thereof.

**SIGN, PROJECTING: (See SIGN, SUSPENDED)**

**SIGN, PYLON:** A free standing sign consisting of a display elevated above the ground on one (1) or more poles or columns.

**SIGN, PUBLIC:** A sign that is in the public interest and that is erected by, or on the order of, a governmental entity or agency. This term includes, without limitation, safety signs, danger signs, trespassing signs, traffic signs, signs of historical interest, wayfinding signs, signs pertaining to events sponsored or co-sponsored by the Town, and other similar signs.

**SIGN, REAL ESTATE:** A temporary sign pertaining to the sale, lease, or rental of property. This term includes, but is not limited to, real estate directional, open house, and open house directional signs.

**SIGN, ROOF:** An attached sign wholly or partially dependent upon the roof of any building for support. A roof does not include a mansard mounted on a parapet wall.

**SIGN, SANDWICH BOARD: (also an A-FRAME SIGN)** A freestanding upright sign on a rigid supporting frame in the form of a triangle or an inverted V.

**SIGN, SNIPE:** Any sign other than a convenience sign that is affixed by any means to trees, utility poles, fences or other objects.

**SIGN, TEMPORARY:** A sign that is intended for temporary use and a limited period, as allowed by this subchapter. Temporary Signs may include, but are not limited to: auction signs, banners, balloons, builder signs, development in progress signs, garage sale signs, grand opening signs, political signs, portable signs, real estate signs,

**SIGN, VARIABLE DISPLAY:** A sign on which the copy and/or images may be changed, whether by rearrangement of physical lettering and graphic elements or by electronically controlled displays. Variable display signs include changeable copy signs, electronic reader boards, and electronic graphic display signs.

**SIGN, WALL:** A sign designating the name of the business, institution, or organization which is attached to, in a rigid manner, and parallel to a building wall or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not extend more than twelve (12) inches from such building or structure.

**SIGN, WINDBLOWN:** Any device made of non-rigid material which by color and movement attracts attention for commercial purposes.

**SIGN, WINDOW:** A sign placed within, affixed to, in contact with, or located within twelve (12) inches of a window and intended to be seen from the exterior.

**SPECIAL EVENT DISPLAY DEVICE:** Any device used for advertising display not otherwise defined in this ordinance, including inflatables, tents, tethered balloons and similar items.

**STRING LIGHTING:** Lighting used to outline a structure and to attract attention for commercial purposes.

**UNIFORM SIGN PLAN:** A plan establishing parameters for the size, location and design of signs in a planned development.

### **10.3 Sign Standards**

#### **10.3.1 Sign Area**

- (1) The area of a sign shall include all lettering, wording, designs and symbols, together with the background, whether open or enclosed, on which they are displayed. The supporting structure or bracing of a sign shall be omitted in measuring the area of the sign unless such structure or bracing is made part of the message or face of the sign.
- (2) Where a sign consists of individual letters, words or symbols attached to a surface, building, canopy, awning, wall or window and all such elements are located in the same plane, the sign area shall be the area of the smallest rectangle which completely encompasses all such letters, words or symbols and any accompanying background of a color different than the natural color of the wall.

- (3) On all signs other than wall signs, which shall only be allowed one (1) face, signs with identical sign faces placed in such a manner to ensure that the angle at which the two (2) sign faces are placed does not exceed sixty (60) degrees, shall be considered as a single (1) face. The area for a sign with more than one (1) face, placed at an angle that exceeds sixty (60) degrees, shall be computed by adding together the area of all sign faces.
- (4) The area of the address number required by Section 8.2 of the Tupelo Municipal Code, Structure Address Regulations, shall not be computed as part of the sign face unless it exceeds twice the minimum number height requirement. All such street address numbers shall be displayed in accordance with Section 8.2 of the Tupelo Municipal Code.

### **10.3.2 Sign Height**

The height of a sign shall be computed as the distance from the base of the sign at a computed grade to the top of the highest attached component of the sign (including the sign face, sign structure, or any other appurtenance). The computed grade shall be the natural grade of the land at the site of the sign, exclusive of any berm height.

### **10.3.3 Illumination**

Sign illumination shall only be achieved through the following standards. The Planning Committee shall hear and decide any appeals of staff decisions related to the interpretation of this section.

#### **(1) External Illumination:**

- (a) Signs that are externally illuminated shall have the light source shielded from adjacent buildings and streets, and no sign or device shall produce glare or illumination so as to create a nuisance or a safety hazard to adjacent property owners or to the traveling public.
- (b) Illumination shall be achieved via a steady, stationary white light of reasonable intensity that is directed solely at the sign.
- (c) No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color.
- (d) Electrical lights and fixtures shall not be attached to a sign unless they are installed in accordance with the current adopted National Electrical Code.

#### **(2) Internal Illumination:**

Internally illuminated signage may not be located within 100 feet of mixed use residential, medium density residential, or low density residential zoning districts.

### **10.3.4 General Visibility Quality**

Because these regulations can only establish the physical characteristics of signage and not enforce a level of visual quality in sign design, anyone planning a sign is strongly encouraged to consider:

- (1) The character of the proposed sign, not only in and of itself, but also in terms of the effects a sign will have upon the character of the surrounding area;
- (2) The way in which the sign will be read and whether its size, location, configuration, and character are appropriate to its intended audience or whether a more appropriate sign could better serve its intended purpose and, at the same time, be less visually disruptive; and
- (3) The character of the sign structure, (the physical means of supporting the sign,) and whether that structure could be made an integral part of the sign rather than a separate and frequently distracting element.
- (4) Signs shall be located so as not to block windows, doors or other means of ingress and egress. No sign shall be erected or placed in such a manner as to impair visibility of any motorists.
- (5) No person may, for the purpose of increasing or enhancing the visibility of signs, damage, trim, destroy or remove any trees, shrubs, or other vegetation located as follows:
  - (a) Within public right-of-way, unless the work is done pursuant to the express written authorization of the City of Tupelo or State of Mississippi, whichever is appropriate.
  - (b) On property that is not under the ownership or control of the person conducting or responsible for the work, unless the work is done pursuant to the express authorization of the person owning the property on which the trees or shrubs are located; or
  - (c) In any area where trees or shrubs are required to remain under an approved development contract.

### **10.3.5 Design, Construction and Maintenance**

- (1) All signs shall comply with applicable provisions of the International Building Code and the National Electrical Code as currently adopted by the City of Tupelo. Sign shall maintain a minimum horizontal clearance of eight (8) feet in addition to the fall radius and a vertical clearance of a least eight (8) feet from electrical lines, or the minimum clearance in accordance with the provisions of the current adopted National Electrical Code, which either is greater. Windblown signs shall not be allowed to deteriorate to a tattered, torn, or faded condition and shall be attached and secured properly at all times.

- (2) Signs shall be constructed of permanent materials and permanently affixed to the ground or building except for those signs that, by their nature, are considered temporary.
- (3) All signs and components thereof shall be maintained in a safe, neat, clean, attractive and structurally sound condition. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The premises surrounding signs shall be maintained in a clean, sanitary, and inoffensive condition, free and clear of obnoxious substances, rubbish, and weeds.
- (4) The Director of Development Services, or authorized representative, shall have the authority to inspect all signs and order the painting, repair, alteration or removal of a sign which shall constitute a hazard to the health, safety or general welfare of the public by reason of inadequate maintenance, dilapidation or obsolescence.
- (5) All signs constructed in whole or in part with glass, plastic or other breakable materials which shall suffer any breakage, whether from natural or other causes, shall be repaired by the owner of the premises on which the sign is located within a period thirty (30) days from the time the breakage occurs. Additional periods of time for repairs may be granted by the Director of Development Services, provided such extensions are requested in writing and the Director of Development Services finds that such extensions would not defeat the basic purposes of this Code.

#### **10.4 Temporary Signs Allowed Without Permit**

##### **10.4.1 On-Premise Real Estate Sign**

In residential districts on projects not involving multiple lots, such signs shall not exceed six (6) square feet in area and four (4) feet in height and are limited to one (1) per lot. In all other circumstances, such signs shall not exceed thirty-two (32) square feet in area and eight (8) feet in height. The sign shall be removed prior to the issuance of a Certificate of Compliance or within fifteen (15) days after closing or execution of a lease.

##### **10.4.2 Off-Premise Real Estate Sign**

- (1) Signs that solely provide directional information regarding the sale or lease of residential property.
- (2) The signs contain only directional information [i.e., directional arrows, "left 100 yards", "2nd right", etc.] and "house for rent", "open house", "new house(s) for sale" or the name of the project. Other information such as the name of a builder or real estate company is prohibited.
- (3) The signs shall be temporary signs on white background, unlit, and limited to two (2) square feet per side for a single user. The sign message may be placed on each side of the sign. The signs shall not exceed four (4) feet in height and shall not obstruct vision clearances.

- (a) In order to avoid the placement of a series of signs along several miles of roadway, no more than five (5) signs shall be allowed per project or per property when a single dwelling is for sale or rent. Signs shall be placed no farther one (1) mile from the project or property for which directions are given.
- (b) Each user is allowed only one (1) sign per intersection.
- (c) Signs for properties for sale or lease shall be removed when a contract is closed on the last property for sale or lease in the project.
- (d) To encourage assistance in compliance with these requirements, the Director of Development Services, or designee, may notify the Board of Realtors or the Home Builders Association regarding violations of these provisions.

#### **10.4.3 Public/Nonprofit Announcement Sign**

May be erected up to two (2) weeks prior to the event and shall be removed within seven (7) days after the event.

#### **10.4.4 Setback Requirements**

No temporary sign shall be placed or erected within the right-of-way of any street, or within fifteen (15) feet of any curb line or street edge. Temporary signs which do not meet the setback requirements may be removed by city staff without notice.

### **10.5 Permanent Signs Allowed Without a Permit**

#### **10.5.1 Convenience Sign**

An on-premise sign giving information or direction for the convenience and necessity of the public such as address signs, address and name plaques, signs identifying rest rooms, parking area entrances and exits, gas station self-service or full-service pump islands, freight entrances and exits, and other facilities that may require directional signage.

Convenience signs shall not exceed three (3) square feet of area per sign or four (4) feet in height and shall not contain any logos.

#### **10.5.2 Historic Marker Sign**

A sign attached to a building, indicating the date of construction or the name of the building or the principals involved in its construction. Also includes attached or freestanding historic or memorial markers erected by a governmental agency or private, nonprofit historic preservation or education organization pursuant to a plan or program for the erection of such signs or markers applied on a national, state or local basis or to properties within a duly authorized local historic district.

(1) **Historic Marker Standards:** The plan or program sponsoring the sign shall employ uniform standards of eligibility and the sign or marker shall commemorate a person, building, place or event of historical, civic, cultural, natural historical, scientific, or architectural significance.

(a) Each such sign or marker shall be made of cast metal, cut masonry, painted wood or metal or other similar weatherproof material.

(b) Signs attached to buildings shall not exceed six (6) square feet in area

**10.5.3 Window Sign:** Signs that are attached to, painted on, or etched into a window or displayed within twelve (12) inches (measured horizontally) of the window and are legible from outside of the window.

(1) Window signs shall not exceed ten percent (10%) of the window area on each façade and in combination with all other signs on the lot shall not exceed the maximum permitted sign area for the lot.

**10.5.4 Traffic Control Signs On Private Property:** Any public notice or warning required by applicable federal, state or local law, regulation or Code. Any federal, state, or local traffic control or other public sign when located on private property.

(1) The face shall meet Mississippi Department of Transportation standards.

(2) The sign shall contain no commercial logo or message.

**10.5.5 Vending Machines, Automatic Tellers, Gasoline Pumps:** Signs that display the name, trademark, prices or logo of the company or brand, provided the display is an integral part of a vending machine, automatic teller machine, or gas pump.

(1) The sign shall not exceed four (4) square feet in area per side.

**10.5.6 Residential Identification Sign**

(1) Up to two (2) freestanding signs may be placed on private property at each entrance to identify the subdivision.

(2) Each sign shall be limited to six (6) feet in height and twelve (12) square feet in area. Signs shall be incorporated into a permanent landscape feature such as a wall or masonry column.

**10.5.7 Mixed Use and Multifamily Developments**

(1) Up to two (2) freestanding signs may be placed on private property at each entrance to identify the project.

(2) Each sign shall be limited to six (6) feet in height and the total sign area shall not exceed

thirty-two (32) square feet in area for a single sign and sixteen (16) square feet each if two (2) signs are used.

- (3) The sign shall be incorporated into a permanent landscape feature such as a wall or masonry column.

#### **10.5.8. Windblown Signs**

- (1) Up to fifty (50) square feet of windblown signs, such as streamers, flags, pennants, et cetera, per one hundred feet of street frontage may be placed on property within Mixed Use Commercial Corridor or Mixed Use Employment zoning districts.
- (2) Windblown signs may not have any copy or logo relating to the business.
- (3) Such windblown signs shall be securely affixed to the ground or to a building and may not exceed twenty five (25) feet in height.
- (4) Windblown signs which become faded or tattered shall be replaced or removed.
- (4) Flags conforming to official standards of the United States Government or the State of Mississippi shall not be considered or used as windblown signs.

### **10.6 Temporary Signs Requiring Permit**

#### **10.6.1 Temporary Signs**

Temporary signs are intended for temporary use, not permanently mounted, and intended for a designated period of time. The temporary sign shall be for a special event, not a routine business activity. The following temporary signs shall be allowed in each zoning district, within the stated restrictions, provided permits are obtained for their construction or placement.

##### **(1) Free Standing Signs:**

- (a) Shall not be displayed for more than thirty (30) consecutive days.
- (b) Shall not exceed thirty-two (32) square feet.
- (c) Only one (1) sign shall be allowed per business per special event.
- (d) Each business site may be issued two (2) sign permits for a temporary sign within a twelve (12) month period. Each twelve (12) month period shall begin with the issuance of the first permit and shall expire twelve (12) months from that date.

**(2) Banners:**

- (a) Allowed for a total of one (1) period of two (2) weeks in duration per quarter (1/4) year for each business or location, and these periods may not be consecutive.
- (b) Banners shall not exceed seventy-five (75) square feet in size. Banners shall not be located within twenty (20) feet of any street.

**(3) Political Signs:**

- (a) Signs advertising political candidates, referenda or similar issues shall not be placed or erected more than ninety (90) days in advance of any election, referenda or similar issue.
- (b) Shall be removed within five (5) days after the election and special election in which the candidate is eliminated in the case of primary elections and within five (5) days after the general election for all other candidates, issues, and referenda.
- (c) All persons and groups wishing to use signs for political candidates, referenda or similar issues as a means of media within the City of Tupelo, shall pay an administrative fee of fifty dollars (\$50) to the City of Tupelo for all signs collectively prior to erecting any signs.
- (d) Such signs shall comply with size and setback regulations pertinent to permanent signs contained in Section 10.7.2.
- (e) Signs placed in violation of these regulations will be removed by City staff and deposited at City Hall. These signs will be released to the holder of the permit on payment of a fee of five dollars (\$5) per sign.

- (4) Special Event Display Devices:** Advertising display devices not otherwise provided for in this Code, such as inflatables, tents, tethered balloons, et cetera are allowable for a total of a period of one (1) week in duration per quarter (1/4) year for each business or location, and these periods may not be consecutive. A drawing or photograph of the proposed device, along with a plan showing location on the property shall be submitted to the Planning Department for review. The proposed device, excluding tethered balloons, may not exceed twenty-five (25) feet in height, shall not have any flashing or distracting illumination as described in Section 10.9.1(1), and shall not be located within forty (40) feet of any street right of way, or in any location that may interfere with drivers' visibility, the visibility of signage on other property, or electrical power lines

**10.7 Permanent Signs Requiring Permit**

**10.7.1 Attached Sign**

- (1) **Awning Signs:** Awning signs shall be permitted in all mixed use and nonresidential zoning districts subject to the following requirements:

- (a) Shall be flat against the surface of the awning.
  - (b) Shall maintain a clearance of eight (8) feet above a public right-of-way or required front yard.
  - (c) Shall not be closer than two (2) feet, measured in horizontal distance, from the curb line of any street.
  - (d) Shall not extend more than five (5) feet into the right-of-way without specific approval of the City Council.
  - (e) Any fabric awning valance may not extend more than one (1) foot below the rigid mount of the awning.
  - (f) Maximum sign area is twenty (20) square feet per sign.
  - (g) Only one (1) sign is permitted over each door or window.
  - (h) The area of all permitted awning signs shall be included in calculating the total area of all attached signs.
- (2) **Canopy Sign:** Canopy signs shall be permitted in all mixed use or nonresidential zoning districts subject to the following requirements:
- (a) Maximum sign area per canopy face is twelve (12) square feet.
  - (b) The vertical edge of the canopy sign shall be a maximum of two (2) feet in height, except for fuel canopies, where the maximum vertical edge of the canopy may be forty-two (42) inches.
  - (c) Shall not extend beyond the vertical edge of the canopy to which it is attached.
  - (d) The area of all permitted canopy signs shall be included in calculating the total area of all attached signs
- (4) **Marquee Sign:** Marquee signs shall be allowed in all non-residential districts, subject to the following conditions:
- (a) Shall maintain a vertical clearance over a sidewalk of at least eight (8) feet.
  - (b) Shall be no closer than two (2) feet, measured in horizontal distance, from the curb line of any street.
  - (c) The message area may extend the full length of the marquee.

- (d) The message area shall not exceed eight (8) feet in height.
  - (e) The message area shall not exceed two hundred (200) square feet in area, except in the MUD District where it shall not exceed three hundred-fifty (350) square feet in area.
  - (f) Only one (1) marquee sign shall be allowed per establishment.
  - (g) The area of all permitted marquee signs shall be included in calculating the area of all attached signs.
- (4) **Projecting Sign:** Projecting signs shall be allowed in all mixed use or nonresidential zoning districts, subject to the following conditions:
- (a) Shall not extend above the top of the wall to which it is attached.
  - (b) Shall maintain a clearance of eight (8) feet above a public right-of-way or required front yard.
  - (c) Shall not extend into a required front yard more than six (6) feet or into a public right-of-way more than four and one-half (4 ½) feet.
  - (d) Shall not exceed twenty (20) square feet in area.
  - (e) Only one (1) sign shall be permitted per establishment.
  - (f) The area of all permitted projecting signs shall be included in calculating the area of all attached signs.
- (5) **Suspended Sign:** Suspended signs shall be permitted in all mixed use or nonresidential zoning districts, subject to the following regulations:
- (a) Shall be no closer than two (2) feet, measured in horizontal distance, from the curb line of any street.
  - (b) Shall maintain a vertical clearance over a sidewalk of at least eight (8) feet.
  - (c) Sign area shall not exceed three and one-half (3½) square feet.
  - (d) Only one (1) sign shall be allowed per establishment.
  - (e) The area of all permitted suspended signs shall be included in calculating the area of all attached signs.
- (6) **Wall Sign:** Wall signs shall be allowed in all mixed use and nonresidential districts subject to the following requirements:

- (a) Shall not extend more than twelve (12) inches from the wall of the building, except in the case of a sign on the lower slope of a roof or a canopy roof, where the sign may extend the distance required to make the sign vertical.
- (b) Sign may extend up to twelve (12) inches into a public right-of-way.
- (c) Sign may not extend beyond the edges of the wall to which it is attached, except when the sign is contiguous on two (2) adjacent walls of the same building, the connecting portion may extend to but not beyond the face of the adjoining portion.
- (d) Sign may not prevent the free entrance and exit from any window, door or fire escape.
- (e) The area of wall signs in the Regional Commercial zoning district or the mixed use zoning districts may not exceed one (1) square foot for each foot of horizontal length of the wall to which the sign is attached.
- (f) The area of wall signs in other non-residential zoning districts may not exceed one and one half (1½) square foot for each foot of horizontal length of the wall to which the sign is attached.
- (g) Nonresidential uses permitted in residential districts shall be allowed one (1) wall sign per building, provided the sign does not exceed one half (½) square foot for each foot of horizontal length of the wall to which the sign is attached; however, a minimum of eight (8) square feet of sign area shall be allowed.
- (h) Optional wall sign area formula: Five percent (5%) of the wall area, up to a maximum of two hundred (200) square feet, may be used as an alternative basis to calculate the permitted size of a wall sign. This optional formula may be used on only one wall of a building.

### **10.7.2 Freestanding Signs**

Freestanding signs shall be permitted in mixed use, nonresidential zoning districts and for non-residential uses in mixed use zoning districts subject to the following requirements:

***Note: Nonresidential Uses in Residential Districts, including Mixed Use Residential Districts, may have monument signs only.***

#### **(1) Height:**

- (a) **Monument Sign:** The distance from the ground to the highest point of the sign shall be not more than six (6) feet for signs placed at the minimum setback line of fifteen (15) feet from the street edge.

(b) **Pylon Sign:** Not permitted in residential districts. The distance from the ground to the highest point of the sign shall not exceed sixteen (16) feet for signs placed at the minimum setback line.

(2) **Flexibility:** Signs placed at a greater than minimum setback may be allowed additional height as follows:

(a) **Monument Signs:** One (1) additional foot of height for each five (5) feet of setback beyond the minimum, to a maximum of ten (10) feet.

(b) **Pylon Signs:** One (1) additional foot of height for each five (5) feet of setback beyond the minimum, to a maximum of twenty-five (25) feet in the Regional Commercial District, or thirty-five (35) feet in other districts. This flexibility may not be combined with the height limit exemption provided under “Highway interchange signage” below.

(3) **Number:** One (1) freestanding on-premise sign shall be permitted on each property. An off-premise billboard may be located on property with a freestanding on-premise sign, subject to location and separation standards of this section.

(4) **Area:**

(a) **Nonresidential Districts:** Individual signs on each street frontage of a property shall not exceed thirty-two (32) square feet in area when the frontage is less than one hundred-fifty (150) feet, and shall not exceed eight (80) square feet in area in the Regional Commercial District, or one hundred (100) square feet in area in other districts, when the frontage is one hundred-fifty (150) feet or more.

(b) **Residential Districts:** Individual signs on each street frontage of a property shall not exceed twelve (12) square feet in area when the frontage is less than one hundred-fifty (150) feet, and shall not exceed thirty-two (32) square feet in area when the frontage is one hundred-fifty (150) feet or more.

(5) **Flexibility:** Pylon signs placed at a greater than minimum setback from the street edge may be allowed additional area as follows:

(a) Two (2) additional square feet of area for each foot of setback beyond the minimum, to a maximum of one hundred (100) square feet in the Regional Commercial District, or one hundred twenty (120) square feet in other districts. This flexibility may not be combined with the height limit exemption provided in Section 10.7.2. (6) below, “Highway Interchange Signage”.

(6) **Highway Interchange Signage:**

The Director of Development Services may approve a pylon sign up to two hundred (200) feet in area and up to one hundred (100) feet in height for restaurants, hotels, motels, fuel sales establishments or other highway oriented establishments when located on property, any part of which shall be located within one-thousand (1000) feet of the center of the following

interchanges on U.S. Highways 45 or 78/I-22; US78/I-22 and McCullough Boulevard/MS178; US78/I-22 and Coley Road Extended; US78/I-22 and Veterans Boulevard; US45 and Eason Boulevard; and US45 and Green Street, and which is zoned Mixed Use Commercial Corridor, Mixed Use Activity Center, or Mixed Use Employment. An additional fifty (50) square feet in area may be allowed for additional businesses, up to a maximum of four hundred (400) square feet.

**(7) Location:**

- (a) Freestanding signs shall not be placed within fifteen (15) feet of a street edge and may not extend or project over the right of way.
- (b) Freestanding signs shall not be located within any sight distance triangles.
- (c) Each freestanding on-premise sign shall be located a minimum of one hundred (100) feet from other freestanding on-premise signs or billboards on the same side of the street.
- (f) The Director of Development Services may grant a “compatible use approval” for a ground sign to be located less than one hundred (100) feet from another ground sign upon a written finding that a proposed sign cannot physically meet this requirement solely due to the location of existing signs on separate but adjoining lots, provided that all other requirements of this Code are met and the proposed sign is located as remotely from adjacent signs as possible. No such compatible use approval shall be granted when the existing sign is located on the same lot as the proposed sign. In this case, a directory sign is recommended. However, the Director of Development Services may grant a compatible use approval for a ground sign to be located not closer than seventy-five (75) feet to another sign where a directory sign is not feasible or would be greater than seventy-five (75) feet from the business seeking the Sign Permit. All procedures regarding compatible uses as contained in Section 12.12 shall apply.

**(8) Setback:**

- (a) if the sign height is six (6) feet or less, there shall be no minimum setback required from the property line.
- (b) If the sign height is over six (6) feet in height:
  - (i) For sign areas of thirty-two (32) square feet or less, a minimum setback of five (5) feet from all property lines shall be required, except that a minimum setback of twelve (12) feet from adjoining residential properties shall be required.
  - (ii) For sign areas of more than thirty-two (32) square feet, a minimum setback of ten (10) feet from all property lines shall be required, except that a minimum setback of twelve (12) feet from adjoining residential properties shall be required.

(c) Alternative sign locations may be approved by the Director of Development Services considering the width of the right-of-way.

(9) **Landscaping:** Freestanding signs shall incorporate the following landscaping requirements.

- (a) A defined landscaped area shall be provided at the base of the sign. The required landscaped area shall be parallel to the face of the sign.
- (b) The required landscaped area shall be at least twenty-five (25) square feet in area for signs with total sign area of less than thirty-two (32) square feet, and fifty (50) square feet of landscaped area for signs of thirty-two (32) or more square feet total sign area.
- (c) For signs with multiple faces, the landscaped area shall be allocated so that a portion of the required landscaping is located in front of each sign face. If the size of the site imposes practical difficulties on the placement of the plant materials, the Director of Development Services may make adjustments in these requirements.
- (d) The required landscaped area shall contain materials such as, but not limited to, vegetative ground covers, perennials, shrubs, and ornamental trees covering at least fifty percent (50%) of the defined landscaped area at maturity.
- (e) Paving and artificial plant materials shall not be included in fulfilling this requirement.
- (f) A plan of the landscaped area with the name, quantity, and spacing of plant materials shall be included as a part of the sign permit application.

(9) **Address Requirement:**

All monument signs shall incorporate a street address number or address range, unless an alternative addressing location has been approved by the Development Services Department. Street address numbers shall be a minimum of four inches high in all zoning districts.

(10) **Uniform or Directory Signs:**

- (a) A uniform sign plan is required for all shopping centers, including any out-parcels connected thereto at the time of site plan approval and for all other multi-occupant non-residential developments, before any signs for the development, or establishments therein may be erected on the property. All owners, tenants, subtenants, and purchasers of individual units within the development shall comply with the approved uniform sign plan.
- (b) The uniform sign plan shall consist of five (5) elements which shall govern all signs within the shopping center or development: location, materials, size, letter style, and

color. The uniform sign plan shall include drawings, specifications, dimensions, and maps showing the proposed locations of signs and how such locations conform to the requirements of this part.

- (c) The uniform sign plan shall be subject to approval by the Development Services Department. For shopping centers and other multi-occupant developments, the uniform sign plan must be submitted, reviewed, and approved prior to the issuance of the first sign permit for the development, including any individual establishments therein or out-parcels connected thereto.
- (d) Freestanding signs advertising two (2) businesses may be up to one hundred, twenty (120) square feet in size and twenty-five (23) feet in height. Freestanding signs advertising three (3) businesses may be up to one hundred, fifty (150) square feet in size and thirty (30) feet in height.
- (e) Existing shopping centers are encouraged to submit a uniform sign plan and shall be allowed the additional size and height specified above.
- (f) A uniform sign plan for the shopping center or development shall not be approved until and unless the Development Services Department finds that;
- (g) The plan provides that signs of a similar type and function within the development will have a consistent size, lettering style, color scheme, and material construction;
- (h) The plan provides for signs which meet the size limitations, location requirements, and other applicable requirements of this part.

**(11) Billboards:**

- (a) **Allowable Zones:** Billboards shall be allowed in Agriculture/Open Space, Mixed Use Commercial Corridor, Mixed Use Employment Center, and Industrial zones.
- (b) **Size and Height Restrictions:** Billboards shall not exceed four hundred (400) square feet in size and not exceed thirty-five (35) feet in height as measured from ground level to the highest point of the sign.
- (c) **Setback and Separation:**
  - i. The front setback, as required by the zoning Code for buildings, shall also apply to billboards.
  - ii. Billboards shall be separated from all other billboards by a minimum distance of one thousand-five hundred (1,500) feet measured at a radius. Billboards shall be separated from freestanding signs by a minimum distance of one hundred (100) feet.

- iii. Billboards located within two hundred-fifty (250) feet of the edge of the pavement of Martin Luther King, Jr. Drive (U. S. Highway 45) or U. S. Highway 78 shall be separated from all other billboards by a minimum distance of five hundred (500) feet measured at a radius.

**(d) Other Restrictions:**

- i. Billboards shall be detached from all other structures and shall not be erected on or above the roof or any other part of a building.
- ii. Double sided billboards shall be allowed and shall be considered as one (1) billboard, provided the nearest points of the individual sides of the structure are no more than five (5) feet apart.

(12) **Variable Display Signs:** Signs meeting the definitions of these sign types in Chapter 2 are required to meet specific design standards as follows:

**(g) Changeable Copy Signs:**

- i. **Location:** The sign must be located on the site of the use identified or advertised by the sign.
- ii. **Zoning District:** Changeable copy signs are allowable in any zoning district according to general standards for signs in such district.
- iii. **Area:** As provided in Sections 10.7.2. (4) and overlay district requirements if applicable.

**(h) Electronic Reader Board Signs:**

- i. **Location:** The sign must be located on the site of the use identified or advertised by the sign.
- ii. **Zoning District:** Allowed in Mixed Use Commercial Corridor, Mixed Use Activity Center, Mixed Use Employment, and Industrial Districts.
- iii. **Setback and Orientation:** The sign must be a minimum of one hundred (100) feet from any residential zoning district; if located within two hundred (200) feet of a residential zoning district, the sign must be oriented so that no portion of the sign face is visible from a principal structure on a residentially zoned lot.
- iv. **Display:** To pictorial images; texts may not exceed ten (10) words or text elements; the minimum time a text or portion of a text may be displayed is one (1) second per word or text element; no more than one (1) color of illuminating device is allowed; the minimum pitch (space between pixels) shall be twenty-three (23) millimeters.

- v. **Brightness:** Electronic reader board signs must have a primary and secondary means of reducing the brightness of the display to seventy percent (70%) of peak capacity brightness after sunset. These methods may include light sensing devices embedded within the display's controlling system or software provisions to reduce brightness on a timed basis.
- vi. **Separation:** The sign must be a minimum of one hundred (100) feet from any other ground sign and no compatible or flexible use process as described in Section 12.12 may be used to allow a lesser separation distance.
- vii. **Area:** Electronic reader board signs placed as wall or freestanding signs may not exceed forty percent (40%) of the sign area allowed for wall or freestanding signs in Sections 10.7.2. (4). If located in a commercial overlay district, the forty percent (40%) limitation applies to the sign area standards specified for the overlay district. For legibility and the ability to display a complete text message, the minimum size of an electronic reader board sign shall be six (6) square feet.

**(c) Electronic Graphic Display Signs**

- i. **Location:** The sign must be located on the site of the use identified or advertised by the sign, or in a location where a billboard may be permitted under the requirements of Section 10.7.2. (12).
- ii. **Zoning District:** Allowed for on-premises or off-premises use in Mixed use Commercial Corridor, Mixed Use Activity Center, and Industrial districts.
- iii. **Setback & Orientation:** For on premises use, the sign must be a minimum of one hundred (100) feet from any residential zoning district; if located within two hundred (200) feet of a residential zoning district, the sign must be oriented so that no portion of the sign face is visible from a principle structure on a residentially zoned lot. For off premises use the sign must meet the standards in Section 10.7.2. (12).
- iv. **Display:** The sign may include both text and pictorial images, but no motion. Displays may include multiple colors. Displays must remain in place for at least one (1) second per word or text element, with a minimum display time of eight (8) seconds. Displays may change only with a whole text screen transition. The minimum pitch (space between pixels) shall be twenty-three (23) millimeters.
- v. **Separation:** For on premises use, the sign must be a minimum of one hundred (100) feet from any other ground sign and no compatible or flexible variance process as described in Section 12.12 may be used to allow a lesser separation distance.

- vi. **Area:** For on premises use, electronic graphic display signs placed as freestanding signs or attached to structures may not exceed forty percent (40%) of the area allowed for freestanding or wall signs in Sections 10.7.2. (4). If located in a commercial overlay district, the forty percent (40%) limitation applies to the sign area standards specified for the overlay district. For off premises use the sign must meet size standards for billboards in Section 10.7.2. (12).
- vii. **Billboard Replacement:** For off premises use, an existing billboard may be replaced by an electronic graphic display sign provided that two (2) existing billboard signs are removed and not replaced.

(13) **Signs Allowed in Right-of-Way:** The following signs are allowed within the public right-of-way in all zoning districts. Where such signs are permanent signs, they shall require a license agreement approved by the Public Works Director, or designee, or an encroachment agreement approved by MDOT for streets under state jurisdiction, except as specified in Section 10.5, Permanent Signs Not Requiring Permits. Signs allowed in right-of-way shall meet all other applicable requirements of this Article.

- (a) Awning and Projecting signs projecting over a public right-of-way.
- (b) Emergency Warning signs erected by a government agency, utility company, or a contractor doing work in a public right-of-way.
- (c) Public Signs erected by or on behalf of the City, County, State or federal government.
- (d) Permit Signs erected pursuant to a permit for temporary use issued by the Director of Development Services, or designee, subject to such Codes or regulations as may apply.
- (e) Moveable Signs located on sidewalks within the street right-of-way in pedestrian-oriented commercial areas within the Mixed Use Downtown District shall be allowed, but not require a permit, provided that all the following requirements are met.
- (f) The sidewalk in the area near the moveable sign shall be wide enough to allow for at least five (5) feet of width for unrestricted pedestrian movement with the sidewalk signs in place.
- (g) Each sidewalk sign allowed under this section shall not exceed two and one half (2 ½) feet in width and four (4) feet in height. The sign itself shall be moveable, shall not be permanently attached in any way to the sidewalk, and shall not be chained or attached in any way to street furniture, other signs, street trees, other landscaping, or other fixtures or appurtenances on or in the sidewalk.

(14) **Landmark Signs:** Signs which have been officially designated as Local Historic Landmarks pursuant the Tupelo Historic Preservation Code, and which retain those dimensional, locational, and lighting standards that the sign possessed when it received such a designation shall enjoy the following privileges:

- (a) May remain on roofs or exceed height limits found elsewhere in this Article.
- (b) May exceed dimensional limits found elsewhere in this Article.
- (c) May reference a product or business which is not related to the existing business on the property.
- (d) Shall not, if the sign is not related to an existing business, have the sign area deducted from the square footage of sign area granted by other standards of this Article.
- (e) May remain in a right-of-way unless it becomes a hazard to traffic.
- (f) May retain its original lighting patterns and materials.
- (g) The following regulations shall apply to signs which have been designated as Landmark Signs.
  - i. The voluntary removal of a Landmark Sign by an owner shall be allowed.
  - ii. Alterations to a Landmark Sign shall not be allowed without the issuance of a Certificate of Appropriateness by the Historic Preservation Commission using the criteria used in the Tupelo Historic Preservation Code.

## **10.8 Flexibility and Variances**

### **10.8.1 Administrative Flexibility**

The Director of Development Services may authorize additional sign height or area, of no more than ten percent (10%) of the applicable standard, on properties where other signage is reduced or not used, to the extent that the total area of signage is less than the maximum area allowable for all sign types on the property.

### **10.8.2 Variances**

- (1) Requests for variances of greater than ten percent (10%), but not more than twenty-five percent (25%), of a sign dimensional standard will be reviewed under the provisions of Section 12.16.1, Compatibility Variance.
- (2) Requests for variances of more than twenty-five percent (25%) of a sign dimensional standard will be reviewed under the provisions of Section 12.16.2, Flexibility Variance.

### **10.8.3 Total signage area formula**

As an alternative method of determining the amount of on-premise signage allowable when a business is applying for certificate of occupancy for a new location, the following formula may be used as the basis for granting flexibility of size within the total signage area available.

For lots or tenant spaces of one hundred feet width or less, measured at the street, count forty square feet for freestanding signage.

For lots or tenant spaces of more than one hundred feet width, measured at the street, count one hundred square feet for freestanding signage.

Count one square foot for every foot of length, up to 100 feet, of each wall facing a street; Over 100 feet in length, count one half square foot for each additional linear foot.

Count fifty square feet as an allowance for temporary signage.

The total allowable area of signage shall be recorded on the certificate of occupancy. Sign permits may be issued allowing the placement of permanent or temporary signs up to the total allowable signage area. Specific signs may exceed the base area standards by up to forty percent. A one time permit may be issued authorizing a specific amount of temporary signage, which may be changed or replaced without further permit, as long as the allowed area is not exceeded.

If the total allowable area of signage is exceeded, the permit may be revoked and the base area standards for signage will be enforced.

## **10.9 Prohibited Signs**

**10.9.1** The following signs shall be prohibited, and may neither be erected nor maintained:

- (1) **Signs with Flashing or other Distracting Illumination:** No sign shall consist of, or display, in whole or in part, any flashing lights or other illuminating devices which change in intensity, brightness or color, excepting variable display signs as defined in Chapter 2 and as provided in Section 10.7.2(13), provided the message on such sign does not flash on and off.
- (2) **Resemblance to Traffic Signs:** No sign shall resemble or conflict with any traffic control device or sign, or contain the words "stop", "caution", "go slow", "danger", "warning" or any similar words or phrases that may be construed to misdirect or confuse traffic flow.
- (3) **Signs Constituting Traffic Hazards:** Any sign which constitutes a hazard to traffic including, but not limited to, signs located within the sight distance triangle of an intersection.
- (3) **Vehicle Signs:** No sign shall be attached to, suspended from or painted upon any vehicle or trailer which is regularly parked on any street, or on any private property which is visible from any street, which is designed to serve the purposes of a sign as defined in this Code. This will include portable signs, with or without illumination. This prohibition shall not apply to vehicles or trailers utilized on a regular basis for deliveries, maintenance and related business purposes, or to a single sign not exceeding two (2)

square feet displayed on or within a vehicle advertising the availability of said vehicle for sale.

### **10.9.2 Prohibited Locations**

- (1) **Public Right-of-Way:** No signs otherwise permitted by this Code shall be placed on any public property, including but not limited to, utility poles, fences or trees, or within any street or other public right-of-way, except as allowed by Section 10.4 of this Code. Signs placed in right of way or on other public property in violation of this code may be removed without notice.
- (2) **Off Premise Signs:** No sign may be placed on a separate tract of land from the business or other use for which it provides advertisement, except as allowed by Section 10.7.2.(13), Billboards, of this Code.
- (3) **Roof Signs**
- (4) **Hand Held Signs in Right-of-Way**
- (5) **Signs on Natural Features** such as, trees other living vegetation, or rocks.
- (6) **Signs on benches, trash** receptacles or similar items.

**10.9.3 Dilapidated or Damaged Signs:** A sign that has missing or broken panels, broken or damaged supports or frame, or otherwise displays inadequate maintenance, dilapidation, obsolescence or abandonment.

**10.9.4 General Prohibited Signs:** All other signs not specifically allowed by this Code are prohibited.

### **10.10 Abandoned Signs**

**10.10.1** Any sign that is located on property which becomes vacant and is unoccupied for a period of twelve (12) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, and which sign is nonconforming to the requirements of this Section, shall be deemed to have been abandoned. Signs which are maintained and used to actively market vacant property shall not be deemed to have been abandoned.

**10.10.2** Signs applicable to business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless this property remains vacant for a period of twelve (12) months or more.

**10.10.3** Notwithstanding the above provisions, any sign that fails to meet the construction and maintenance requirements of this Section, shall be deemed to be abandoned and subject to removal if any such deficiencies are not corrected within thirty (30) days after a written notice from the Director of Development Services to the owner or tenant concerning said deficiencies.

The Director of Development Services shall have the discretion to grant an additional thirty (30) days for the required improvements to be made provided substantial progress is being made to correct the deficiencies and a written request for such an extension is received at least five (5) working days before the end of the original notice.

**10.10.4.** Signs which are found to be in violation of this Section shall be removed by the owner of the sign or owner or tenant of the premises immediately upon written notice by the Director of Development Services that the sign does not comply with the terms of this Section. Any such signs not removed within thirty (30) days from this written notice may be removed by the City and all costs charged to the owner, agent or person having the beneficial interest in the building or premises upon which such signs are located, or in the sign itself.

### **10.11 Non-Conforming Signs**

**10.11.1** Signs that were lawful as of the effective date of this Code but are not in conformance with current requirements shall be permitted to be maintained as nonconforming signs, except as provided below:

- a. The signs and supporting structures may not be enlarged, moved to a different location in the City unless that location conforms to all applicable provisions of this ordinance, or improved through replacement by substantially different materials or in any other manner, except that a non-conforming billboard may be replaced by an electronic graphic display type billboard subject to the standards in Sections 4.11.5.2 and 10.7.2. (12);
- b. Lights and/or other electric or electronic features may not be added, and the intensity of lighting may not be increased, except for billboard replacement as provided in Section 10.11.1. (a).

**10.11.2** The signs must operate in compliance with all other restrictions in this Chapter, and the Development Code, and other local regulations, including but not limited to prohibitions on sign operation and sign features contained in Sec. 10.3.4 and prohibitions on dilapidated and damaged signs contained in Section 10.9.3.

- (1) The signs shall be removed if repair or damage to the sign and structure exceeds twenty-five (25%) of the lesser of the declared value when the sign permit was originally obtained or the replacement value.
- (2) The signs shall operate in compliance with all restrictions contained in federal and/or State law and regulation; and
- (3) The owner of such signs shall maintain all necessary records and documents, including permits, required to be obtained under previous Codes and/or State law or regulation, to demonstrate that the sign may continue to exist under the provisions of this Section.

**10.11.3** The restrictions contained in this Section shall not be interpreted to prohibit the City from requiring removal of any nonconforming off-premise sign when removal is accomplished in accordance with applicable law, including but not limited to federal and/or state requirements regarding compensation, or from requiring removal of abandoned signs under the provisions of Section 10.9.

## **CHAPTER 11. ADDITIONAL STANDARDS**

### **11.1 Adult Entertainment Establishment**

**11.1.1** An adult entertainment establishment as used in this development code shall have the same meaning as the term established in the Code of Ordinances Chapter 15, Article X Adult Entertainment. In construing the term, all definitions contained in Chapter 15, Article X are likewise incorporated by reference into and made a part of this ordinance.

**11.1.2** Adult entertainment establishments shall be permitted only within the I (Industrial) District and shall not be permitted on any property within one thousand-five hundred (1,500) feet of the following:

- (1) A place of public assembly used primarily for religious worship and related religious activities;
- (2) A public or private child care or educational facility, including, but not limited to, day care facilities; continuing, elementary, high, intermediate, junior high, middle, nursery, secondary, special education, or vocational schools; kindergartens; preschools; private schools; post-secondary educational institutions, and the grounds of any such facility, provided that the requirement shall not apply to facilities used primarily for another purpose and only incidentally as a school;
- (3) A boundary of any residential zoning district or the property line of a lot devoted to a residential use;
- (4) A public park or recreational area that has been designated for park or recreational activities, including, but not limited to, an athletic field, basketball court, nature trail, park, playground, swimming pool, tennis court, wilderness areas, or similar public land that is under the control, management, or operation of any government park and recreation authority;
- (5) An entertainment business that is oriented primarily towards entertainment for children or families;
- (6) Any packaged liquor store; or
- (7) A crematory, funeral home, or mortuary facility.

**11.1.3** Measurements related to this subsection shall be made in a straight line, without regard to intervening objects or structures, from the nearest portion of the building or structure used as part of the premises where an adult entertainment establishment is conducted to the nearest property line of the premises of a use listed in Subsection 12.1.2 above. The presence of a city jurisdictional boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this subsection.

**11.1.4** An adult entertainment establishment lawfully operating as a conforming use shall not be rendered a nonconforming use by the location, subsequent to the commencement of operations of said establishment, of a use listed in Subsection (1) above within one thousand-five hundred (1,500) feet of the adult entertainment establishment.

**11.1.5** No adult entertainment establishment may be established or operated within one thousand-five hundred (1,500) feet of another adult entertainment establishment. This distance requirement shall be measured in a straight line, without regard to the intervening objects, political boundaries, or structures, from the closest exterior wall of the structure in which each business is located.

**11.1.6** If two (2) or more adult entertainment establishments are within one thousand-five hundred (1,500) feet of one another or area within the same structure or parcel, the adult entertainment establishment that was first established in an otherwise permissible location shall be considered to be a conforming use, and the later-established business shall be considered to be a nonconforming use.

**11.1.7** No adult entertainment establishment may be enlarged so as to violate the provisions of this ordinance.

## **11.2 Beer and Light Wine Sales**

**11.2.1** Sale or distribution of light wine and beer is generally regulated by Tupelo Code of Ordinances, Sections 5-1 through 5-33, and by Chapter 3 of Title 67 of the Mississippi Code of 1972.

**11.2.2** The retail sale, distribution, bartering, giving away, consumption and/or manufacture of light wine and beer, as such term is used in Chapter 3 of Title 67 of the Mississippi Code of 1972 is hereby prohibited within a distance of four hundred (400) feet of residences, churches, schools, kindergartens, child-care facilities, nursing homes, funeral parlors, cemeteries, governmental buildings and publicly-owned recreational areas (collectively, “protected buildings”); except that where such publicly-owned recreational areas and governmental and other protected buildings are located in a commercial area, or other central business area, the distance shall be reduced to one hundred (100) feet and except that for any business engaged in the retail sale, distribution, bartering, giving away, consumption and/or manufacture of light wine and beer on Gloster Street, Main Street and in the downtown overlay district, and any business applying for permits therein, the distance shall be reduced to one hundred (100) feet measured from the building of such business. No distance restriction shall apply to residences located in the downtown overlay district.

**11.2.3** For the purposes of this Section, distances shall be measured from the closest point on the protected building to the closest point on the building, or portion of a building if it is not internally accessible by the public from the remainder of the building, where the retail sale, distribution, bartering, giving away, consumption and/or manufacture of light wine and beer is to occur.

**11.2.4** Variances in the distance restrictions may be granted by the city planning committee using the procedures set forth in Chapter 13 of the development code of the city. Variances will be granted where the strict enforcement of the distance restriction would create a practical difficulty or unnecessary hardship in the use of the land. The standard of review for the planning committee shall be whether special conditions or unusual circumstances exist which would make strict enforcement unfair, an unnecessary hardship or a practical difficulty. Special conditions which may be considered, among others, are:

- (1) Waiver or consent by the owner of the protected building; or
- (2) Cessation of use of the protected building, for a protected purpose; or
- (3) Absence of significant or material social, moral, cultural or economic detriment to the protected building; or
- (4) Agreement by the applicant to fulfill conditions designed to alleviate any such detriment; or
- (5) The presence of pre-existing establishments with permits for the retail sale, distribution, consumption or manufacture of light wines and beer within four hundred (400) feet of the protected building.

**11.2.5 Opening Containers, Consumption on Premises of Permit Holder Restricted**

- (1) The opening of a container of light wine and beer, the consumption of light wine and beer on the premises of a holder of a permit authorizing the sale of such beverages, or the permitting of either to be done on such premises by the holder of the permit, is prohibited except as follows:
- (2) Upon the premises of a restaurant holding a permit authorizing the sale of such beverages. The word “restaurant” for the purpose of this section shall mean a place which is regularly and in a bona fide manner used and kept open for the service of meals to guests for compensation and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meats commonly ordered at various hours of the day. The service of such food as a sandwich and salads only shall not be deemed in compliance with this requirement. No place shall qualify as a restaurant under the provisions of this order unless fifty (50) percent or more of the revenue derived from such place shall be for the preparation, cooking and serving of meals and not for the sale of such alcoholic beverages. No beer shall be open or in the possession of any person in automobiles at any time on public property, streets or highways.
- (3) Upon the premises of a club holding a permit authorizing the sale of such alcoholic beverages. The word “club” for the purpose of this section shall mean an association or a corporation organized or created under the laws of the United States of American or the laws of the state organized not primarily for pecuniary profit, but for the promotion of some common object other than the sale or consumption of alcoholic beverages,

maintained by its members through payment of annual dues, adequate for the reasonable and comfortable use and accommodation of its members and their guests. The affairs and management of such clubs must be conducted by a board of directors, board of governors, executive committee or similar governing body chosen by the members at a regular meeting at some periodic interval, and no member, officer agent or employee of the club is paid, or directly or indirectly receives in the form of a salary or other compensation any profit from the distribution or sale of such alcoholic beverages to the club or to the members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

- (4) Upon municipal property with a properly issued special events permit as provided in Article I of Chapter 5 of the Code of Ordinances.
- (5) The sale, bartering, or giving away of wine and beer for on-premises consumption by any aforesaid restaurant or club shall be prohibited within four hundred (400) feet of any residential building; except where such residential buildings are located in a commercial area or central business area, distance shall be reduced to one hundred (100) feet.

### **11.3 Manufactured or Mobile Home Subdivision**

**11.3.1** A manufactured or mobile home subdivision is a development in which spaces are offered on a rental or lease basis only for owner-occupied manufactured or mobile homes, or in which the space and manufactured or mobile home combination are both offered to the public on a rental or lease basis only. Manufactured or mobile home subdivisions are permitted in the A/O district. Such developments shall be a minimum of ten (10) acres. All other development standards shall be those allowed in A/O.

### **11.4 Telecommunications Tower**

**11.4.1** These standards are intended to allow the expansion of wireless telecommunications facilities in a reasonable and non-discriminatory way that will protect the public from adverse impact. These standards apply to any new tower that is over seventy-five (75') in height and any existing tower that is replaced or structurally altered. In a district where this use requires a flexible use permit, a developer who chooses to blend the tower in to the surrounding environment using color, camouflage, and architecture may apply for a compatible use permit instead. A developer may submit the compatible or flexible use permit application with a site plan showing the proposed tower to begin this process.

### **11.4.2 Applications**

- (1) A non-refundable application fee shall accompany the application at the rate of twenty dollars (\$20) per foot in height and/or two hundred dollars (\$200) per antenna. Such fee shall be established by the City Council and reviewed from time to time. The Department of Development Services may find it necessary to employ an engineer or other consultant qualified in the design and installation of wireless telecommunications facilities to assist the city in technical review of the application. In such cases, any reasonable costs

incurred by the city for such review, not to exceed three thousand dollars (\$3,000), shall be reimbursed to the city by the applicant prior to final decision.

- (2) Applications for construction of new telecommunications towers shall be accompanied by a bond, letter of credit, or other acceptable financial instrument, in the amount of five hundred dollars (\$500) per foot in height, executable by the City of Tupelo in the event that the tower is to be removed under the provisions of Section 13.5.3 (19) of this code.
- (3) Applications for construction of new telecommunications towers shall also include proof of liability insurance in favor of the City of Tupelo, in the amount of five hundred thousand dollars (\$500,000).

### **11.4.3 Standards**

- (1) Towers shall not be constructed so as to interfere with the flight zones of civilian or military airports.
- (2) Towers shall be sited on the property to minimize visibility from the road and adjacent properties to the extent possible.
- (3) With the exception of necessary electric and telephone service and connection line approved by the city, no part of any tower, antenna, or supportive lines, cable, equipment, wires or braces in connection with a tower, shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk or property line.
- (4) Height shall be limited to one hundred-seventy (170) feet.
- (5) For proposed towers greater than one hundred-twenty (120) feet in height, the proposed tower shall be designed to accommodate both the applicant's antenna and at least two (2) comparable antennas.
- (6) For proposed towers over seven (7) feet in height but less than one hundred-twenty (120) feet in height, the proposed tower shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (7) Towers shall be of a monopole design.
- (8) The use of guyed or lattice towers is prohibited.
- (9) Towers shall be constructed of galvanized metal and shall be maintained in good repair and appearance.
- (10) Towers shall be constructed so that if a failure does occur, the tower will collapse into itself and will not fall onto structures near the site.

- (11) No tower shall have a platform, crow's nest or like structure around it, or attached to it, except while under construction or repair.
- (12) Towers shall be protected from trespassers in order to discourage the climbing of the tower by unauthorized persons.
- (12) The owner/operator shall at all times employ at least ordinary care and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.
- (13) All signal and remote control conductors of low energy between a tower or antenna and a structure, or between towers, shall be hidden from plain view and shall be underground whenever possible. If impossible to bury underground, the conductor shall be at least eight (8) feet above the ground at all points.
- (14) A Type C perimeter landscaping buffer shall be provided around the perimeter of a freestanding telecommunications tower facility, antenna, or accessory building, structure or equipment from public view except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (15) No commercial advertising shall be allowed on a tower or antenna, unless such antenna is actually located on an existing, approved sign. Towers may have safety or warning signs in appropriate places.
- (16) Any lighting that is required by state or federal law shall be placed on the tower and designed in such a way as to minimize the glare on adjacent residential properties.
- (17) Light fixtures are permissible if they are part of a design incorporated into the tower structure to be used for the illumination of athletic fields, parking lots, streets or other similar areas.
- (18) Lighting of accessory buildings for basic security purposes is permissible but shall not result in unnecessary glare on adjacent properties.
- (19) All abandoned or unused telecommunication tower or antenna facilities shall be removed by the tower or antenna operator within ninety (90) days of the cessation of use unless ownership and use thereof has been transferred to another person in compliance with this Section. A tower shall be considered abandoned if use has been discontinued for one hundred-eighty (180) consecutive days. The Director of Development Services may extend this time period or waive this requirement if it is shown by the operator that the facility has not been abandoned. If such antenna or tower is not removed within said ninety (90) days, the City of Tupelo may remove such antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(20) Antennas may be collocated or placed on existing towers, structures, or buildings if they comply with the following standards:

- (a) The addition of a tower, antenna, any related telecommunications equipment, or an accessory building to an existing structure shall not cause the height of said structure to exceed the maximum height allowed in that zoning district;
- (b) All accessory buildings and other structures to be located on the same property as a tower or antenna shall be located on the roof of the structure whenever possible. If they are located on the roof of the structure, they may occupy up to twenty-five percent (25%) of the total roof area.

**11.5 Truck Stop:** A truck stop is permitted within one-half (1/2) mile of an intersection with a limited-access highway or interstate. In MUCC, MUE, MUAC, and RC districts, a Type A landscaped buffer shall be required. In the I district, a Type C or F landscaped buffer shall be provided.

## **11.6 Property Maintenance and Community Appearance Standards**

**11.6.1 Purpose and Intent:** The provisions of this part are based on the following findings:

- (1) The City of Tupelo is committed to retaining the architectural style and character of its older homes and neighborhoods.
- (2) Conversion of single family houses into rental housing has made a negative impact on the City.
- (3) The City has invested large sums of money to provide adequate infrastructure including street, curb, gutter and sidewalk repairs.
- (4) There is a legitimate municipal interest in preserving and promoting the City of Tupelo so that it's intrinsic value to the residents and to the community as a whole is maintained.
- (5) The absence of the regulations in this part will result in the continued decline and deterioration of existing neighborhoods, the diminution of land values, and the growth in the possibility of blight and crime.
- (6) Homeowners and landlords are likewise expected to invest money into the maintenance and upkeep of their property.
- (7) Provide a higher level of standards to maintain property values in the City of Tupelo.
- (8) Promote, preserve, and protect the health, safety, and general welfare of property owners and taxpayers of the City of Tupelo.
- (9) Protect and promote the visual quality of the area.

- (10) Restore the character and style of the older neighborhoods in the City of Tupelo.
- (11) Prevent the development of property that would be out of character with the predominant style in the area and which would adversely affect property values or hurt the potential for continued and prolonged prosperity of the area.
- (12) Provide code inspectors to identify and enforce city code through completion and to do so proactively.

### **11.6.2 Applicability**

- (1) **General Applicability:** The provisions of this Part shall apply to all buildings used for residential purposes within the City of Tupelo. All residential structures, and additions thereto, constructed within the City of Tupelo after the date of adoption of this Part, shall be constructed in accordance with the terms of this Part.
- (2) **Standards Conflict:** The provisions contained in this Part are in addition to, and supplemental to all other provisions contained in the Development Code. In case of conflicts between the standards in this Part and standards of the underlying base district, other requirements of the Development Code or other rules, regulations, covenants and agreements, the provisions of this Part shall prevail.

### **11.6.3 Standards**

#### **(1) Outdoor Storage of Materials**

- (a) No storage of any kind shall be permitted on a porch, open carport, or yard, except in an enclosed porch, as defined in Chapter 2 of this Ordinance. No refrigerators or similar appliances, or upholstered furniture, or similar items, may be stored or placed on the porch, unless the porch is enclosed.
- (b) No laundry shall be placed on any fence, porch, or clothesline, except in the rear yard.
- (c) All residential properties must be brought into compliance with terms of this part within six (6) months after the adoption of this Part.

#### **(2) Minimum Landscape Standards**

- (a) One hundred percent (100%) of the front yard must be landscaped with proper materials including but not limited to grass, shrubs, and flowers. A maximum of twenty-five (25%) of the front yard may be concrete or paved.
- (b) Shrubs must be planted in front of the house in the front yard of the property, as defined by Chapter 2 of this Ordinance. The shrubs may be planted a minimum of three (3) feet apart, on center, along the front side of the building. Shrubs must be kept trimmed and shaped.

- (c) All landscaping must be maintained with regard to the mowing of grass, raking of leaves, and maintenance of landscape beds on the property.
- (d) All landscaping must be maintained so as to ensure its continued growth.
- (e) All residential properties must be brought into compliance with terms of this part within six (6) months after the effective date of this Part.

**(3) Parking of Automobiles**

- (a) The parking of automobiles will not be permitted in the front yard of a residence, as defined by Chapter 2 of the Development Code, except where a concrete, paved, stone or gravel driveway is provided.
- (b) All residential properties must be brought into compliance immediately following the adoption of this Part.
- (c) Parking of automobiles will not be permitted on streets less than twenty-four (24) feet from street edge to street edge in residential areas, except where approved by Traffic Committee.

**(4) Removal of Garbage Containers**

- (a) All residential garbage collection containers must be removed from the curbside within twelve (12) hours of collection by the Contractor.
- (b) Residents are responsible for the cleanliness of the area around the garbage container both next to the house and at the curbside.
- (c) All residential properties must be brought into compliance immediately following the effective date of this Part.

**(5) Building Design Standards**

- (a) To the greatest extent possible, the architectural and historical value of existing buildings, structures, and other historically significant areas are to be conserved.
- (b) New structures, additions, and renovations shall be designed to be compatible with the existing structures in terms of architectural design and exterior building materials, colors and arrangements of buildings and other features.
- (c) All exterior wall coverings shall be of consistent color, material, and style with neighboring buildings.
- (d) All accessory buildings, as defined in Chapter 2 of the Development Code, must be maintained in sound structural condition. Any dilapidated accessory buildings must

be removed within thirty (30) days of the receipt of notice from the City of Tupelo. These structures are to be in rear yard and not visible from the street.

- (6) **Building Maintenance:** It shall be unlawful and a violation of this code for any person to erect, maintain, use, place, deposit, cause, allow, leave or permit any of the following on any residential property:
- (a) Any wood surfaces unprotected from the elements by paint or other protective treatment;
  - (b) Exterior painted surfaces with loose, cracked, scaling, chipping, or peeling paint, visible from a public area, in such amounts as to present a deteriorated or slum-like appearance;
  - (c) Broken, rotted, split, curled or missing roofing material in such amounts as to present a deteriorated or slum-like appearance.
  - (d) Property owners are responsible for maintenance of property and behavior of tenants in rental property.
- (7) **Junk Vehicles:** Junk vehicles are prohibited from being located within the city except within completely enclosed buildings or garages or at vehicle salvage yards, vehicle repair shops and wrecker services complying with the terms of this ordinance. Within a residential zoning district no more than one (1) junk vehicle may be stored behind opaque fencing or landscaping. This required screening shall completely block the view of the vehicle from all surrounding property.
- (8) **Junk:** It shall be unlawful for the owner or occupant of any property within the City to utilize said property for the storage and accumulation of used, discarded or worn out materials or manufactured products, whether reusable or not, including but not limited to appliances, building materials, building rubbish, trash, garbage, waste products, metal products, and similar items.
- (9) **Open Storage:** Open or outside storage of materials and products shall be prohibited in all zoning districts except Industrial, if within view from the street or if not screened from the view of neighbors by opaque fencing or landscaping.
- (10) **Screening of Junkyard:** Within one (1) year from the effective date of the ordinance, all existing junkyards, vehicle salvage yards, vehicle repair shops and wrecker services where junk or wrecked vehicles are stored shall be screened from view from adjacent properties by opaque fencing and landscaping complying with Section 10.4 of this code. All new junkyards, vehicle salvage yards, vehicle repair shops and wrecker services shall be provided with such screening prior to obtaining a certificate of occupancy.
- (11) **Restrictions on Parking Commercial and Recreational Vehicles in Residential Districts**

- (a) No Commercial vehicle rated greater than three-quarter ( $\frac{3}{4}$ ) ton, bus, trailer exceeding fifteen (15) feet in length, tractor or heavy equipment such as bulldozers and road graders shall be parked or stored in any Low Density Residential, Medium Density Residential, or Mixed Use Residential Districts, except in the rear yard of lots forty thousand (40,000) square feet in size or larger.
  - (b) Under no circumstance may any of the vehicles and equipment listed above be stored in any residential district closer than fifty (50) feet to any property line and are prohibited altogether in a subdivision unless used expressly for the purpose of unloading, loading, or construction on that lot.
  - (c) Recreational vehicles, boats and campers shall maintain the same setback as a structure, according to the zoning district, except for a rear setback of five (5) feet, and shall not be used for sleeping quarters while in said residential district for greater than fifteen (15) days per year. Concrete pads for such recreational vehicles, boats, or campers which do not meet these setback requirements may be approved by compatible use review as provided in Section 13.10.
- (12) **Corner Visibility:** On a corner lot in any zoning district except the Mixed Use Downtown District, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half ( $2\frac{1}{2}$ ) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.
- (13) **Fences:** Fences shall be maintained so that they do not constitute a hazard, blight, or condition of disrepair. Examples of hazard, blight, or condition of disrepair shall include but not be limited to: leaning, missing slats or blocks, graffiti, peeling paint, rotting or deteriorated materials, affecting five percent (5%) or more of the length of the fence.

## 11.7 Subsurface Conditions

- (1) **Suspect Soils:** Any request for development approval or building permit on sites with soil types classified as suspect for construction shall be required to provide a soils report by a qualified professional engineer, with adequate detail for the design of foundations, to the Department of Development Services.
- (2) **Unmarked Graves:** The City is aware of the presence of unmarked graves within its incorporated limits. To aid developers and property owners in avoiding unintentional disturbance of human graves, the City may consult with the Mississippi Department of Archives and History during the development or permit application review process to determine if action is required under state law. If such action is required, the applicant may submit a report documenting costs of action to the Department of Development Services.

- (3) **Fee Credit:** The availability of either such report shall qualify the permit applicant for a credit toward the permit fee for a primary building on any lot or building site included in the report. The credit shall be equal to the prorated cost per lot or site for the report, up to five hundred dollars (\$500), not to exceed the total permit fee.

## **CHAPTER 12. APPLICATIONS AND PERMITS**

### **12.1 Interpretation of this Section**

#### **12.1.2 Applicability**

These standards shall apply in general to all applications and permits requested within the City of Tupelo. The Development Services Director, or designee, shall be authorized to make interpretations concerning the provisions of this Code in particular cases where uncertainty may exist. In making these interpretations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body;
- (3) Deemed neither to limit nor repeal any powers granted under State statutes; and
- (4) Require application of the more stringent provisions wherever the provisions of this Code appear to impose conflicting provisions that cannot otherwise be reconciled.

#### **12.1.3 Exceptions**

The Director of Development Services generally shall make all interpretations of the Code, but shall not make interpretations of the following sections:

- (1) Floodplain and Flood Damage Protection Standards: The City Engineer, acting as the Floodplain Administrator, or designee, in consultation with the Director of Development Services, shall be authorized to make all interpretations related to this section.
- (2) Street Layout: The Public Works Director or designee shall be authorized to make all interpretations concerning the provisions of this section.
- (3) Stormwater Management: The Public Works Director or City Engineer or designees, as appropriate, shall be authorized to make all interpretations concerning the provisions of this section.
- (4) Building Code: All interpretations of matters relating to the Mississippi Building Code shall be made by the Building Official or designee.

#### **12.1.4 Other Sections**

The Director of Development Services may defer interpretations of additional sections of this Code to appropriate City Officials.

**12.1.5 Requests for Interpretation:** A request for interpretation shall be submitted in writing.

### **12.1.6 Action by Director of Development Services**

- (1) The Director of Development Services shall:
  - (a) Review and evaluate the request in light of the text of this Development Code, the Official Zoning Map, the Comprehensive Plan and any other relevant information;
  - (b) Consult with the City Engineer or designee and coordinate with other staff, including the City Attorney, as necessary; and
  - (c) Render an opinion.
  - (d) The interpretation shall be provided to the applicant in writing.
  - (e) The Director of Development Services or designee shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

### **12.1.7 Appeal**

Final action on an official interpretation of this Code by the Director of Development Services or designee may be appealed in accordance with Section 12.16, Appeal of Administrative Decision.

## **12.2 Common Review Procedures**

### **12.2.1 Applicability**

The review procedures described below apply to the types of applications listed below, as may be limited by the individual subsections that follow:

- (1) Zoning Map Change
- (2) Subdivision, including Conservation Subdivision
- (3) Site Plan
- (4) Compatible and Flexible Use Permit
- (5) Transportation Special Use Permit
- (6) Sign Permit
- (7) Temporary Use Permit
- (8) Administrative Adjustment
- (10) Appeal of Administrative Decision
- (11) Development Code Text Amendment

(12) Statutory Vested Rights Determination

**12.2.2 Pre-Application Conference**

Before submitting an application for development approval, it is recommended that each applicant schedule a pre-application conference with the Director of Development Services or designee to discuss the procedures, standards and regulations required for development approval in accordance with this Code.

- (1) A mandatory pre-application conference with the Director of Development Services or designee shall be required for the following development reviews:
  - (a) Comprehensive Plan Amendment;
  - (b) Flexible Use Permit;
  - (c) Zoning Map Change;
  - (d) Major Subdivision
  - (e) Major Site Plan.
- (2) A mandatory pre-application conference with the City Engineer and Public Works Director or designee shall be required for the following development reviews:
  - (a) Traffic Impact Analysis;
  - (b) Traffic Impact Analysis Major Special Use Permit.

**12.2.3 Neighborhood Meeting**

- (1) All applicants are encouraged to hold a neighborhood meeting prior to submitting an application, but after a pre-application conference, for the following development reviews:
  - (a) Comprehensive Plan amendment;
  - (b) Zoning map change;
  - (c) Conservation subdivision; and
  - (d) Other applications as may be specified elsewhere in this Code.
- (2) The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, explain the site plan if any, and solicit comments. This requirement shall not mean that all association members, owners or tenants are required to attend such a meeting.
- (3) Notice by mail at least ten (10) days prior to the date of the neighborhood meeting shall be provided to each owner of record of any land within six hundred (600) feet of the property for which the development approvals are sought and to neighborhood associations located within one thousand (1,000) feet of the site which have registered

with the Department of Development Services to receive notice. The notice shall include at a minimum the following:

- (a) The applicant's name and telephone number;
- (b) The street address of the site with an identification map;
- (c) A clear explanation of what the applicant is proposing; and
- (d) The date, time and location of the meeting.

**12.2.4 Application Requirements:** The following requirements shall apply to all applications for development approval identified in Section 12.2.1., Applicability.

- (1) **Forms:** Applications required under this Code shall be submitted on forms and in such numbers as required by the appropriate department. All forms shall include, at a minimum, the following information:
  - (a) Contact information for the individual or firm submitting the application.
  - (b) Contact information for the individual or firm on whose behalf the application is being submitted.
  - (c) Identification of the property affected by the application, such as a legal description, address, or PIN as may be appropriate.
  - (d) Any other information required by the director of the appropriate department, or designee, or the provisions of this Code.
- (2) **Fees:**
  - (a) All applications and associated fees shall be filed with the appropriate department.
  - (b) Filing fees shall be established from time to time to defray the actual cost of processing the application.
  - (c) An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution for review shall be entitled to a refund of the total amount paid, less ten percent (10%) for administrative costs, upon written request to the appropriate department. Once review has begun, no refund shall be available.
- (3) **Applications Sufficient for Processing:**
  - (a) Applications shall contain all required information as described on forms available from each department involved in the review process, unless modified by the department, in writing, pursuant to (b), below. Incomplete applications may be reviewed in an extraordinary circumstance.
  - (b) The presumption shall be that all of the information required in the application forms is necessary to satisfy the requirements of this section. However, it shall be

recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.

- (c) Once the application has been determined sufficient for processing, copies of the application shall be referred by the appropriate department to the appropriate reviewing entities.
- (d) The director of the appropriate department may require an applicant to present evidence of the authority to submit an application.
- (e) An application shall be considered to have been accepted for review only after it has been determined to be complete as provided above, not upon submission to the appropriate department.

(4) Application Deadline:

Applications sufficient for processing shall be submitted to the director of the appropriate department in accordance with the established schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

(5) Staff Consultation after Application Submitted:

- (a) Upon receipt of an application sufficient for processing, the director of the appropriate department shall review the application and confer with the applicant to ensure an understanding of the applicable requirements of this Code; that the applicant has submitted all of the information they intend to submit; and that the application represents precisely and completely what the applicant proposes to do.
- (b) Once the applicant indicates that the application is as complete as the applicant intends to make it, the application shall be placed before the appropriate approving authority in accordance with standard procedures. However, if the director of the appropriate department believes the application is incomplete, a recommendation to deny the application on that basis shall be provided to the appropriate approving authority.

(6) Related Applications:

- (a) Necessarily related applications for development approvals may be filed and reviewed simultaneously, at the option of the applicant. Any application that also requires a variance or use permit shall not be eligible for final approval until the variance or use permit has been granted.
- (b) Related applications submitted simultaneously are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application

shall stop consideration of any related applications until the denied or disapproved application is resolved.

### 12.3. Notice and Public Hearings

#### 12.3.1 Summary of Notice Required

Notice shall be required for applications for development approval as shown in the table below.

<b>NOTICE &amp; PUBLIC HEARING</b>	<b>PUBLISHED</b>	<b>MAILED</b>	<b>POSTED</b>
Comprehensive Plan Amendment	<b>X</b>	<b>X</b>	
Zoning Map Change	<b>X</b>	<b>X</b>	<b>X</b>
Compatible Use Permit		<b>X</b>	
Flexible Use Permit (including TIA special use permit)		<b>X</b>	
Variance		<b>X</b>	
Appeal of Administrative Decision			
Development Code Text Amendment	<b>X</b>		

#### 12.3.2 Public Notice Standards

- (1) **Published Notice:** An advertisement shall be placed by the Development Services Department in a local newspaper of general circulation, the notice being published not less than fifteen (15) days before the date fixed for the public hearing.
- (2) **Mailed Notice:** The director of the appropriate department shall notify by first class mail all property owners, as indicated by County tax listings of property ownership, within the applicable notification distance from the property under consideration as specified in the table below:

<b>NOTICE STANDARDS</b>	<b>NOTIFICATION Distance (ft)</b>
Comprehensive Plan Amendment	One thousand (1,000)
Zoning Map Change	Five hundred (500)
Site Plans <sup>1</sup>	Five hundred (500)
Variance	Five hundred (500)
Compatible or Flexible Use Permit	Five Hundred (500)

<sup>1</sup> Mailed notice shall be required whenever an applicant for a site plan is seeking approval of any of the modifications to standards specified in Section 12.11, Site Plans, which are granted at the discretion of a governing body.

- (a) For amendments to the Comprehensive Plan, Zoning Map Changes, Site Plans that require mailed notice pursuant to Sec. 12.3.1, Summary of Notice Required, and Flexible Use Permits, notice shall also be provided to any organization or individual located within one thousand (1,000) feet of the site under consideration which is

registered to receive notice pursuant to Sec.12.3.5., Registration to Receive Notice. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Director of Development Services.

- (b) For Development Code Text Amendments, notice shall be provided to any organization or individual that is registered to receive such notice pursuant to Sec.12.3.5, Registration to Receive Notice. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Director of Development Services. Such notice shall be mailed at least seven (7) days prior to the date of the public hearing.
  - (c) Mailed notice under this section shall not be required if a zoning map change directly affects more than five hundred (500) properties owned by a total of at least five (5) different property owners, and the Director of Development Services or designee elects to use the following expanded published notice requirements: An advertisement may be placed in a local newspaper of general circulation, the notice being published not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the public hearing.
  - (d) Mailed notice shall be provided by first class mail to property owners who reside outside of the newspaper's circulation area.
- (3) **Posted Notice (Sign):** For applications for zoning map change, a sign noticing the public hearing shall be prominently posted by the director of the appropriate department, or designee, not less than seven (7) days prior to the public hearing at which the application shall be reviewed. The sign shall be posted on the property or at a point visible from the nearest public street. In the case of multiple parcels, sufficient signs shall be posted to provide reasonable notice to interested persons.
- (4) **Content of Notice:** For all applications for development approval except Development Code text amendments, the notices listed above shall contain the following specific information.
- (5) **Published or Mailed Notice:** A published or mailed notice shall provide at least the following:
- (a) Parcel Identification Number;
  - (b) The subject property (if available);
  - (c) The general location of the land that is the subject of the application, which may include, a location map;
  - (d) A description of the action requested;

- (e) Where a zoning map change or a Comprehensive Plan amendment is proposed, the current and proposed districts;
  - (f) The time, date and location of the public hearing;
  - (g) A phone number to contact the Director of Development Services or designee;
  - (h) A statement that interested parties may appear at the public hearing; and
  - (i) A statement that substantial changes to the proposed action may be made following the public hearing.
- (6) Published Notice for Development Code Text Amendment: A published notice shall include the following specific information:
- (a) A summary description of the proposed change;
  - (b) The time, date and location of the public hearing;
  - (c) A phone number to contact the Director of Development Services or designee;
  - (d) A statement that interested parties may appear at the public hearing; and
  - (e) A statement that substantial changes to the proposed action may be made following the public hearing.
- (7) Posted Notice: Required posted notices shall indicate the following:
- (a) A case number;
  - (b) Type of action; and
  - (c) A phone number to contact the Director of Development Services.

### **12.3.3 Minor Defects in Notice**

Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.

### **12.3.4 Registration to Receive Notice**

Upon adoption of this amended section, and every two (2) years thereafter, any organization or individual may pay an established fee, if applicable, and register with the Director of Development Services to receive notice of all applications for development approval requiring mailed notice and other notice required under this Code. To be eligible for registration, the applicant must provide the information required by the Director of Development Services, including manner of notice, whether first class mail, electronic mail, or other manner offered by the Director of Development Services. Notice will be provided in the manner specified in the registration information. Each organization or individual is responsible for providing updated

information to the Director of Development Services as necessary, and must re-register and pay the established fee, if applicable, every two (2) years in order to continue receiving notice.

**12.3.5 Required Hearing**

A public hearing shall be required for development review as shown in the table below:

<b>APPLICATION FOR APPROVAL</b>	<b>PLANNING COMMITTEE</b>	<b>CITY COUNCIL</b>
Transportation Special Use Permit		<b>X</b>
Comprehensive Plan Adoption/Amendment	<b>X</b>	<b>X</b>
Zoning Map Change	<b>X</b>	<b>X</b>
Compatible Use Permit	<b>X</b>	
Flexible Use Permit	<b>X</b>	
Appeal of Administrative Decision	<b>X</b>	<b>X</b>
Development Code Text Amendment	<b>X</b>	<b>X</b>

The day of the public hearing shall be considered the day the hearing is originally advertised for, unless a deferral is granted by the governing body upon a request that follows the procedures set forth in this Code regarding timely submission of requests for deferrals.

**12.3.6. Protest Petition Sufficiency and Procedures**

(1) **Protest Petition Defined:** A petition in opposition to any application listed in Section 12.2.1, Applicability, shall be considered a "valid protest petition" if the petition meets the requirements of applicable state and local law.

(2) **Standards:**

(a) The petition must be signed by the owners of either:

- i. Twenty percent (20%) or more of the area included in the proposed change or;
- ii. Five percent (5%) of the area of a one hundred foot (100) wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.

(b) In evaluating the sufficiency of a protest under this provision, a street right of way shall not be considered in computing the one hundred (100) foot buffer area as long as the street right of way is one hundred (100) feet wide or less. When less than an entire parcel of land is being rezoned, the one hundred (100) foot buffer shall be measured from the property line of the entire parcel.

(3) **Procedure:**

(a) A form for a protest petition shall be available in the Department of Development Services.

- (b) Completed petitions shall be submitted to the Department of Development Services at least four (4) working days prior to the day of the public hearing.
  - (c) The Director of Development Services, or designee, in consultation with the Attorney for the jurisdiction shall determine if the petition meets the criteria for classification of "valid protest petition". The Director of Development Services shall inform the governing body that a petition has been filed and indicate the determination by the Director of Development Services, or designee, whether the petition is valid or invalid. The Director of Development Services, or designee, shall notify the petitioner as to the validity of the protest petition.
  - (d) Where a substantial modification to a zoning map change application that requires resubmission to the Planning Committee has been submitted, the Director of Development Services shall notify the petitioner, in writing, that a new protest petition is required.
  - (e) Petitions for zoning map change for which a protest petition has been determined to be valid shall require a three-fourths ( $\frac{3}{4}$ ) vote of the governing body for approval rather than a simple majority. Vacant positions on the Council and members who have been excused from voting because of a conflict of interest shall not be considered in computing Council membership.
- (4) **Withdrawal:** Persons or entities who have signed protest petitions may withdraw their signatures at any time prior to the vote on the proposed map change. Any withdrawal must meet standards established for such withdrawals by the Department of Development Services. Withdrawals submitted less than two (2) working days prior to the public hearing may result in a continuance of the hearing if the effect of the withdrawal on the validity of the protest cannot be determined prior to the public hearing.
  - (5) **Exemption:** The foregoing provisions concerning protest petitions shall not be applicable to any zoning map change that establishes the City's zoning designation on property that has been added to the City's jurisdiction as a result of annexation, except as provided by general or local law.

### **12.3.7 Notice of Decision**

Within seven days after a decision is made, a copy of the decision shall be provided to the applicant and filed in the appropriate department, where it shall be available for public inspection during regular office hours.

## **12.4 Development Review Checklist Procedure**

### **12.4.1 Purpose**

The Development Review Checklist is intended to provide a basis for evaluation of development projects which integrates the degree to which a project is compatible with its immediate context, the design values created by the project, and the ways in which a

development proposal supports goals established by the Comprehensive Plan. It is intended to provide flexibility to project designers with respect to the city’s standards, to give credit for amenities and quality features that exceed requirements, and to compensate for the higher complexity and difficulty of infill or redevelopment projects. The checklist is also intended to provide structure and predictability in considering design quality as a factor in project approval. It is not intended to represent a complete list of all standards and requirements that may apply to a proposed action.

**12.4.2 Applicability**

A passing score on the Development Review Checklist shall be required for all major subdivisions, major site plans, development plans, flexible use approvals, and requests for variance in excess of thirty percent (30%) from the applicable standard (“major reviewable elements”). A passing score on the compatibility section of the Development Review Checklist shall be required for compatible use approvals, for infill or redevelopment projects over two (2) acres, and for requests for variance between fifteen percent (15%) and thirty (30%) of the applicable standard (“minor reviewable elements”).

**12.4.3 Actions Involving Multiple Reviews**

- (1) Actions which involve multiple reviewable elements must attain the minimum passing score plus an additional ten percent (10%) for each additional major reviewable element, or an additional five percent (5%) for each additional minor reviewable element; except that the minimum passing score for development plans and infill projects shall not exceed sixty percent (60%).
- (2) Reviewable elements and the passing scores required are shown in table 12.4. below.

**TABLE 12.4 - MAJOR REVIEWABLES \***

<b>APPLICATION TYPE</b>	<b>CODE SECTION</b>	<b>REQ'D SCORE/ALTERNATIVE</b>
MAJOR SUBDIVISION	13.10	Fifty percent (50%) of applicable points
MAJOR SITE PLAN	13.11	Fifty percent (50%) of applicable points
DEVELOPMENT PLAN	13.9	Sixty percent (60%) of applicable points No increase in required score for additional renewable
FLEXIBLE USE	13.12	Sixty percent (60%) of applicable
FELXIBILITY VARIANCE OVER 30%	13.16.2	Within context area range for standard of requested variance; or special conditions finding per section 13.6.9 or sixty percent (60%) of total applicable points on both checklist sections.

\*For each additional major reviewable element involved, add ten percent (10%) to required score.

**TABLE 12 .4.1 MINOR REVIEWABLES \*\***

<b>APPLICATION TYPE</b>	<b>CODE SECTION</b>	<b>REQ'D SCORE/ALTERNATIVE</b>
COMPATIBLE USE	13.12	Fifty percent (50%) of applicable
COMPATIBILITY VARIANCE	13.16.1	Within context area range for standard of requested variance; or special conditions finding per section 13.6.9 or sixty percent (60%) of total applicable points on both checklist sections.
INFILL OR REDEVELOPMENT OVER 2 ACRES	7.10.1 13.4.2 13.4.3	Within context area range for seventy-five (75%) of applicable items; or if within context area range for sixty to seventy-four percent (60% to 74%) of applicable items, fifty percent (50%) of applicable points on both checklist sections; no increase in required score for additional reviewable elements.

\*\* For each additional minor reviewable element involved, add five (5%) to required score.

**12.4.4 Required Information for Review**

The applicant shall include with the application all information necessary for staff to complete the Development Review Checklist. Where additional information is needed to make a complete review, staff will provide the applicant with a specific list of material needed. Staff will provide a determination of any sections of the checklist that are not applicable to the proposed application.

**12.4.5 Compatibility**

- (1) The compatibility section is used to grant zoning approval for activities identified as “compatible uses” in a given zone. It may also be used to grant staff approval of dimensional requirements of up to thirty percent (30%) of a given standard. Either staff or applicant may opt to request variance under standard procedure through Planning Committee.

Variances in excess of thirty percent (30%) must obtain Planning Committee approval, which will normally be granted if the proposal obtains a score of fifty percent (50%) of the points available on applicable items of the complete checklist.

The compatibility section is also required as part of the review of any project or application which is classified as infill or redevelopment and involves a site of two (2)

or more acres. Finally, compatibility elements may be used to accrue points needed for major project or flexible use approval.

- (2) Identify all land uses and/or structures within five hundred (500) feet of subject property. For each compatibility element provide the required information for each property, beginning with the closest. If an element does not apply, indicate with N/A.
  - (a) Identify lot sizes in context area.
  - (b) Estimate height of context area structures beginning with closest.
  - (c) Estimate setbacks of context area structures beginning with closest.
- (3) Identify architectural elements:
  - (a) Width to height proportionality;
  - (b) Predominant exterior materials;
  - (c) Roof type and pitch if applicable;
  - (d) Other significant architectural element represented in project or context area.
- (4) Identify other significant non-architectural project or context area elements, such as sign dimensions or site amenities.
- (5) Identify average daily traffic generation from Institute of Traffic Engineers (ITE) manual for comparables beginning with closest.
- (6) Estimate on site parking provided at properties within five hundred (500) feet, and identify the location on site.
- (7) Staff will review information and compile results into a range for each compatibility element. Requests that fall within the context area range for at least seventy-five (75%) of the applicable elements shall be approved. Requests that meet sixty to seventy-four percent (60% to 74%) of applicable elements may be approved subject to Planning Committee approval, which will normally be granted if the proposal obtains a score of fifty percent (50%) of the points available on applicable items of the complete checklist.
- (8) Applications for major project or flexible use approval may include points from the compatibility section as follows:
  - (a) Five (5) points for each of the items numbered 4, 5, and 6 with respect to which the proposal falls within the context area range, and two (2) points for each subordinate element in items 2 and 3, up to a maximum of fifty (50) points.

### 12.4.6 Comprehensive Plan Goals and Design Options

A project may receive points from any combination of the goals listed below. Where options are separated by the word “or,” the project may only receive points from one of the choices. Where options are separated by the word “and,” the project may receive points from as many choices as are applicable.

(1) Compact, efficient Land Use Pattern:

- (a) The project provides a mix of land uses or, for single use projects, adds to the diversity of uses in an area.

\_\_\_\_\_ Ten (10) points for adding an occupiable use not currently located within one-half (½) mile of project or;

\_\_\_\_\_ Twenty (20) points for horizontal mixed uses (the project will have two (2) or more uses side-by-side) or;

\_\_\_\_\_ Thirty (30) points for vertical mixed uses (a project with at least one (1) multi-story building with two (2) or more uses on different floors)

- (b) The project is located in a walkable neighborhood: frequently visited uses are within one-half (½) mile of the proposed project and are easily accessible to pedestrians via a sidewalk or other pedestrian facility. Uses include grocery stores, shops, restaurants, schools, offices, housing, day care facilities, parks, recreation or entertainment facilities, job centers, civic services such as a post office, and any nonresidential uses included in the permitted use table. Multiple entities of the same use (e.g., retail) shall be counted as one use.

\_\_\_\_\_ Ten (10) points for one to two (1-2) other uses or;

\_\_\_\_\_ Twenty (20) points for three to five (3-5) other uses or;

\_\_\_\_\_ Thirty (30) points for six (6) or more other uses.

- (c) The project will provide elements of a walkable environment.

\_\_\_\_\_ Ten (10) points for a project that includes a restaurant with outdoor seating or dining areas visible from right of way and;

\_\_\_\_\_ Ten (10) points for a project in which at least half (½) of residential units have porches or balconies that will be visible from right of way and;

\_\_\_\_\_ Ten (10) points for a project with a piece of public art visible from right of way and;

\_\_\_\_ Ten (10) points for a project that exceeds landscaping requirements by twenty percent (20%) and;

\_\_\_\_ Twenty (20) points for a project with a park, plaza, playground, or other amenity that is visible from right of way and accessible to the public.

- (d) The project has appropriate density according to future land use plan (units per acre for residential or floor area ratio for nonresidential). Mixed use projects may receive points both for residential density and non-residential floor area ratio.

\_\_\_\_ Ten (10) points if floor area ratio (FAR) is forty to seventy-four point nine percent (40% to 74.9%) of maximum or;

\_\_\_\_ Twenty (20) points if density is above mid-point in recommended density and twenty (20) points if FAR is seventy-five percent (75%) or more of maximum.

\_\_\_\_ Ten (10) points for zero to five (0-5) residential units in MUD district or;

\_\_\_\_ Twenty (20) points for six (6) or more residential units in MUD district.

- (e) The project site is an infill location or a location that logically reinforces or extends existing development.

\_\_\_\_ Twenty (20) points for development on a site that is adjacent to developed area on at least one (1) side or otherwise reflects an appropriate next step in development of the area or;

\_\_\_\_ Thirty (30) points for development on a site that is adjacent to development on two (2) or more sides.

- (f) The project will rehabilitate an existing structure and/or redevelop an existing developed site. Such a project shall have a minimum proposed construction cost that is fifty percent (50%) or more of the tax-assessed value.

\_\_\_\_ Ten (10) points for site clearance and redevelopment or;

\_\_\_\_ Twenty (20) points for renovation/reuse of existing structure or;

\_\_\_\_ Thirty (30) points for brownfield redevelopment or reuse/renovation of historic structure.

- (g) The project will add to the diversity of housing types or prices. Median housing and rental unit prices shall be those provided by the US Census or another reliable source. Census figures may be adjusted for inflation using the US Department of Labor Consumer Price Index inflation calculator or another reliable method.

\_\_\_\_ Ten (10) points for providing a housing type not presently located within one-half ( $\frac{1}{2}$ ) mile or;

\_\_\_\_ Twenty (20) points for providing housing units of two (2) new types within one-half (½) mile or;

\_\_\_\_ Thirty (30) points for providing housing units in MUD, MUCC, MUAC, or MUE districts if the project is built to walkable rather than conventional, development standards.

\_\_\_\_ Ten (10) points if at least ten percent (10%) of proposed housing units are priced for sale at a price point at or below the median value of single family houses in Tupelo or if at least ten (10%) of proposed housing units are priced for rent at a price point at or below the median rent in Tupelo or;

\_\_\_\_ Twenty (20) points if twenty-five percent (25%) or more of housing units are priced for sale at a price point at or below the median value of single family houses in Tupelo or if twenty-five percent (25%) or more of proposed housing units are priced for rent at a price point at or below the median rent in Tupelo.

(2) High Quality, Environmentally Sustainable Design and Materials:

- (a) Projects that develop on vacant land or land used only for agricultural purposes shall avoid disturbance of environmentally sensitive areas such as wetlands, steep slopes, riparian buffers, flood hazard areas, and mature woodlands. The cluster subdivision and the planned unit development processes offer flexibility in lot size and other development standards to enable projects to be designed around environmental features. Projects which provide environmental amenities above the level required are encouraged.

\_\_\_\_ Ten (10) points dedicated open space or protected woodland that exceeds the amount required in Chapter 4 for open space or Chapter 9 for tree coverage protection by ten percent (10%) or more.

The project shall not have adverse impacts on stormwater management. Development which was built in past decades with inadequate stormwater management has had negative impacts on surrounding property owners and the City of Tupelo. Projects that use good design principles to enhance the aesthetic features of stormwater management infrastructure are encouraged.

\_\_\_\_ Ten (10) points for retention pond with access elements (piers, benches, etc) or;

\_\_\_\_ Twenty (20) points for retention pond with design elements such as fountains, waterfalls, aeration, etc.

- (b) The project uses landscaping to enhance or preserve an urban tree canopy (up to fifty (50) points).

\_\_\_\_ Five (5) points for every existing tree eight (8) inches or more in caliper replaced on site or;

\_\_\_\_ Ten (10) points for every existing tree eight (8) inches or more in caliper preserved on the site.

- (c) The project incorporates building design principles and uses materials to enhance the project and the surrounding area.

\_\_\_\_ Ten (10) points for exterior materials which reflect those predominating in the context area while increasing the extent of masonry, or;

\_\_\_\_ Twenty (20) points for seventy to ninety-nine percent (76% to 99%) brick, cementitious stucco, split faced concrete block, integrally colored masonry, or stone or a combination thereof, or

\_\_\_\_ Thirty (30) points for one-hundred (100%) brick, split face block, cementitious stucco, fiber cement siding or stone or a combination thereof, and;

\_\_\_\_ Ten (10) points for a roof design that is substantially similar to an adjacent structure and;

\_\_\_\_ Ten (10) points for flat matte finish primary colors or;

\_\_\_\_ Twenty (20) points for pastels of non-earth tone hues, such as blues, yellows, greens or;

\_\_\_\_ Thirty (30) points for white, off-white, cream, dark subdued green earth tones pastels of earth tones including rose, or terra cotta and;

\_\_\_\_ Ten (10) points for windows that have clear, tinted neutral gray, leaded, frosted, or decorative glass and;

\_\_\_\_ Ten (10) points for roofs with wood textured composition or architectural shingles or;

\_\_\_\_ Thirteen (13) points for roofs with enameled standing seam metal, flat tiles of concrete or clay, or copper and;

\_\_\_\_ Five (5) points for roofs with low intensity flat colors or;

\_\_\_\_ Thirteen (13) points for roofs with white, cream, browns, earth tones, copper metal, light grays and blues, dark subdued green, or hunter green color and;

\_\_\_\_ Five (5) points for use of energy star qualified products and;

\_\_\_\_ Ten (10) points for use of solar panels and;

\_\_\_\_ Two (2) points per one-hundred (100) square feet of green roof (maximum Forty (40) points) and;

\_\_\_\_ One (1) point per one-hundred (100) square feet of rain garden (maximum twenty (20) points) and;

\_\_\_\_ Fifty (50) points for LEED certification.

(3) Transportation and Parking:

(a) The project is located in an area with and/or provides an interconnected street system.

\_\_\_\_ Ten (10) points for a project that provides street access at two (2) or more points or is located in an area of interconnected streets (an area in which at least half ( $\frac{1}{2}$ ) of all streets within a half-mile ( $\frac{1}{2}$ ) connect to two (2) or more streets) or;

\_\_\_\_ Twenty (20) points for a project with direct access to two (2) streets or vehicular access to one adjoining property or;

\_\_\_\_ Thirty (30) points for a subdivision with direct access to three (3) or more streets or vehicular access to two (2) or more adjoining properties.

(b) The project provides pedestrian and/or bicycle improvements.

\_\_\_\_ Ten (10) points for providing bicycle parking facilities for at least six (6) bicycles or;

\_\_\_\_ Twenty (20) points for providing indoor bicycle parking facilities for at least six (6) bicycles and;

\_\_\_\_ Ten (10) points for direct pedestrian or bicycle connection to two (2) adjacent properties and;

\_\_\_\_ Twenty (20) points for five hundred (500) linear feet of sidewalk or bike path beyond project site or for pedestrian or bicycle improvements to an adjacent residential or collector street such as crosswalks, bulbouts, median islands, or electronic pedestrian signals or;

\_\_\_\_ Thirty (30) points for one thousand (1000) linear feet of sidewalk or bike path beyond project site, or for bike/pedestrian improvements to an adjacent arterial

street such as such as crosswalks, bulb-outs, median islands, or electronic pedestrian signals.

(c) The project will use good design in parking requirements by locating parking in the side or rear or by having shared parking.

\_\_\_\_ Ten (10) points for parking on side (between front setback line and rear building line) or;

\_\_\_\_ Twenty (20) points for parking in side and rear or;

\_\_\_\_ Thirty (30) points for all parking located in rear and;

\_\_\_\_ Ten (10) points for shared parking that meets at least twenty percent (20%) of required off-street parking, as shown by providing written permission from the property owner.

#### **12.4.7 Review and Approval of Applications:**

- (1) Staff will review information and compile results into a total score.
- (2) The Director of Development Services may authorize reduction of the required score for approval by the total of points available in any section of the checklist which are determined to be inapplicable to the requested approval. Inapplicability shall normally be based on the proposed project not involving a change in the subject area covered by the checklist section.
- (3) Applications for major project or flexible use approval may include points from the compatibility section as follows:

Five (5) points for each of the elements numbered 3,4 and 5 with respect to which the proposal falls within the context area range, and two (2) points for each subordinate element in items 1 and 2 up to a maximum of Fifty (50) points.

- (4) Applications which receive a passing score as provided in Table 12.4 shall either be approved by the Director of Development Services, or recommended for approval by the Planning Committee according to the applicable approval requirement for each application type.

### **12.5 Traffic Impact Analysis (TIA)**

#### **12.5.1 Applicability**

Unless exempted below, a traffic impact analysis (TIA) shall be required for zoning map changes utilizing a development plan, site plans, and preliminary plats that can be anticipated to generate at least one hundred-thirty (130) vehicle trips at the peak hour (as determined by Institute of Transportation Engineers Standards). Trips generated by separate developments

meeting the criteria of Sec. 12.5.3, TIA Submission for Projects with Cumulative Impacts, shall be considered cumulatively.

### **12.5.2 Exemptions**

The following projects shall not be required to submit a TIA:

- (1) Projects located within the Mixed Use Downtown District.
- (2) Developments that submitted a TIA in conjunction with a zoning map change or previously approved site plan, or other plan, where the TIA remains valid, consistent with the provisions of Sec. 12.5.5. (5), Period of Validity.
- (3) Redevelopment of any site on which the increase in traffic at peak hour represents an increase of less than one hundred-thirty (130) trips from the previous development, if the redevelopment is initiated within twelve (12) months of the cessation of use of the previous development.

### **12.5.3 TIA Submission for Projects with Cumulative Impacts**

- (1) An applicant shall be required to submit a TIA for a development plan, site plan, preliminary plat, or other similar plan that does not otherwise meet the thresholds for submission of a TIA if the development approval is for a project that:
  - (a) Shares features such as site access or other roadways, design elements, or other infrastructure with nearby unbuilt, but reasonably foreseeable developments; and,
  - (b) When complete, will function in conjunction with such nearby developments as a single project, the impact on the infrastructure of which would exceed the thresholds for preparation of a TIA.
- (2) Determination: The Director of Development Services shall determine whether a development application meets the criteria above and shall determine whether one TIA shall be required for all of the aggregated development, or whether multiple TIAs may be employed for separate phases of the development.

### **12.5.4 Pre-Application Conference**

The applicant shall schedule a pre-application meeting with the Development Services Director or designee to discuss procedures, standards, and regulations required for TIA submittal and approval.

### **12.5.5 Requirements**

- (1) **Content:** The Development Services Director or designee shall set forth specific guidelines for preparation of TIAs. A TIA shall, at a minimum, provide the following information:
  - (a) An estimate of the traffic generated as a result of the proposed development;
  - (b) An analysis of the existing street system serving the proposed development; and
  - (c) An assessment of the improvements needed to the existing street system in order to support the traffic anticipated to be generated by the proposed development.
- (2) **Preparer:** A TIA shall be prepared by a registered professional engineer with experience in traffic engineering.
- (3) **Sources of Data:** Estimates of vehicle trips shall be calculated based on trip generation rates from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers, unless an alternative source of information is approved by the Development Services Director or MDOT.
- (4) **Period of Validity:** A TIA shall be valid for a specific site for no more than eight (8) years, so long as no significant modifications to the development proposed for the site that substantially increase the traffic impact are made. A TIA submitted in connection with a project that is accessed by a road that is operating at a level of service lower than that approved by the City Engineer or MDOT, if applicable, shall be valid for no more than five (5) years, however.
- (5) **Coordination with Zoning Map Changes, Site Plans, and Preliminary Plats**

Transportation mitigation measures may be required to address issues raised by a TIA, or as part of the approval of a Transportation Special Use Permit (TSUP). Such measures may include, but shall not be limited to, onsite and offsite improvements related to reduction of traffic impact on the surrounding road system, bicycle facilities, pedestrian movement, and the environment. These measures shall be conditions of development approval. Deletion or modification of these conditions shall require the same approval process that was required for the original project, unless the approved mitigation measure is deemed to conflict with MDOT or City of Tupelo requirements, in which case they may be deleted or modified by the Planning Committee.

### **12.6 Transportation Special Use Permit**

- (1) A Transportation Special Use Permit shall be required for site plans and preliminary plats that are expected to generate:
  - (a) Six hundred (600) or more vehicle trips at peak hour; or

- (b) Three hundred (300) or more vehicle trips at peak hour, if any road serving the project is operating at a level of service lower than the jurisdiction's adopted level of service.
- (c) The following projects shall be exempt from the requirement for a TSUP, even if they meet or exceed the thresholds specified above.
- (d) Projects located within the Downtown Tier.
- (e) Projects which have submitted a TIA in connection with a zoning map change, and which are developing consistent with the approved development plan, if the TIA is valid pursuant to Sec. 12.5.5 (5), Period of Validity, above.

### **12.6.1 Process**

Projects requiring a TSUP shall be processed in accordance with the provisions for flexible uses in Section 12.12, Compatible and Flexible Use Permits.

### **12.6.2 Criteria for Approval**

In order to approve a TSUP, the governing body shall make the following findings:

- (1) The traffic generated by the development and associated improvements to the street system will not have a significant adverse impact on the surrounding area. Significant adverse impact shall include:
- (2) Substantial increases in traffic on local residential streets such that the majority of the traffic is not associated with the residential properties which front on the street; or
- (3) The need to widen local residential streets which would detract significantly from the character or basic function of the nearby streets.
- (4) Adequate provisions have been made for safe and efficient vehicular circulation, parking and loading, and pedestrian access.
- (5) The traffic generated by the proposed development and any proposed improvements to the street system will not have a significant adverse impact on the environment. Significant adverse impacts shall include but not be limited to undue concentration of air pollutants, or excessive noise or vibrations.
- (6) The traffic generated by the development can be accommodated by the existing or funded transportation system, or adequate traffic mitigation measures have been proposed as part of the development application. Proposed mitigation measures shall become conditions of the special use permit. The adopted level of service for the adjacent roadways may be considered in making this determination but shall not be the sole factor considered by the governing body.

## **12.7 Comprehensive Plan Adoption/Amendment and Development Code Amendment**

### **12.7.1 Applicability**

- (1) The governing bodies shall consider adoption of or amendments to the Comprehensive Plan, or to the Development Code, as may be required from time to time.
- (2) The governing bodies shall also consider adoption of or amendments to the Comprehensive Plan when zoning map change proposals are in conflict with the Plan, as determined by the Director of Development Services.
- (3) Adoption of or amendments to the Comprehensive Plan shall only apply to the jurisdiction in which the subject property is located unless the property is the subject of an annexation petition.

### **12.7.2 Coordination with Other Applications**

- (1) Comprehensive Plan Amendment and Zoning Map Change. When required to ensure consistency between the Comprehensive Plan and proposed zoning map changes, an application for a plan amendment shall be submitted concurrently with a zoning map change application. The public hearings on both the plan amendment and zoning map change may be heard at the same meeting; however, decisions shall be rendered with separate motions.
- (2) Other Applications: In all other cases involving Comprehensive Plan amendments or Development Code amendments, related applications may not be submitted until the amendment has gone into effect.

### **12.7.3 Pre-Application Conference**

All applicants applying for a plan amendment shall schedule a pre-application conference with the Director of Development Services or designee.

### **12.7.4 Neighborhood Meeting**

All applicants applying for a plan amendment are encouraged to hold a neighborhood meeting.

### **12.7.5 Action by the Planning Committee**

- (1) Before making any recommendation on a plan or Development Code amendment, the Planning Committee shall consider any recommendations from the Director of Development Services and shall conduct a public hearing.
- (2) Notice and public hearing requirements shall be in accordance with Sec. 12.4.8 Notice and Public Hearings.
- (3) It is expected that the applicant or a representative of the applicant will appear at the meetings to explain why the Comprehensive Plan should be changed.

- (4) Following the public hearing, the Planning Committee shall make a recommendation on the application to the governing body.
- (5) The Planning Committee shall make its recommendation within three (3) consecutive regular Committee cycles (approximately ninety (90) days total) of its initial public hearing on the amendment.

#### **12.7.6 Criteria for Planning Committee Recommendation**

- (1) The recommendations of the Planning Committee to the governing body shall show that the Planning Committee has studied and considered the proposed comprehensive plan change in relation to the following, where applicable:
  - (a) Whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and programs of any adopted plans;
  - (b) Whether the proposed change would be compatible with the existing land use pattern and designated future land uses;
  - (c) Whether the proposed change would create substantial adverse impacts in the adjacent area or the City in general; and
  - (d) Whether the subject parcel is of adequate shape and size to accommodate the proposed change.
- (2) For Development Code amendment, the recommendation of the Planning Committee to the governing body shall show that the Planning Committee has studied and considered the proposed code change in relation to the following:
  - (a) Whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and programs of any adopted plans;
  - (b) Whether the proposed change would create substantial adverse impacts on particular properties, businesses, or the City in general;
  - (c) Whether the proposed change would improve the effectiveness of the Code in regulating development.

#### **12.7.7 Action by the Governing Body**

- (1) Before taking action on a plan or Development Code amendment, the governing body shall consider the recommendations of the Planning Committee and Director of Development Services, and shall conduct a public hearing.
- (2) Notice and public hearing requirements shall be in accordance with Sec.12.4.8 Notice and Public Hearings.

- (3) It is expected that the applicant or a representative of the applicant will appear at the meetings to explain why the comprehensive plan should be changed. In the case of a Development Code amendment, the Director of Development Services or designee shall explain the need for the code amendment.
- (4) Following the public hearing, the governing body may approve the amendment, deny the amendment, or send the amendment back to the Planning Committee for additional consideration.
- (5) An approval shall be by written resolution. The approval may be contingent upon conditions specified by the governing body. The effective date may be immediate or may be a date otherwise specified in the approval.

## **12.8 Zoning Map Change**

### **12.8.1 Purpose**

The purpose of a zoning map amendment is to amend the zoning district boundaries of the Official Zoning Map.

### **12.8.2 Initiation**

A zoning map change may be initiated by the governing body, the Planning Committee, the Director of Development Services or designee, or the property owner or their agent, except that a petition for a zoning map change with a development plan may only be initiated by the property owner or their agent.

### **12.8.3 Development Plans**

A development plan is required for any rezoning of five (5) or more acres. The development plan provides additional information with a zoning map change petition. The purposes and required elements of the development plan are set forth in Section 12.9, Development Plan. The development plan establishes the level of development that will be allowed on the property. Subsequent site plans or plats shall not deviate from the plan, unless otherwise allowed, or required under this Code. Deviation may require a zoning map change, as established in Section 12.9.12, *Deviations from Approved Development Plans*. Unless a development plan also functions as a site plan, it is not a site specific development plan. The right to develop pursuant to a development plan, whether approved under this Code or any previous Code, accrues only for any portion of the plan for which a site plan or preliminary plat is approved, and then only for the period of validity specified in this Code.

### **12.8.4 Mandatory Development Plan**

The development plan may be used by the petitioner in any zoning district; however, the development plan shall be required in all Mixed Use districts. Development plans may also be required as otherwise set forth in this Code. The development plan shall become a part of the zoning map change petition and shall be reviewed concurrently with the zoning map change

petition. Development plans shall not be required for zoning map changes of less than five acres or for correction of zoning map errors.

#### **12.8.5 Traffic Impact Analysis**

- (1) A traffic impact analysis may be required if the proposed zoning map change meets the threshold requirements established in Section 12.4, Traffic Impact Analysis.

#### **12.8.6 Pre-Application Conference**

- (1) All applicants petitioning for a zoning map change shall schedule a pre-application conference with the Director of Development Services or designee in accordance with Sec. 12.2.2.

#### **12.8.7 Neighborhood Meeting**

An applicant petitioning for a zoning map change that requires a TIA pursuant to Sec. 12.4, Traffic Impact Analysis, shall hold a neighborhood meeting as set forth in Sec. 12.2.3, Neighborhood Meeting.

#### **12.8.8 Relation to Comprehensive Plan**

- (1) All petitions for zoning map change shall be consistent with the Comprehensive Plan. A petition for zoning map change shall not be approved by the governing body when there is a conflict with the Comprehensive Plan, as determined by the Director of Development Services or designee (see Section 12.7, Comprehensive Plan Amendment).
- (2) When required, an application for a plan amendment shall be submitted and reviewed concurrently with an application for zoning map change. The public hearings on both the plan amendment and zoning map change may be heard at the same meeting. The decisions, however, shall be rendered with separate motions.

#### **12.8.9 Application Requirements**

An application for zoning map change shall be submitted in accordance with Sec., Application Requirements.

- (1) Zoning map changes should correspond with the boundary lines of existing platted lots or tracts. If the boundaries of a zoning map change request stop short of an exterior property line, that portion of the property outside the proposed zoning map change boundary shall be capable of being subdivided and developed in accordance with the existing zoning and other requirements of this Code.
- (2) All zoning requirements shall be met within the boundaries of the area being proposed for change, unless the area being changed is utilizing a development plan and is an addition to an existing area zoned with a development plan. If all of the requirements cannot be met on the site being changed, the zoning map change shall be expanded to

include necessary property being used to meet zoning requirements. Projects utilizing a development plan may be expanded without meeting this criteria if, considering the original development plan area, the requirement can be met without violating any committed elements. Projects utilizing this provision shall provide graphics and/or a chart demonstrating how the requirements are met.

- (3) If the boundaries of a zoning map change request in process are modified so as to 1) remove property from the request, and 2) have the effect of separating other adjoining properties from the boundaries of the modified request, that change shall be considered a substantial change from the original request and shall result in the modified request being considered a new zoning map change request and requiring resubmittal with a new application and applicable fees.

## **12.9 Development Plan**

### **12.9.1 Purpose**

- (1) A development plan is intended to identify commitments that are equal to or greater than Code requirements, including but not limited to:
  - (a) Intensity/density of the proposed development;
  - (b) Sensitive areas and related protection;
  - (c) Any limitations on number, type, or range of uses;
  - (d) Dedications or reservations;
  - (e) Design elements if required or otherwise provided; and
  - (f) Development phasing if required or otherwise provided.

### **12.9.2 Designation/Effect**

When a proposed zoning map change includes a development plan, the letter “D” shall follow the proposed zoning district designation. If approved, the letter “D” shall remain as a part of the zoning designation of the property. The elements submitted as part of the development plan, called "commitments", are binding and establish the level of development permitted on the property absent further zoning action except as otherwise allowed or required under this Code. "Commitments" may also be identified as "committed elements" throughout this Code.

**12.9.3 Authority of Director of Development Services:** The Director of Development Services is authorized to:

### **12.9.4 Requirements**

- (1) A development plan shall comply with all applicable laws and guidelines. Requirements under this section shall consist of the following, which may be supplemented by guidelines of the Development Services Department.

- (2) A development plan shall be signed and sealed by a Professional Engineer, Registered Architect, or Registered Landscape Architect. All graphic depictions shall be accurately scaled and separate or additional sheets may be required by the Development Services Department.
- (3) A development plan shall include a signed request from each property owner that the development plan be approved. A request from an owner's representative is unacceptable unless a document establishing legal authority to act as representative is included.

### **12.9.5 Existing Information**

A development plan shall include an existing conditions survey that depicts conditions at time of plan submittal and is signed and sealed by a licensed Professional Land Surveyor, Engineer, or Landscape Architect. A separate existing conditions sheet may also be included. Such document(s) shall provide at least the following information:

- (1) All site location information, including vicinity map, property identification numbers, ownership, metes and bounds, and north arrow;
- (2) Acreage of the entire site, approximate acreage of the area within each zoning district or overlay on the site, and approximate acreage of area within floodway, floodway fringe, non-encroachment area, or non-encroachment area fringe on the site;
- (3) Existing zoning districts and overlays on the site and all adjoining properties, including properties separated by easements or rights of way;
- (4) The owners of all adjoining properties, including properties separated by easements or rights of way;
- (5) Existing manmade and natural conditions on the site and within 100 feet of the site on adjoining properties, including properties separated by easements or rights of way. Those existing conditions shall include but are not limited to: amount and location of impervious surface; topography including steep slopes; Special Flood Hazard Areas; streams; wetlands; water bodies; forested areas; sites identified in state or local inventories of important natural areas, plants and wildlife; historic sites or structures currently designated in, or eligible for, the National Register of Historic Places; sites identified in local Architectural and Historic Inventory; and other identified archaeological sites, including cemeteries and burial grounds; and other protected areas;
- (6) Existing utility and access easements and rights of way on the site and within 100 feet of the site; and
- (7) Adopted plans, including transportation plans that apply to the site.

### **12.9.6 Minimum Commitments**

A development plan shall depict the following proposed elements, as applicable, in graphic form without side notes. Labels and descriptive information shall be located within the graphic depiction. Such elements shall become commitments:

- (1) Zoning districts and overlays on the site;
- (2) For non-residential or multi-family development, building and parking envelope;
- (3) Project boundary buffers, including any located off-site, depicted by border lines and indicating minimum committed width. Illustrative representations of vegetation shall not be used. A buffer reduction may only be requested if the minimum committed width that reflects the possible reduction is depicted. Any such width shall be labeled "width if reduced";

**12.9.7 Authority of Director of Development Services:** The Director of Development Services is authorized to: Delegate authority under this section to a designee;

- (1) Determine whether modification of an unapproved development plan or deviation from an approved development plan is significant/substantial or minor, or more or less stringent, if not specified in this section;
- (2) Interpret commitments;
- (3) Determine whether a conflict exists between commitments. Any conflict between commitments, including design commitments, shall be resolved in favor of the most stringent;
- (4) Determine whether an element is a commitment if it is not specified as such in this section; and
- (5) Determine whether additional staff review time is necessary following addition of commitments at hearings through proffers or illustrative graphic depictions. Such determination may require consultation with other departments.
- (6) General location of access points and connections to existing roads;
- (7) Dedications or reservations made for consistency with adopted plans, including transportation plans, or as otherwise required by this Code or other law;
- (8) Railroad and street rights of way;
- (9) Maximum impervious area for the site and for each separately zoned portion of the site, indicated numerically within the overall site depiction and each portion;
- (10) Areas committed for preservation, including but not limited to steep slopes; stream buffers; wetland buffers; inventory sites; historic sites or structures currently designated in, or eligible for, the National Register of Historic Places; sites identified in state or

local inventories of architectural and historical resources; and other identified archaeological sites, including cemeteries and burial grounds;

- (11) Tree preservation areas, tree replacement areas, and a generalized or specimen tree survey as required under Sec. 9.11.4 Tree Survey

### **12.9.8 Additional Commitments – Graphic**

A development plan may depict additional proposed elements, including but not limited to the following, in graphic form without side notes. Labels and descriptive information shall be located within the graphic depiction. Such elements shall become commitments:

- (1) Limitations on number, type, or range of uses, if not required under Sec. Minimum Commitments;
- (2) General location of on- or off-site road improvements or pedestrian and bicycle systems;
- (3) General location and area of open space, recreation areas, trails and greenways, tree preservation areas, or buffers other than project boundary or stream buffers;
- (4) Buffer width or opacity that exceeds Code requirements;
- (5) Landscaping features such as berms or vegetation types;
- (6) Building specifications such as number, location, maximum floor area, or maximum height;
- (7) General location and types of stormwater facilities;
- (8) Areas where mass grading will not occur; and
- (9) Building or site design elements not subject to review by the Development Services Department.

### **12.9.9 Additional Commitments – Text**

A development plan may include additional proposed elements as text in side notes, provided they cannot legibly be included within, or do not reference, the graphic depiction. Such elements shall become commitments and shall be labeled "Text Commitments." Examples include description of off-site transportation infrastructure improvements, technical specifications that exceed Code requirements, description of elements not identified graphically, and additional description of elements identified graphically. Such elements shall not repeat Code requirements or contradict or diminish graphic elements.

- (1) SIA and TIA Commitments: A development plan shall include a Stormwater Impact Analysis and a Traffic Impact Analysis, if required, with measures required to address

any identified deficiencies. Such measures shall be in text form, and may also be in graphic form as appropriate, and shall become commitments.

- (2) Design Commitments: The development plan for a project containing nonresidential or multi-family structures not located in the Mixed Use Downtown District shall include design elements indicating how the project will relate to its environment (both built and natural). Such elements may be in graphic or text form as appropriate and shall become commitments. They shall be labeled "Design Commitments" and shall include, at a minimum:
  - (a) A description of the general architectural styles proposed for use in the buildings. This description shall include information on rooflines, building materials, and any distinctive architectural features; and
  - (b) A description of how the proposed design will fit into the context area, including information about transitions and relationships to existing developments.
- (3) Residential Design Standards: If the project involves single family, duplex, or triplex housing units, design standards shall be provided comparable in form to those in Section 6.4.3.

#### **12.9.10. Phasing Plans**

- (1) A phasing plan may be provided with any development plan, but shall be required in the following instances:
  - (a) Projects utilizing any of the Mixed Use Districts. The phasing plan shall ensure that residential and non-residential components are constructed to satisfy the intent and requirements of these districts; and
  - (b) Development of more than one hundred-thirty (130) residential units.
  - (c) The phasing plan shall be in graphic or table form as appropriate and included in the development plan. It shall identify the sequence and timing of the development phases and include utility improvements, land use categories, and areas in square feet or acres. Phasing plan elements shall become commitments.

#### **12.9.11 Illustrative Graphic Depictions**

Graphic depictions other than those listed above shall not be shown at, submitted at, or otherwise used in connection with any public hearing on a zoning map change with development plan unless they depict only area within the scope of the development plan and are development plan commitments in their entirety. Such graphic depictions shall supersede existing commitments, if conflicts exist; to the extent they are more stringent.

### **12.9.12 Development Plan as Site Plan or Preliminary Plat**

- (1) At the request of the applicant, a development plan may also serve as a site plan or preliminary plat. Such plan shall comply with both development plan and site plan or preliminary plat requirements, as applicable, and shall undergo one review process. Approval of a development plan shall not require more than a sixty percent (60%) score on the Development Review Checklist, Section 12.4, based on additional reviewable elements such as setback variances. Such plan shall be deemed approved as both development plan and site plan or preliminary plat, as applicable, following development plan approval by the governing body. Fees shall be adjusted by the Department of Development Services in such cases.
- (2) Where a development plan also serves as a site plan or preliminary plat, any associated compatible or flexible use permit requirement shall be waived if the development plan contains commitments as to all use categories; intensity of all uses; location of all uses; building heights and areas; and number and location of parking spaces.
- (3) Where a development plan serves as a site plan or preliminary plat, the plan may be used to qualify for compatible or flexible use permits to apply to the site plan or preliminary plat.
- (4) Where a development plan also serves as a site plan or preliminary plat, any associated compatible or flexible use permit requirement shall be waived if the development plan contains commitments as to all use categories; intensity of all uses; location of all uses; building heights and areas; and number and location of parking spaces.

Where a development plan serves as a site plan or preliminary plat, the plan may be used to qualify for compatible or flexible use permits to apply to the site plan or preliminary plat.

### **12.9.13 Modifications Before Approval**

- (1) Modifications to a development plan that are proffered at a hearing before the Planning Committee or governing body shall become additional commitments and shall supersede existing commitments, if conflicts exist, to the extent they are more stringent. Proffers that prove to be illegal or less stringent than existing commitments shall be referred back to the Planning Committee or governing body for an additional hearing.
- (2) Minor modifications may be made to a development plan after the Planning Committee recommendation and before the governing body hearing. Such modifications become additional commitments and shall supersede existing commitments, if conflicts exist; to the extent they are more stringent.
- (3) Significant modifications that are made to a development plan after the Planning Committee recommendation and before the governing body hearing shall be referred back to the Planning Committee for an additional hearing as required under Sec. 12.9.17, Changed Application.

### **12.9.14 Deferral and Withdrawal of an Application for Zoning Map Change**

- (1) Deferral Requests are approved by the Director of Development Services. Deferrals may be granted by the Director of Development Services, or designee, under the following criteria:
- (a) The applicant or an opponent may each seek not more than one (1) deferral for each zoning map change requested. No more than two (2) deferrals (one each from the applicant and an opponent) shall be allowed per proposed zoning map change;
  - (b) Each deferral request shall be for a maximum of one (1) month. Any deferral request shall be made in writing, citing reasons for requesting the deferral; and
  - (c) If the request for deferral is received by the Director of Development Services or designee and the reasons for the request are made in writing at least ten (10) days prior to the first Planning Committee or governing body meeting where the item would otherwise be considered.
  - (d) Any other deferrals which do not meet the above criteria shall be treated as a continuance.
  - (e) If notification of the hearing has already been sent by the time deferral is requested each request shall be accompanied by two (2) sets of mailing labels imprinted with the names and addresses of all previously notified property owners and a fee equivalent to the postage required to re-notify the property owners.
  - (f) The above procedures are not applicable to proposed zoning map changes that have been designated as “expedited” by a governing body.
- (2) **Withdrawal Request by Applicant:** The applicant petitioning for a zoning map change may withdraw the application provided that a written request stating the reason for the withdrawal is received by the Director of Development Services at least ten (10) days prior to the public hearing.
- (3) **Administrative Withdrawal:** The Director of Development Services or designee may withdraw applications due to the failure of the applicant to submit required information within ninety (90) days of a request for such information.
- (4) **Re-Submittal of Withdrawn Applications:** Except in the case of an application withdrawn by the applicant with ten (10) days notice as required in Section 12.9.14. (2), no application that was previously withdrawn may be resubmitted until at least six (6) months have elapsed since the date of withdrawal. In the case of applications withdrawn after publication of a notice of a public hearing, no new application may be resubmitted until at least twelve (12) months have elapsed since the date of withdrawal. The Director of Development Services or designee may waive this waiting period if the application has been substantially modified or if there has been a significant change in facts or circumstances since the application was withdrawn.

### **12.9.15 Action by the Director of Development Services**

- (1) The Director of Development Services or designee shall prepare a staff report that reviews the zoning map change request in light of any applicable plans and the general requirements of this Code.
- (2) The staff report shall consider the entire range of permitted uses in the requested classification regardless of any representations made that the use will be limited, unless a development plan is submitted that restricts the permitted range of uses to specific uses. The staff report shall include an evaluation of the consistency of the requested classification with adopted plans and the impact of the requested classification on public infrastructure, as well as any specific requirements of the requested classification.
- (3) The Director of Development Services or designee shall forward completed zoning map change requests and any related materials to the Planning Committee for a hearing and recommendation at the first regularly scheduled meeting following completion of the technical reviews by staff.
- (4) The Director of Development Services or designee shall forward completed zoning map change requests and any related materials, including the Planning Committee recommendation, to the governing body for a public hearing and decision prior to the first regularly scheduled meeting after the Planning Committee hearing.

### **12.9.16 Action by the Planning Committee**

- (1) Before making any recommendation on a petition for zoning map change, the Planning Committee shall consider any recommendations from the Director of Development Services and shall conduct a public hearing where interested parties may be heard.
- (2) Notice and public hearing requirements shall be in accordance with Sec. 12.3, Notice and Public Hearings.
- (3) The Committee shall make its recommendation within three (3) consecutive regular Committee cycles (approximately ninety (90) days total) of its initial public hearing. The time period for a recommendation may be altered, as in the case of significant modifications, in which case three (3) additional-consecutive regular cycles shall be granted before the case shall go to the governing body.
- (4) When a recommendation is not made within the time periods established in this section, the governing body may process the request without a Committee recommendation.

### **12.9.17 Changed Application**

If the applicant makes a significant modification to an application for a zoning map change after the Committee has made its recommendation, the Director of Development Services shall refer the modified request back to the Committee for an additional public hearing. In such case, the Committee shall make a recommendation to the governing body within ninety (90) days of the public hearing on the modified application. If a recommendation is not made within

this time frame, the governing body may hear the application without a recommendation from the Planning Committee.

**12.9.18 Written Recommendation and Review Criteria:** The Planning Committee shall provide a written recommendation regarding whether each proposed map change is consistent with the comprehensive plan and other applicable adopted plans. The recommendation shall be based on the reasons articulated by Committee members voting in the majority, and the recommendation shall be developed as determined in the Committee's *Rules of Procedure*. In addition to plan consistency, Committee members may also consider other matters deemed appropriate by the Committee, which may include but are not limited to:

- (1) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
- (2) Suitability of the subject property for uses permitted by the current versus the proposed district;
- (3) Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the City; and
- (4) The availability of adequate school, road, parks, wastewater treatment, water supply and stormwater drainage facilities for the proposed use.

#### **12.9.19 Action by the Governing Body**

Before taking action on a zoning map change request, the governing body shall consider any recommendations of the Planning Committee, Director of Development Services or designee, and of staff agencies, and shall conduct a public hearing where interested parties may be heard.

- (1) Notice and public hearing requirements shall be in accordance with Section 12.3., Notice and Public Hearings.
- (2) Continuances may be granted before action on the request.
- (3) Following the public hearing, the governing body may approve the request, deny the request, or send the request back to the Planning Committee for additional consideration.
- (4) In adopting or rejecting a zoning map change, the governing body shall adopt a statement describing whether its action is consistent with the Comprehensive Plan and why the action is reasonable and in the public interest. The governing body may adopt the statement furnished by staff or agencies, including but not limited to the Director of Development Services or the Planning Committee, or it may formulate its own statement.
- (5) The map change request approved by the governing body may include changes from the request presented. Changes to a development plan may be made upon the proffer by the applicant of such changes.

- (6) Approval of a petition gives the applicant the ability to proceed with any additional required approvals.

### **12.9.20 Deviations from Approved Development Plans**

- (1) **Significant Deviations:** The deviations from an approved development plan listed below are deemed significant and shall require that the entire plan be resubmitted for a zoning map change in accordance with the application requirements of this section, except as specified in paragraphs (2), (3), and (4) below. Deviations not listed below do not require a zoning map change unless they are otherwise deemed significant or substantial:
- (a) Increase by any amount in the number of residential units or approved density of residential projects in the overall project, except through use of the Affordable Housing Density Bonus;
  - (b) Decrease by more than twenty (20%) in total density in residential projects, except in the Downtown Overlay District or Mixed Use Residential District;
  - (c) Decrease by more than five (5%) in total density in residential projects located within the Downtown Overlay District or Mixed Use Residential District, unless that decrease results from the application of Development Code requirements relating to size or design;
  - (d) In a nonresidential or mixed-use development, a cumulative expansion adjacent to a residential district or use that exceeds five (5%) of total building floor area or four thousand (4,000) square feet, whichever is greater, or a cumulative decrease that exceeds twenty percent (20%) of total building floor area if creating or maintaining intensity was important to the zoning map determination;
  - (e) With regard to development plans that were approved before commitments, or committed elements, were required to be identified on development plans, any change to a development plan depiction that exceeds current Code requirements for setbacks, open space, buffer width or planting, recreation areas, tree protection areas, landscaped areas, or limitations on height, unless such depiction is clearly identified as "conceptual" or "illustrative";
  - (f) Elimination or reduction of a dedication of right-of-way, greenway, or other public component;
  - (g) A change in the proposed phasing of the project where phasing plans are required or are commitments;
  - (h) A change in use category (for example, residential to office, office to commercial, commercial to industrial, as described in Chapter 4, Base Zoning Districts), if limitations on the number, range, or types of uses were proposed with the development plan and the governing body limited its consideration of uses to those uses;

- (i) A significant change in the number, location or configuration of access points to the development, or a significant change to previously shown public road improvements;
- (j) A significant change in the location, square footage, or size of a building adjacent to a residential district or use;
- (k) A significant change in the architectural design;
- (l) If a Traffic Impact Analysis was originally submitted, a change that would increase the total vehicle peak hour trips by ten percent (10%) or greater. If a Traffic Impact Analysis was not originally submitted, a change that would require a Traffic Impact Analysis;
- (m) An increase of more than five percent (5%) in impervious surface area; and
- (n) Any change that is otherwise prohibited under this Code.

## (2) Changes to Portions of Development Plans

Where a deviation is proposed from a portion of a development plan, for example from one phase or zoning district, the Director of Development Services may consider cumulative deviations and the impact of such portion on the overall development in a significance assessment. If the deviation is deemed significant, the Director of Development Services shall determine whether it requires a zoning map change to all or only a portion of the development plan.

## (3) Changes Following Transfers to Residential Owners

Where a deviation is proposed from a development plan and a portion of the development has been transferred to a residential owner, the Director of Development Services may exclude such residential portion from a significance assessment if it meets all minimum Code requirements. If the deviation is deemed significant, the Director of Development Services shall determine whether it requires a zoning map change to all or part of the development plan.

## (4) Changes Required by Code or Other Law

Notwithstanding the other requirements of this section and except as stated below, a site plan or preliminary plat shall deviate from an approved development plan to conform to the requirements of a new Code or other law adopted after development plan approval, and a zoning map change shall not be required. Exceptions are: 1) where the development plan is vested by the appropriate governing body pursuant to the statutory vested rights procedure; and 2) as authorized under Sections 1.7, Previously Approved Subdivisions, and 1.8, Previously Issued Building Permits. Under such exceptions, the site plan or preliminary plat may conform to the approved development plan.

### **12.9.21 Coordination with Site Plans**

Approval of a zoning map change with a development plan shall enable the owner or an authorized agent of the owner to prepare a site plan in conformance with the zoning map change and development plan for the property. The site plan may be prepared for the entire property or phases of the development project in accordance with Section 12.11, Site Plan Review.

### **12.9.22 Subsequent Amendments**

When the governing body has taken action on a zoning map change, no new application may be filed for a similar zoning map change on the subject parcel(s) until at least twelve (12) months have elapsed since the date of the previous action. The Director of Development Services may waive this requirement if the application has been significantly modified or there has been a significant change in the facts or circumstances since the previous request.

## **12.10 Subdivision**

### **12.10.1 Applicability**

Subdivision means all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street right-of-way or a change in existing street right-of-way. Subdivision approval shall be required before the division of land (for any purpose) into two (2) or more parcels, except as specified in Section 12.10.2., Actions Exempt from Subdivision Requirements.

All requirements imposed through a plat shall run with the land and shall apply against any owner, subsequent owner, or occupant.

### **12.10.2 Actions Exempt from Subdivision Requirements**

The following shall not be considered “subdivision” and are exempt from the provisions of this section:

- (1) The combination or recombination of lots, or portions of lots, previously created and recorded, if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Code;
- (2) The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved;
- (3) The public acquisition of strips of land for the widening or opening of streets or the location of utility right-of-way; and
- (4) The division of a tract in single ownership of which the entire area is no greater than two (2) acres into not more than three (3) lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of this Code.

- (5) No review or approval is required for exempt subdivisions; however, Director of Development Services certification of exempt status is required. Exempt subdivision plats shall be stamped by the Director of Development Services noting their exemption, and signed so that they can be recorded by the Chancery Clerk.

### **12.10.3 No Subdivision without Plat Approval**

- (1) No subdivision of land within the jurisdiction of the City may be filed or recorded with the Chancery Clerk until it has been submitted to and approved by the Planning Committee, Director of Development Services, or Director's designee as specified herein and until the approval is entered on the face of the plat.
- (2) Any person who, being the owner or the agent of the owner of any land located within the jurisdiction of this Code, subdivides land in violation of this Code, or transfers, or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Code, and recorded in the Office of the Chancery Clerk, shall be guilty of a misdemeanor and shall be punishable, accordingly, by fine or imprisonment.
- (3) The description by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring land, does not exempt the transaction from penalties. The City may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order for compliance.

### **12.10.4 Pre-Application Conference**

All applicants considering petitioning for a preliminary plat may schedule a pre-application conference with the Director of Development Services, or designee to discuss the procedures, standards, and regulations required for subdivision approval in accordance with the provisions of this Code.

### **12.10.5 Sketch/Concept Plans**

It is recommended, but not required, that the applicant applying for subdivision approval submit a sketch/concept plan for review by the Director of Development Services or designee. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions.

### **12.10.6 Preliminary Plat Requirements**

An application for preliminary plat review shall be submitted in accordance with Sec. 12.2, Application Requirements. Preliminary plat documents showing the proposed subdivision of the land into lots shall contain, as a minimum, the information listed below unless the Director of Development Services makes the determination that less detailed information is adequate for review. No processing or review of a preliminary plat will proceed without the required information. Detailed standards and specifications for design and construction are available in the Specifications Manuals adopted by the City of Tupelo, as identified in the Appendix.

### **12.10.7 General Requirements**

- (1) Title Block - Name of project, labeled: Preliminary Plat; submittal and revision dates; sheet size thirty-six by forty-eight (36" x 48") maximum with index map and match lines if multiple sheets are required; graphic scale (not smaller than one (1) inch to two hundred (200) feet on a standard engineering scale); north point; property identification number; vicinity map clearly establishing the location of the proposed project, with readily recognizable landmarks, stream buffers, flood plain boundaries, property zoning districts and any overlay zones.
- (2) Name, address and telephone number of owner, applicant and agent; name, address and telephone number of surveyor, engineer, landscape architect, or other designer, with seal.
- (3) In addition, State or Federal regulations may require that additional information be supplied to the Development Services Department as a part of a submittal.
- (4) The preliminary plat shall be provided to the Development Services Department in both hard copy and digital form. The plat drawing shall be in a generally accepted engineering file format and shall be georeferenced to the Mississippi East State Plane Coordinate System.

### **12.10.8 Existing Conditions**

The preliminary plat shall show the following information on existing conditions:

- (1) Boundary of the property, using metes and bounds with angle of departure of adjacent properties;
- (2) Site total area and amount to be developed;
- (3) Lot lines;
- (4) Existing building footprints and square footage;
- (5) Improvements, such as loading areas, parking areas, driveways, alleys, streets, sidewalks, etc.;
- (6) Any septic tanks, drain fields and wells;
- (7) Culverts and other subsurface features;
- (8) All utility easements, above and below ground, including information on type, size, and elevation;
- (9) Railroads;
- (10) Cemeteries;

- (11) Setback requirements;
- (12) Zoning of the site and adjacent zoning, including any overlay zones;
- (13) Land use of the site and adjacent land uses including major improvements within fifty (50) feet of the subject property;
- (14) Adjacent property owners;
- (15) Adjacent streets, including name and right of way width.
- (16) Topographic contours at two (2) foot intervals for all property within one hundred (100) feet of a proposed development area and topographic contours at five (5) foot contour intervals for the remainder of the property including a source reference;
- (17) Locations and names of water features including shorelines, water bodies, intermittent and perennial streams;
- (18) A specimen tree survey;
- (19) Locations of drainage ways, stream buffers, special flood hazard areas, wetlands and wetland buffers;
- (20) Locations of vegetation, rock outcrops, steep slope areas, natural inventory sites and historic inventory sites.
- (21) A list of any conditions applied to the property as part of any previous approvals.
- (22) Existing features shall be clearly distinguishable from proposed development.

#### **12.10.9 Proposed Conditions**

- (1) Street Improvements (Public and Private): Location of improvements or widenings, names, widths of rights of way and pavement, design criteria including sight triangles and a typical cross section; Traffic Impact Analysis, if required.
- (2) Pedestrian Circulation: Location of sidewalks and other pedestrian ways including dimensions and surfacing, along streets and other locations; provision of crosswalks.
- (3) Landscaping: Location of all plant materials and other landscaping features, including calculations of amount required and the amount provided; the number, size, and description of plant materials, fences, walls and berms; provisions for screening specialized features, such as storage areas; calculations of the amount of tree coverage required and the amount and percentage of tree coverage provided by tree preservation and tree replacement; calculation of the amount of street trees and the amount provided by tree preservation and tree installation; a land disturbance tree survey; and the location and a description of all proposed and required tree protection measures.

- (4) Grading: Location of vegetation to be retained including approximate sizes and protection measures to be used; a depiction of contours at two (2) foot intervals, supplemented with planned floor elevations on each lot that is wholly or partially within a Special Flood Hazard Area or that contains less than six thousand (6,000) square feet, and spot elevations when necessary, including location, description, and size of any retaining walls; dimensions of stream buffers.
- (5) Utilities: Location and width of all easements and rights of way for water, sewer, storm sewers, gas, electric, communication facilities, or any other utility facility.
- (6) Storm Drainage: Location and description of temporary and permanent storm drainage pipes and swales; amount of impervious surface; provisions for erosion and sedimentation controls, including retention and detention facilities; as well as professionally sealed engineering calculations used in the design.
- (7) Water and Sewer: Location and description of public and private water and sanitary sewer improvements including connections to existing facilities and maintenance provisions.
- (8) Property Dedications/Reservations: Location and description of dedicated or reserved properties under public or private ownership including the boundaries, size, purpose, future ownership and maintenance provisions for the property. This category includes but is not limited to thoroughfares, rail corridors, greenways, recreation facilities, open space and common areas.

#### **12.10.10. Specific performance standards as required by other Articles of the Development Code**

- (1) Within Special Flood Hazard Areas: demonstration that the subdivision will minimize flood damage through the location and construction of all public utilities and facilities, including water and sewer systems; adequate drainage in accordance with adopted standards to reduce exposure to flood hazards.
- (2) Traffic Impact Analysis: A traffic impact analysis (TIA) pursuant to Section 12.5, Traffic Impact Analysis (TIA) may be required.

#### **12.10.11 Preliminary Plat Approval**

- (1) Applicability: A preliminary plat shall be required for all major subdivisions of land within the jurisdiction of this Code, defined as any development of more than lots or any subdivision of land that would include public dedication of land, streets, utility extensions, or required stormwater management facilities. A preliminary plat is optional for minor subdivisions, defined as development of six (6) lots or less with no public dedication of land, no streets, no utility extensions, and no required stormwater management facilities.
- (2) Subdivision approval requires the submission of both preliminary and final plats and full interagency review for conformity with the requirements of this Code and other development-related Codes.

- (3) Where site plans, as required by this Code, serve as preliminary plats for subdivisions, they shall satisfy these submission requirements in addition to those required for zoning compliance.

#### **12.10.12 Public Notice**

As applicable, notification of preliminary plat review shall be sent to groups including, but not limited to, the following:

- (1) Tupelo Public Schools;
- (2) Historic Preservation Commission (if applicable);
- (3) If the applicant for the preliminary plat is seeking approval of any of the modifications to standards specified in Section 12.11., Major Site Plans, that are granted at the discretion of a governing body, any organization or individual that is registered to receive notice pursuant to Registration to Receive Notice, and is located within one thousand (1,000) feet of the site under consideration. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Director of Development Services.

#### **12.10.13 Action by the Director of Development Services**

Staff review agencies shall complete review and transmit comments back to the Director of Development Services or designee. If required corrections are minor, as determined by the Director of Development Services or designee, the Director of Development Services or designee shall schedule the subdivision for review at the next Planning Committee meeting; if required corrections are extensive, the applicant shall correct the plat before it is scheduled for Planning Committee review. If the applicant fails to submit revised plats in response to the comments of the staff review agencies within ninety (90) days of receiving such comments from the Director of Development Services, or designee, the Director of Development Services may consider the application to have been withdrawn by the applicant.

#### **12.10.14 Action by the Planning Committee**

- (1) The preliminary plat documents, along with the review comments, will then be considered by the Planning Committee at a public meeting at which a representative of the subdivider or any other interested person may attend.
- (2) After hearing a recommendation from the Director of Development Services or designee, the Planning Committee shall approve the plat as is, approve it subject to additional corrections, defer action for additional information and corrections, or disapprove it. Approved or corrected preliminary plats shall be stamped and signed denoting approval. If the preliminary plat is disapproved or deferred, the Planning Committee shall notify the applicant of the reasons for such disapproval or deferral.

- (3) The preliminary plat shall be approved by the Planning Committee if it meets the following criteria:
  - (a) Conforms with all the provisions and requirements of applicable adopted plans, including but not limited to the Comprehensive Plan, greenways plans, or transportation plans;
  - (b) Conforms with all the provisions and requirements of this Code; and
  - (c) Conforms with all the provisions and requirements of other applicable Codes not included in this Code.
  - (d) Attains a passing score on the Development Review Checklist as referenced in Section 12.4.

#### **12.10.15 Reservation of Public Facility Sites and Lands**

- (1) The review of preliminary plats may be delayed by no more than forty-five (45) calendar days if the proposed subdivision contains sites which appear in an adopted plan or policy documents as a future site for a public school or other public facility, recreation area, park, greenway or other open space. During preliminary plat review, the appropriate entity responsible for future site acquisition shall be given forty-five (45) calendar days from date of plat submission to decide if it wishes to reserve the site.
- (2) If the site is not to be reserved, the subdivision shall be processed in the normal fashion. If the agency wishes to reserve the site and specifies such intent in writing to the Director of Development Services or designee, the subdivision shall not be approved without the reservation.
- (3) Public school authorities shall have eighteen (18) months from the date of preliminary plat approval to acquire the site by purchase, by receipt of dedication, or by initiating condemnation proceedings. If, at the end of the eighteen (18) month period, none of the above actions has occurred, the subdivider may consider the land free from reservation and apply for revised preliminary plat approval for its use.
- (4) Public agencies other than schools shall have one hundred-twenty (120) calendar days from the date of preliminary plat approval to arrange for site acquisition for public facilities by option to purchase, by purchase, by receipt of dedication, or by initiating condemnation proceedings. If, at the end of the one hundred-twenty (120) day period, none of the above actions has occurred the subdivider may consider the land free from reservation and apply for revised preliminary plat approval for private use of the property.

#### **12.10.16 Issuance of Required Permits**

Upon preliminary plat approval, the applicant may apply for the required permits to begin site work and the installation of improvements. All site work shall be performed in compliance with

the requirements of this section and other applicable regulations of the city, county, and state. No required permit may be issued until the required preliminary plat is approved.

#### **12.10.17 Preliminary Plat Revisions**

Minor revisions to approved preliminary plats, which reflect the same basic street and lot configuration as used for the original approval, may be approved by the Director of Development Services or designee. Significant changes to an approved preliminary plat, as determined by the Director of Development Services or designee, shall be resubmitted for review and approval as if it is a new application.

#### **12.10.18 Continuing Validity of Preliminary Plat**

An approved preliminary plat shall retain its validity for four (4) years, if:

- (1) A permit to begin development pursuant to the plat, such as a land disturbance permit, a building permit, or an improvement permit has been issued and has remained continuously valid thereafter; and,
- (2) Building or land disturbing activity has begun on the property.
- (3) The issuance of a building permit or a certificate of compliance within a phase of a project shall not extend the validity of the preliminary plat for the unbuilt portions of that phase or any future phases of the project for which building permits have not been issued.

#### **12.10.19 Modification of Design Standards and Improvement Requirements**

- (1) In approving the preliminary plat, the City Council may modify any of the design standards or improvement requirements set forth in Chapters 6, 8, and 9, where necessary to make the approved preliminary plat conform to any master land use plan which the City Council has approved for a planned unit development on the property.
- (2) In all other cases, and only upon the request of the applicant, the City Council may modify any of the design standards or improvement requirements set forth in Chapters 6, 8, and 9, upon finding the following:
  - (a) That the topography or other physical conditions of the subject property are such that compliance with these standards and requirements would cause an unusual and unnecessary hardship on the applicant, above and beyond what other subdividers would face;
  - (b) That the modifications will not have the effect of nullifying the intent and purposes of this Code.
  - (c) Where any such modification is granted, the reasons therefore shall be stated in the minutes of the City Council meeting at which final action is taken on the preliminary plat.

### **12.10.20 Development Agreement Required Prior to Construction**

- (1) Procedure: After the preliminary plat is approved by the City Council, and final construction drawings are approved by the Department of Development Services, the developer and owner, if applicable, must enter into a development agreement with and satisfactory to the Mayor and City Council relative to all required public and private improvements, payment of fees, required securities, certification of insurance, and any conditions placed on approval of the preliminary plat.
- (2) A draft development agreement shall be prepared by the City of Tupelo Department of Development Services. The draft agreement may be prepared and reviewed concurrently with the review of construction plans. The draft agreement shall reference the design incorporated within the approved construction drawings and shall be sufficient in form to assure the proposed construction methods and materials meet or exceed minimum standards established by the City of Tupelo. A draft development agreement shall be sent to the applicant for approval.
- (3) Upon acceptance of the agreement by the applicant, the draft development agreement shall be forwarded to the Mayor and City Council for approval and for execution by the Mayor or designee. If the applicant takes exception to the development agreement, a letter setting forth these items may be presented to the Mayor and City Council for consideration. The final plat may not be recorded until the development agreement is approved by the Mayor and City Council and executed by the Mayor or designee.
- (4) After the applicant has returned an executed copy of the development agreement, paid all applicable fees, provided the security and certificate of insurance, the Director of Development Services may sign the construction drawings and work may begin.

### **12.10.21 Effective Period of Approval**

The applicant shall execute the approved Development Agreement within ninety (90) days of the date of approval of the Mayor and City Council. Any request for a time extension shall be submitted to the Department of Development Services at least sixty (60) days prior to the date of the appropriate City Council meeting. The time extension must be approved before the expiration of the preceding approval period.

### **12.10.22 Time Extension**

It is agreed by the Developer and the City that the Development Agreement will become void unless the Developer commences construction within one (1) year from the effective date or obtains a time extension from the Mayor and City Council. Any request for a time extension shall be submitted to the Department of Development Services at least sixty (60) days prior to the date of the appropriate City Council meeting. The time extension must be approved before the expiry of the preceding approval period. The failure of the Developer to commence construction within one (1) year of the effective date will result in the approvals of the City Council, Planning Committee and other applicable boards and commissions being null and void.

### **12.10.23 Security Requirements**

(1) General: In order to ensure that the work will be completed in accordance with approved construction drawings and applicable specifications, all public and private improvements proposed in conjunction with any subdivision must be covered by adequate security. The applicant shall post approved security with the City of Tupelo. The approved security shall be one or more of the types of security specified herein. Approved security shall be accompanied by a development agreement whereby the applicant agrees to make and install the improvements in accordance with the approved construction drawings and applicable specifications to ensure completion of the work.

(2) Types of Security: Subject to the standards and requirements of this Article and of guaranteeing completion of improvements required by these regulations:

(a) Cash that will be deposited in a liability account;

(b) Assignment of Certificate of Deposit that is to be held by the City as collateral to assure completion of project; or

(c) Irrevocable Standby Letter of Credit: The letter of credit shall be obtained at a financial institution acceptable to the City Attorney and show the City of Tupelo as beneficiary. The letter of credit shall be effective for one (1) year and automatically renewable for one-year periods with no effort on the part of the City. Should the financial institution decide not to renew the letter of credit, the institution shall notify the City in writing ninety (90) days prior to its expiration date by certified mail return receipt requested at which time the City can draw up to the full face value of the letter of credit. Any litigation concerning this letter of credit shall be held before a court of appropriate jurisdiction in Lee County, Mississippi.

(3) Amount of Security: If the construction cost for internal improvements (within the property boundary) is estimated to be greater than one hundred-thousand (\$100,000), the Developer shall provide a financial security instrument for one hundred-thousand (\$100,000). If the construction cost for internal improvements (within the property boundary) is estimated to be less than one hundred-thousand (\$100,000), the Developer shall be required to provide a financial security instrument for the estimated cost of the public and private improvements. A financial security instrument shall be provided for the full amount of the estimated cost of the external public improvements (outside the property boundary). A financial security instrument may be revised during the contract period if approved by the Mayor and City Council.

### **12.10.24 Release of Security**

Upon completion of all required and proposed improvements as specified in the development agreement, the City of Tupelo will authorize the release of ninety (90) per cent of the security. The final ten (10) per cent will be released at the end of the required warranty period. Security may be partially released or reduced upon the Director of Development Services' certification of the percentage of the estimated cost of improvements that has been completed and accepted. No more than three (3) such partial releases will be granted.

### **12.10.25 Acceptance of Improvements for City Maintenance**

- (1) **Inspections:** The installation of improvements shall in no case bind the city to accept any such improvements for public maintenance and operation thereof, until the proper departments have inspected and accepted the improvements as meeting all applicable requirements and the terms of the Development Agreement; provided, however, that the city shall not accept drainage easements for maintenance except as provided herein.
- (2) Street and storm sewers which are properly constructed, enclosed, and subterranean within the right of way of any dedicated street shall be accepted for public maintenance. “Major drainage easements” as defined in Chapter 2 of the Tupelo Development Code shall be accepted for public maintenance.
- (5) The city shall accept an irrevocable license to enter upon all other surface water drainage systems for emergency work to prevent or alleviate property damage or public damage, or to alleviate the failure of the subdivider or developer to maintain the drainage system which has or could result in property damage to the public, public danger or detrimentally affect public health.
- (6) The city will not accept such systems for maintenance, which shall remain the responsibility of the subdivider or property owner. The Development Agreement shall specify which improvements may be accepted for city maintenance and which shall remain private responsibilities.

### **12.10.26 Warranty Period Following Acceptance**

- (1) If the Director of Development Services determines that the installed improvements meet all applicable city standards and all other conditions and requirements specified in the Development Agreement have been met and final construction plans are approved, then a Certificate of Initial Acceptance shall be issued, and the plat shall be recorded according to the procedures in Section 12.10.27. of this code.
- (2) A one (1) year warranty period begins with the first working day of the calendar year after the Certificate of initial acceptance is issued. During this warranty period any deficiencies in accepted improvements that are documented by the City Engineer or other city departments shall be the responsibility of the developer or subdivider to correct or repair.
- (3) The City shall not be obligated to maintain any improvements until one (1) year without defects has passed and a Certificate of Final Acceptance shall be issued by the Director of Development Services. Failure to make required repairs within three (3) months of the date on which the developer or subdivider is notified of the deficiency shall result in the revocation of any building permits issued to the developer or subdivider, and in the suspension of further issuance of additional building permits for construction on lots within the subdivision owned by the developer or subdivider.
- (4) The city may perform the necessary repairs, drawing upon the security provided under the development agreement, and if necessary, may also make every effort to collect

payment from the subdivider or developer by all legal means including the placement of liens on lots owned by the subdivider or developer

### **12.10.27 Final Plat Approval**

- (1) **Applicability:** A final plat shall be required for all subdivision of land within the jurisdiction of this Code except as allowed under Mississippi General Statute.
- (2) **Conformity with Preliminary Plat:** The final plat shall conform to the approved preliminary plat, if any, and may constitute only that portion of the preliminary plat which is proposed for recordation.
- (3) **Submittal Requirements:**
  - (a) When the installation of required site improvements is nearing completion, the subdivider shall submit a final plat for review and approval.
  - (b) The final plat shall be drawn in accordance with Mississippi Statute Section 17-1-23, Subdivision Regulations; standard land surveying and mapping practices; and city engineering standards.
  - (c) **Endorsements on Final Plats.** The following certificates shall be placed upon all final plats:
    - (d) Certificate of accuracy and mapping signed by a registered surveyor;
    - (e) Certificate of ownership and dedication signed and notarized, including all individuals, partnerships, and corporations, and lenders with financial security interests;
    - (f) Attorney's certification of ownership for any final plat involving a right-of-way dedication signed and notarized; and
    - (g) Review Officer's Certification.
- (4) **Action by the Director of Development Services:** Staff review agencies shall complete review and transmit comments back to the Director of Development Services. The Director of Development Services shall approve the plat as is, defer action for additional information and corrections, or disapprove it. If the final plat is disapproved or deferred, the Director of Development Services or designee shall notify the applicant of the reasons for such disapproval or deferral. The final plat shall be approved by the Director of Development Services or designee if it meets the following criteria:
  - (a) Conforms with all the provisions and requirements of applicable adopted plans, including but not limited to the Comprehensive Plan, greenways plans, and transportation plans;

- (b) Conforms with all the provisions and requirements of this Code; Conforms with all the provisions and requirements of other applicable Codes or Ordinances not included in this Code;
- (c) Conforms with the approved preliminary plat, if any;
- (d) Conforms with completed and approved construction drawings for public infrastructure, where such construction drawings are required by this Code or other applicable Code or Ordinance; and
- (e) Is accompanied by a bond or other performance guarantee deemed adequate in amount and form by the requesting department, if required infrastructure, including but not limited to stormwater, street, or water and sewer improvements, has not been completed in accordance with approved construction drawings, and if the department responsible for such infrastructure has consented to final plat approval pending its completion.

#### **12.10.28 Issuance of Certificate of Compliance**

(1) **Necessary Infrastructure:** If a final plat for a project has been approved prior to completion of stormwater facilities, water and sewer utilities, streets, sidewalks, and recreation facilities, certificates of compliance shall not be issued and permanent water or sewer service shall not be provided for buildings within the platted area until completion of required improvements except as further provided below.

- (a) If the director or designee of the department responsible for acceptance or regulation of the required infrastructure determines in his/her reasonable discretion that delay will improve the quality of the infrastructure or will conserve resources, he/she may allow certificates of compliance to be issued. In such case, the responsible director or designee may require supplementation of the performance guarantee(s) that was provided prior to final plat approval, and shall, in addition, set a date by which the necessary infrastructure shall be completed.
- (b) Examples of improvement for which delays may be granted include completing stormwater facilities after they are no longer needed as sedimentation basins; delaying final asphalt application on road surfaces for a period of time to detect problems; delaying construction of turn lanes until traffic thresholds are reached; delaying sidewalk segments as individual houses are built; and delaying construction of infrastructure that requires coordination with other planned infrastructure.

(2) **Other Improvements:** For other required improvements, if the responsible department director or designee determines the completion of the improvement prior to issuance of a certificate of compliance is not practicable, and sufficient justification for the delay has been shown, certificates of compliance may be issued if an adequate performance guarantee is provided. In such event, the responsible department director or designee shall determine the time period within which the improvement must be completed.

### **12.10.29 Expiration of Approval**

The sub-divider shall have one hundred-eighty (180) days after approval to file and record the final plat with the Office of the Chancery Clerk before the approval becomes void.

### **12.10.30 Waivers**

For purposes of financing or refinancing development, it is sometimes necessary to subdivide a previously approved development complex (including but not limited to a shopping center, an office or industrial park, or a housing complex) originally located on a single parcel into two (2) or more lots. The Planning Committee may by affirmative majority vote, vary or modify the requirements of this Code and the dimensional, parking, landscaping, and buffering provisions of this Code to permit such subdivision to occur subject to making the following findings:

- (1) A valid, approved site plan exists for the overall complex;
- (2) The complex, in its entirety, satisfies all Code requirements; and
- (3) Each final plat created contains a note stating that the owners acknowledge that the individual parcel is a part of the named development complex, and that deeds of easement, restrictive covenants, and/or other legal documents necessary for the perpetual functioning of the development complex shall be executed and recorded with the final plat.

## **12.11 Site Plan Review**

### **12.11.1 Applicability**

The site plan review process assures that future development will occur in a planned and orderly manner. All proposed development that will affect the exterior of a structure shall be subject to the site plan review process. In some cases, proposed interior changes will also be subject to site plan review. For instance, an applicant may propose interior changes as part of a change in use (e.g., from overnight accommodations to retail sales). A change in use may result in different standards for parking, landscaping, or buffers which must then be included in the application.

### **12.11.2 Types of Site Plans**

There shall be three types of site plans with differing levels of approval required for each. The criteria for establishing which type of site plan and the corresponding level of approval for each are indicated below:

### **12.11.2.1 Basic Site Plans**

- (1) **Criteria:** Projects shall be considered basic site plans if they meet the following standards.
  - (a) They involve the development of not more than one (1) single-family detached dwelling or one duplex dwelling; or
  - (b) They involve accessory structures less than twenty-five (25%) of the size of principal buildings; or
  - (c) They involve additions to an existing single family residential structure; or
  - (d) They involve non-residential additions less than twenty-five (25%) of the size of the principal building.
- (2) **Approval.** Basic site plans shall be approved by the Director of Development Services or designee.

### **12.11.2.2 Minor Site Plans**

- (1) **Criteria:** Projects that do not meet the criteria for basic site plans shall be considered minor site plans if they meet the following standards.
  - (a) Minor site plans shall request no modifications of any of the standards established in this Code other than those which may be allowed through the compatible use review process;
  - (b) They do not involve the development of any use that requires the issuance of a flexible use permit.
  - (c) The Development Review Checklist must be completed and submitted with a minor site plan application if any compatible or flexible use is proposed.
- (2) **Approval:** Minor site plans shall be approved by the Director of Development Services with the concurrence of any departments who would be affected by the plan, such as building, fire, and public works.

### **12.11.2.3 Major Site Plans**

- (1) **Criteria:** Projects that meet one (1) or more of the following standards shall be considered major site plans if:
  - (a) They request modifications of a standard established in this Code that requires flexible use approval;

- (b) They involve the development of any use that requires the issuance of a flexible use permit; or
  - (c) They do not meet the criteria for basic or minor site plans.
- (2) **Approval:** Major site plans shall be reviewed by all relevant city departments and the Planning Committee and shall obtain a passing score on the Development Review Checklist as provided in Section 12.4. The Planning Committee shall make a recommendation to the City Council on the project. The City Council shall be the approving authority.
- (3) **Pre-Application Conference:** Any applicant petitioning for a site plan may schedule a pre-application conference with the Director of Development Services or designee to discuss the procedures, standards, and regulations required for site plan approval in accordance to the provisions of this Code.
- (4) **Site Plan Submittal Requirements:** An application for site plan review shall be submitted in accordance with Sec. 12.2, Application Requirements. Site Plan documents shall contain, at a minimum, the information listed below unless expressly exempted by another provision of this Code or the Director of Development Services makes the determination that an adequate review may be done with less detailed information. No processing or review of a site plan shall proceed without the required information. Detailed standards and specifications for design and construction are available from City and State agencies, as applicable.
- (a) **Title Block:** Name of project; submittal and revision dates; index map and match lines if multiple sheets are required; graphic scale (not smaller than one (1) inch to two hundred (200) feet on a standard engineering scale); north point; property identification number; vicinity map clearly establishing the location of the proposed project, with readily recognizable landmarks; and any overlay zones.
  - (b) Name, address, and telephone number of owner, applicant and agent; name, address, and telephone number of surveyor, engineer, landscape architect, or other designer, with seal.
  - (c) Existing Conditions, including:
    - i. Boundary of the property, using metes and bounds with angle of departure of adjacent properties;
    - ii. Site size and amount to be developed;
    - iii. Lot lines;
    - iv. Building foot prints and square footage;
    - v. Improvements, such as loading areas, parking areas, driveways, alleys, streets, sidewalks, etc.;

- vi. Any septic tanks, drain fields and wells; culverts and other subsurface features;
  - vii. All utility easements, above and below ground, including information on type, size, and elevation;
  - viii. Railroads;
  - ix. Setback requirements;
  - x. Zoning of the site and adjacent zoning, including any overlay zones;
  - xi. Land use of the site and adjacent land uses including major improvements within fifty (50) feet of the subject property;
  - xii. Adjacent property owners;
  - xiii. Adjacent streets, including name and right of way width;
  - xiv. Topographic contours at two (2) foot intervals for all property within one hundred (100) feet of a proposed development area and topographic contours at five (5) foot contour intervals for the remainder of the property including a source reference;
  - xv. Locations and names of water features including shorelines, water bodies, intermittent and perennial streams, drainage ways, stream buffers, floodways, floodway fringes, wetlands and wetland buffers;
  - xvi. A tree coverage and specimen tree survey;
  - xvii. Steep slope areas;
  - xviii. Natural Inventory sites; and
  - xix. Historic Inventory Sites.
- (d) A list of any conditions applied to the property as part of any previous approvals.
- (e) Existing features shall be clearly distinguishable from proposed development.
- (f) Proposed Conditions, including:
- i. Buildings: Location, footprint, entrances, area by floor (square feet), height, finished floor elevation, setback requirements defining building envelope. When building descriptions have been included in a zoning approval, the site plan shall include building elevations or renderings as well as any other information needed to support the requirements of the zoning map change approval.
  - ii. Site Service Areas and Facilities: Location of loading, trash/recycling handling and other facilities including height, footprint and screening.

- iii. Internal Vehicular Circulation and Parking: Location of drives and driveway aisles (with radii); parking spaces, including number of spaces required and number provided; the number of disabled parking spaces required and number provided; the number of spaces for bicycle parking if applicable; a description of the pavement structure; and a lighting plan if lighting is proposed.
- iv. Street Improvements (Public and Private): Location of improvements or widenings, names, widths of rights of way and pavement, design criteria including sight triangles and a typical cross section, and Traffic Impact Analysis if applicable.
- v. Pedestrian Circulation: Location of sidewalks, trails, crosswalks, and/or other pedestrian ways including dimensions and description of surface materials.
- vi. Landscaping: Location of all plant materials and other landscaping features, including calculations of amount required and the amount provided; the number, size, and description of plant materials, fences, walls, and berms as applicable; provisions for screening specialized features such as storage areas; calculations of the amount of tree coverage required and the amount and percentage of tree coverage provided by tree preservation and tree replacement; calculation of the amount of street trees and the amount provided by tree preservation and tree installation; a land disturbance tree survey if applicable; and the location and description of all proposed and required tree protection measures.
- vii. Grading: Location of vegetation to be retained including approximate sizes and protection measures to be used; a depiction of contours at two (2) foot intervals, supplemented with spot elevations when necessary, including location, description, and size of any retaining walls; and dimensions of stream buffers. Delineation of the proposed limits of disturbance shall be required.
- viii. Utilities: Location and width of all easements and rights of way for water, sewer, storm sewers, gas, electric, communication facilities, or any other utility facility.
- ix. Storm Drainage: Location and description of temporary and permanent storm drainage pipes and swales; amount of impervious surface; and professionally sealed engineering calculations used in the design.
- x. Water and Sewer: Location and description of public and private water and sanitary sewer improvements including connections to existing facilities and maintenance provisions.
- xi. Property Dedications/Reservations: Location and description of dedicated or reserved properties under public or private ownership including the boundaries, size, purpose, future ownership, and maintenance provisions for the property. This category includes but is not limited to streets, rail corridors, greenways, recreation facilities, open space, and common areas.

- (g) Specific performance standards as required by other parts of the Development Code.
- (h) A site plan shall conform to an approved development plan if applicable.
- (i) In addition, State or Federal regulations may require that additional information be supplied to the Development Services Department as a part of a submittal.
- (j) The Development Review Checklist (Section 12.4) must be completed and submitted with the major site plan application. The Development Review Checklist must be completed and submitted with a minor site plan application if any compatible or flexible use is proposed.

### **12.11.3 Review**

#### **(1) Coordination with Compatible or Flexible Use Review**

- (a) Applications for compatible or flexible use permits may be submitted concurrently with a site plan. However, decisions shall be rendered with a separate motion.
- (b) Dimensional variance requests may be proposed with site plan applications or identified during the site plan review process. Such variances will be considered according to procedures for variances, Section 12.16.

#### **(2) Action by the Director of Development Services: The Director of Development Services shall compile all staff comments on the site plan to determine adherence to all applicable requirements of this Code. A copy shall be provided to the applicant.**

- (a) The Director of Development Services shall be responsible for approving all simplified site plans.
- (b) The Director of Development Services shall provide a copy of all staff comments on major site plans to the Planning Committee.

#### **(3) Action by the Planning Committee: The Planning Committee shall recommend approval, approval with modifications, or denial to the appropriate governing body or may continue a major site plan applicable, including a Traffic Impact Analysis where applicable.**

#### **(4) Action by the City Council: The City Council shall approve, approve with modifications, deny, or continue the major site plan.**

### **12.11.4 Site Plan Review Criteria**

- (1) The following evaluations shall be made during the site plan review process. Site plans that meet the following criteria shall be approved by the approving authority:

- (a) The site plan complies with all applicable Code requirements, including design standards in Chapter 6;
- (b) The site plan obtains a passing score on the Development Review Checklist if required according to Section 12.4.
- (c) The site plan complies with all previously approved applicable City plans, such as the comprehensive plan;
- (d) The site plan displays a site design and development intensity appropriate for and tailored to the unique natural characteristics of the site, which may include the location of significant wooded areas, specimen trees, wetlands, steep slopes, Natural Inventory sites, and floodplains;
- (e) For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins, and other waste related facilities employed in the normal operation of the use, as applicable;
- (f) The site plan includes adequate and clearly marked parking areas and pedestrian and vehicular access points;
- (g) The site plan includes an adequate design of traffic patterns, traffic control measures and street pavement areas and has provisions for maintaining traffic flows and reducing negative impacts of traffic on nearby properties;
- (h) The site plan complies with site construction specifications;
- (i) The site plan includes adequate stormwater facilities, water supply, sanitary sewer service, fire protection, street signs, and street lighting, as applicable, as evidenced by compliance with department standards, specifications, and guidelines;
- (j) The site plan complies with requirements for easements or dedications; and
- (k) Where a TIA has been submitted, the site plan either accommodates the anticipated traffic generated by the development, or it proposes adequate traffic mitigation measures within the development project.

#### **12.11.5 Modifications Required for Approval**

Site plans requiring modifications for approval shall be returned to the Director of Development Services within ninety (90) days or the site plan application shall be considered withdrawn. An extension period may be granted by the Director of Development Services at the written request of the applicant.

#### **12.11.6 Corrected Site Plans**

Before final approval, the applicant shall submit the corrected site plan to the Director of Development Services or designee, which addresses any comments made as part of the

approval process. The director or designee shall determine if the corrections adequately meet the stated concerns and either approves the corrected basic or minor site plan, or presents the corrected major site plan to the Planning Committee or City Council as required.

#### **12.11.7 Development Agreement Required Prior to Construction**

- (1) After the major site plan is approved by the City Council, and final construction drawings are approved by the Department of Development Services, the developer and owner, if applicable, must enter into a development agreement with and satisfactory to the Mayor and City Council relative to all required public and private improvements, payment of fees, required securities, certification of insurance, and any conditions placed on approval of the major site plan.
- (2) A draft development agreement shall be prepared by the Department of Development Services. Preparation and review of the draft agreement may be concurrent with review of construction drawings. The draft agreement shall reference the design incorporated within the approved construction drawings and shall be sufficient in form to assure the proposed construction methods and materials meet or exceed minimum standards established by the City of Tupelo.
- (3) All requirements imposed through a site plan development agreement shall run with the land and shall apply against any owner, subsequent owner, or occupant.
- (4) The draft development agreement shall be sent to the applicant for approval. Upon acceptance of the agreement by the applicant, the draft development agreement shall be forwarded to the Mayor and City Council for approval and for execution by the Mayor or designee. If the applicant takes exception to the development agreement, a letter setting forth these items may be presented to the Mayor and City Council for consideration.
- (5) The final site plan may not be recorded, nor may any permit for construction on the site be issued, until the development agreement is approved by the Mayor and City Council and executed by the Mayor or designee.
- (6) After the applicant has returned an executed copy of the development agreement, paid the development fees, and provided the security and certificate of insurance, the Director of Development Services may sign the construction drawings and issue the necessary permits.

#### **12.11.8 Effect and Duration of Site Plan Approval**

Approval of the site plan, final construction drawings, and development agreement shall authorize the applicant to proceed with any applications for building permits and other permits and approvals required in order to develop the property in conformity with the approved site plan. A permit, certificate, or other approval may be issued for any building or structure on the property, and a building or structure on the property may be occupied, only where the applicant has complied with the approved site plan, development agreement, and final construction

drawings and made all dedications and improvements required by this Code, except where the non-compliance is the subject of a minor change to the site plan approved by the Director of Development Services pursuant to Section 12.11.12. below.

(1) An approved site plan shall become null and void under the following conditions:

- (a) If a building permit is not applied for within six (6) months following the date of Site Plan approval; or
- (b) If work on the project is not commenced within six (6) months following the date of issuance of the building permit; or
- (c) If work on the project is not completed within two (2) years following the date of issuance of the building permit.

#### **12.11.9 Extensions**

Upon the written request of the applicant, and after good cause is shown, the Development Services Director may grant one (1) extension of an additional thirty days within which a building permit may be issued. Any further extensions will require review and approval by the Planning Committee.

#### **12.11.10 Continuing Validity of Site Plans**

An approved site plan shall retain its validity for four (4) years, if:

- (1) A permit to begin development pursuant to the site plan, such as a land disturbance permit, a building permit, or an improvement permit, has been issued and has remained continuously valid thereafter; and,
- (2) Building or land disturbing activity has begun on the property.
- (3) The issuance of a building permit or a certificate of compliance within a phase of a project shall not extend the validity of the site plan for the unbuilt portions of that phase or any future phases of the project for which building permits have not been issued.

#### **12.11.11 Effect of Expiration**

If the period of validity expires, no building permit shall be issued until a new application for a Site Plan is approved.

#### **12.11.12 Changes to Approved Site Plans**

- (1) Upon the written request of the applicant, the Director of Planning and Development may approve the following minor changes to an approved site plan without further review by the Planning Committee or City Council:

- (a) Expansion of an existing building or structure, or construction of an accessory building or structure, representing ten percent or less of the floor area of the existing or proposed buildings or structures on the lot or project of the approved site plan;
  - (b) Alteration to any approved element of the building elevation, expansion of an approved building or structure, or addition of an accessory building or structure, representing no more than ten percent (10%) of the floor area of the buildings or structures approved on the site plan;
  - (c) Expansion or changes in off-street parking representing twenty percent or less of the area of the existing or proposed parking;
  - (d) Minor field alterations to accommodate physical site conditions involving interior features of the site design, including relocation of the buildings or uses shown on the approved site plan, which represents the same general building relationships, topography, landscaping, and minimum utility standards; or
  - (e) Where the approved plant materials are unavailable, substitution of the approved plant materials for plant materials which will accomplish the intent of Chapter 9 of this Code and the approved site plan.
- (2) Standards of Review: Before approving any such change, the Director of Planning and Development shall make the following findings:
- (a) That all changes conform to the minimum required standards for the zoning district in which the property is located;
  - (b) The off-street parking is not reduced below the minimum required or increased above the maximum permitted by Chapter 8 of this Code;
  - (c) That all additions, alterations, and expansions shall be compatible with the existing or approved buildings, structures, and parking area;
  - (d) That any additional required landscaping shall be comparable to the approved site plan and shall follow City specifications and guidelines;
  - (e) That the effect of the landscaping, buffers, or screening on the site, or on the approved site plan, is not diminished;
  - (f) That the number of access points to public streets is neither increased or substantially relocated;
  - (g) That the circulation pattern provides for the safe, controlled, and orderly flow of pedestrians and vehicles;
  - (h) That the change will result in better or equal performance of the overall objectives of the approved site plan and specific zoning district classification;

- (i) That the changes do not otherwise violate any provision of this Code or other applicable laws;
- (j) That the use and development of the property is otherwise in full compliance with the requirements of this Code.
- (k) Modifications to an approved Major Site Plan beyond the scope of this Section shall require review and approval by the Planning Committee and City Council according to the requirements of Section 12.11.6 for new site plans.

### **12.11.13 Site completion and Release of Security**

#### **(1) Release of Security**

Upon completion of all required and proposed improvements as specified in the development agreement, the City of Tupelo will authorize the release of ninety (90) per cent of the security. The final ten (10) per cent will be released at the end of the required warranty period. Security may be partially released or reduced upon the Director of Development Services' certification of the percentage of the estimated cost of improvements that has been completed and accepted. No more than three (3) such partial releases will be granted.

#### **(2) Issuance of Building Permits**

After the final approval, the approved plans shall be stamped and dated by the Director of Development Services, or designee, and supplied to appropriate departments. Building permits and any other permits required may be issued for the project upon receipt of the approved copy. No building permit shall be issued until the required site plan is approved.

#### **(3) Inspections of Required Improvements.**

Inspections during the installation of site improvements shall be made by the entity responsible for such improvements as required to certify compliance with approved site plans. No improvements shall be accepted for maintenance by the governing jurisdiction unless and until the requirements regarding public improvements have been met.

#### **(4) Issuance of Certificate of Compliance**

Improvements specified in the approved plan shall be made prior to issuance of a certificate of compliance unless an extension of compliance has been prepared and approved in conformance with the requirements of this Code.

## **12.12 Compatible and Flexible Use Permits**

### **12.12.1 Applicability**

- (1) Compatible and flexible uses within the zoning districts are considered to be uses which may be appropriate in a particular zoning district but because of their potential for incompatibility with adjacent uses shall require individual review.
- (2) A compatible use permit shall be required for all compatible uses as set forth in the use table in Section 4.16, Permitted Use Table, and as may be specified elsewhere in this Code. Compatible use permits require approval by the Director of Development Services.
- (3) A flexible use permit shall be required for all flexible uses as set forth in the use table in Section 4.16, Permitted Use Table. Flexible use permits require approval by the Planning Committee.
- (4) Projects with elements that require both compatible and flexible use permits may have the use permits consolidated into a single hearing for a flexible use permit before the Planning Committee so long as all required findings for both the compatible and flexible use permits are made.

### **12.12.2 Application Process**

#### **(1) Pre-Application Conference**

All applicants applying for a flexible use permit shall schedule a pre-application conference. Applicants applying for a compatible use permit may schedule a pre-application conference if they choose.

#### **(2) Application Requirements.**

All applications for compatible and flexible use permits shall be submitted in accordance with Sec. 12.2, Application Requirements.

#### **(3) Notice and Public Hearings**

Once the application has been determined complete, the Director of Development Services or designee shall schedule a public hearing and give public notice as set forth in Sec. 12.3, Notice and Public Hearings.

#### **(4) Action by the Director of Development Services**

The Director of Development Services or designee shall prepare a report that reviews the compatible or flexible use permit for compliance with requirements of this Code. A copy shall be provided to the Planning Committee or the City Council, as appropriate, and the applicant.

(5) Approval of a Compatible Use Permit

Prior to scheduling the public hearing on the compatible use permit, the corresponding site plan shall be ready for action by the approving authority. After conducting the public hearing, and hearing the recommendations of the Development Services staff, the Director of Development Services or designee shall:

- (a) Approve the request;
- (b) Approve the request with conditions;
- (c) Deny the request; or
- (d) Continue the hearing.
- (e) Conditions: The Director of Development Services may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use. The conditions shall become a part of the compatible use permit approval. Violations of any of the conditions shall be treated in the same manner as other violations of this Code.
- (f) Transferability: A compatible use approval is not transferable from one property to another, but may be transferred to a successor-in-interest to the property, unless specifically prohibited.

(6) Approval of a Flexible Use Permit

Prior to scheduling the public hearing on the flexible use permit, the corresponding site plan shall be ready for action by the approving authority. After conducting the public hearing, and hearing the recommendations of the Director of Development Services or designee as appropriate, the Planning Committee shall:

- (a) Approve the request;
- (b) Approve the request with conditions;
- (c) Deny the request; or
- (d) Continue the hearing.
- (e) The Planning Committee may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use. The conditions shall become a part of the flexible use permit approval. Violations of any of the conditions shall be treated in the same manner as other violations of this Code.

- (f) Transferability: A flexible use approval is not transferable from one property to another, but may be transferred to a successor-in-interest to the property, unless specifically prohibited.

(7) Criteria for Approval of Compatible and Flexible Use Permits

Applications for compatible or flexible use permits shall be approved only if the approving authority finds that the use as proposed or the use as proposed with conditions:

- (a) Is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity;
- (b) Conforms with all special requirements applicable to the use;
- (c) Will not adversely affect the health or safety of the public; and
- (d) Has obtained the minimum passing score for the Development Review Checklist, Section 12.3.

**12.12.3 Coordination with Variances**

Applications for variances may be submitted concurrently with requests for compatible and flexible use permits. Variance requests which would normally be considered in reference to the requirements of section 12.13 may be included in the compatible or flexible use review process. In such cases the checklist score must be increased above the score required for the use review only. For “*Compatibility Variances*” as defined in section 12.16.1., 5 additional percentage points shall be added to the basic required score. For “*Flexibility Variances*” as defined in section 12.16.2, 10 additional percentage points shall be added to the basic required score.

**12.12.4 Coordination with Zoning Map Change Applications**

An application for a compatible or flexible use permit may be reviewed concurrently with a zoning map change application. However, decisions shall be rendered with separate motions.

**12.12.5 Re-submittals**

An application for a compatible or flexible use permit which has been denied may be resubmitted prior to the lapse of one (1) year only if there has been a change in circumstances, as determined by the Director of Development Services.

**12.12.6 Amendments**

Alterations or revisions to approved compatible or flexible uses may be approved by the Director of Development Services if the compatible or flexible use still meets the intent of the standards established with the original approval. Significant modifications to approved

compatible or flexible uses, as determined by the Director of Development Services, shall require submittal of a new application.

### **12.12.7 Expiration**

A compatible or flexible use permit shall become null and void in any of the following cases:

- (1) If a site plan is not approved within twelve (12) months of the date of permit approval;
- (2) If an approved site plan or building permit expires;
- (3) If a building permit is not issued within two (2) years of the date of approval, in cases where a site plan is not required;
- (4) If a substantial violation of the conditions of the permit occurs, as determined by the Director of Development Services.

### **12.13 Sign Permit**

#### **12.13.1 Applicability**

Certain signs shall be allowed without sign permits as set forth in Chapter 10, Signs. Signs requiring permits shall be allowed in accordance with the following procedures.

#### **12.13.2 Application Requirements**

- (1) Except as provided in Chapter 10, Signs, no sign may be erected, moved, enlarged, or altered except in accordance with this Code and pursuant to the issuance of a sign permit.
- (2) A sign permit application shall be submitted in accordance with Sec. 12.2., Application Requirements.

#### **12.13.3 Action by the Director of Development Services**

Upon review of the application, the Director of Development Services shall approve the sign permit provided the sign meets all requirements of this Code and all other applicable electrical and Mississippi Building Code requirements.

#### **12.13.4 Post Approval Action**

- (1) Inspection: The applicant shall request an inspection by the appropriate inspector after installation of the signs. If the signs are found to be in compliance, the applicant shall receive a copy of the approved inspection report.
- (2) Expiration: The sign permit shall be null and void if sign installation is not completed within six (6) months or the signs are not in conformance with the approved application.

- (3) Transferability: Valid sign permits may be assigned to a successor as holder of a business license for the same premises.
- (4) Revocation: The sign permit shall be revoked if a sign is found to be in violation of the requirements of this Code or other applicable electrical or Mississippi State Building Code requirements.

#### **12.13.5 Temporary Sign Permits**

A temporary sign permit shall be issued in accordance with Section 10.6., Temporary Signs Requiring Permits.

#### **12.13.6 Appeal.**

Final action on a sign permit may be appealed in accordance with Section 12.16, Appeal of Administrative Decision.

#### **12.13.7 Common Signage Plan**

- (1) Applicability: Prior to the issuance of a sign permit for one (1) or more buildings or businesses in a project for which major site plan review is required as provided in Section 12.11.5., a common signage plan shall be required, except as follows:
  - (a) Internally-oriented signs not visible from the public right-of-way shall not be required to submit an approved common signage plan; and
  - (b) Applications for temporary sign permits shall not be required to submit an approved common signage plan.
- (2) Action by the Director of Development Services
  - (a) Upon hearing a recommendation from the City Engineer and all other applicable departments, the Director of Development Services shall approve the common signage plan provided the plan meets all the requirements of this section.
  - (b) The Director of Development Services may allow modifications to the lettering style to accommodate state and federally registered trademarks (logos) if the Director of Development Services feels that the intent of the common signage plan requirements shall be maintained. In allowing the modifications, the Director of Development Services may limit the logo size. The requirements of a common signage plan shall apply to all businesses within a related project even if the properties have been subdivided.
  - (c) Minor alterations in sign locations resulting from unexpected conditions on the site may be approved by the Director of Development Services.

(3) Revisions and Amendments

Revisions or amendments to the common signage plan shall require documentation from all tenants on the property prior to approval. Signs erected after the effective date of this Code and subsequently made nonconforming because of an amendment to a common signage plan shall be brought into compliance with the amended plan within six (6) months of approval of the amended plan.

(4) Appeal

Final action on a common signage plan may be appealed in accordance with Section 12.17, Appeals.

**12.14 Temporary Use Permit**

**12.14.1 Applicability**

Temporary uses occurring on property outside of the public right-of-way shall be allowed upon the issuance of a temporary use permit, except as set forth in Chapter 7, Accessory and Temporary Uses.

**12.14.2 Application Requirements**

A temporary use permit application shall be submitted in accordance with Sec. 12.2, Application Requirements.

**12.14.3 Action by the Director of Development Services.**

- (1) After receiving the application, the Director of Development Services shall have up to thirty (30) days to review the application.
- (2) Upon hearing recommendations from all appropriate departments, the Director of Development Services shall approve the issuance of a temporary use permit subject to the following:
  - (a) No lighting or electrical service shall be provided without an electrical permit;
  - (b) No temporary use structure shall be erected without a building permit;
  - (c) No temporary use structure shall block fire lanes or pedestrian or vehicular access;
  - (d) The site of the temporary use shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five (5) days after the use is terminated;
  - (e) Written permission of the property owner for the temporary use shall be provided;

- (f) Adequate parking shall be provided, considering both the required parking for other uses and the parking for the proposed temporary use;
- (g) Adequate traffic control measures shall be provided;
- (h) Adequate provisions for trash disposal and sanitary facilities shall be provided; and
- (i) When appropriate, adequate provisions for crowd control shall be provided.
- (j) Temporary use permits may be renewed one time by the Director of Development Services unless other renewal standards are specified in Chapter 7, Accessory and Temporary Uses or in other provisions of this section.

#### **12.14.4 Revocation of a Temporary Use Permit**

A temporary use permit shall be revoked if the Director of Development Services or designee finds that the terms of the permit have been violated or that there is a hazard to the public health, safety or welfare.

#### **12.14.5 Appeal**

Final action on a temporary use permit may be appealed in accordance with Section 12.16, Appeals.

### **12.15 Home Occupation Permit**

#### **12.15.1 Applicability**

A home occupation as defined in Chapter 2 of this Code shall require a permit.

#### **12.15.2 Application Requirements**

A home occupation application shall be submitted in accordance with Sec. 12.2, Application Requirements.

#### **12.15.3 Action by the Director of Development Services**

Upon review of the application, the Director of Development Services shall approve the home occupation permit, provided the home occupation meets all requirements of Section 7.7. of this Code.

#### **12.15.4 Revocation**

The home occupation permit shall be revoked if the home occupation is found to be in violation of the requirements of this Code.

#### **12.15.5 Appeal**

Final action on a home occupation permit may be appealed in accordance with Section 12.17, Appeal of Administrative Decision.

### **12.16 Variances and Administrative Adjustments**

#### **12.16.1 Compatibility Variance**

The Director of Development Services may grant variances to certain requirements of this Code, in harmony with the general purpose of these regulations, as follows:

- (1) A variance of fifteen to thirty percent (15% to 30%) of any regulated dimension may be allowed if the request is found to be compatible with similar structures in the immediate vicinity, as determined by a finding that the requested dimension or feature is within the range of the affected dimension on other properties within the context, as provided in the Compatibility Checklist, Section 12.4.2 or;
- (2) A variance of fifteen to thirty (15% to 30%) of any regulated dimension may be allowed where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property, or
- (3) Where other characteristics of the proposed use of property are found to support and advance the goals of the Comprehensive Plan, as incorporated in the Development Review Checklist, to a degree that exceeds the impact of the requested variance. A score of fifty percent (50%) of the applicable points on the Development Review Checklist is required for this finding.
- (4) Compatibility variances may be considered as part of the site plan review process, but must be separately approved.

#### **12.16.2 Flexibility Variance**

- (1) The Planning Committee may grant variances of greater than thirty percent (30%) of any regulated dimension in the following circumstances:
  - (a) If the request is found to be compatible with similar structures in the immediate vicinity, as determined by completion and review of the compatibility section of the Development Review checklist; or

- (b) Where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property; or
  - (c) Where necessary for reconstruction, rehabilitation, or restoration of structures that are individually listed or are contributing structures within an historic district; or
  - (d) Where other characteristics of the proposed use of property are found to support and advance the goals of the Comprehensive Plan, as incorporated in the Development Review Checklist, Section 12.3, to a degree that exceeds the impact of the requested variance. A score of sixty percent (60%) of the applicable points on the Development Review Checklist is required for this finding.
- (2) Flexibility variances may be considered as part of the site plan review process but must be separately approved.
  - (3) The Planning Committee may waive certain requirements when authorized to do so by provisions adopted as a part of this Code.
  - (4) No variance shall be granted that would have the effect of allowing a use not permitted in Table 4.2., Permitted Use Table.

### **12.16.3 Pre-Application Conference**

All applicants seeking a variance shall schedule a pre-application conference with the Director of Development Services or designee to discuss the procedures, standards, and regulations required for variance approval in accordance with the provisions of this Code.

### **12.16.4 Application Requirements**

An application for a variance shall be submitted in accordance with Sec. 12.2, Application Requirements.

### **12.16.5 Notice and Public Hearings**

Once the application has been determined complete, the Director of Development Services shall schedule a public hearing and give public notice as stated in Sec. 12.3, Notice and Public Hearings.

### **12.16.6 Burden of Proof**

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Planning Committee to reach the conclusions set forth below, as well as the burden of persuasion on those issues.

### **12.16.7 Action by the Director of Development Services**

- (1) For compatibility variances, each decision shall be accompanied by a finding of fact by the Director of Development Services which specifies the reasons for the decision.
- (2) For flexibility variances, the Director of Development Services shall provide the Planning Committee with a copy of the application and all relevant materials pertaining to the request prior to the public hearing.

### **12.16.8 Action by the Planning Committee**

- (1) Each decision shall be accompanied by a finding of fact by the Planning Committee which specifies the reasons for the decision.
- (2) A decision of the Planning Committee to approve a flexibility variance requires an affirmative vote by three-fifths (3/5ths) of the members of the Committee.
- (3) The Planning Committee may approve the request, deny the request, or continue the request. In approving the variance, the Planning Committee may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.

### **12.16.9 Findings**

- (1) In granting any variance, the Planning Committee shall make the following findings:
  - (a) That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
  - (b) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the City Engineer, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;
  - (c) That the strict enforcement of this Code would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Code;
  - (d) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Code denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
  - (e) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of

the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;

(f) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and

(g) That the variance will not result in the expansion of a nonconforming use.

(2) In making the findings above, the Planning Committee shall use the Development Review Checklist to ascertain and give specific weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant.

(3) Appeal from final action by the Planning Committee on a variance may be taken by filing a petition for *certiorari* with the Court.

#### **12.16.10 Administrative Adjustment**

(1) Applicability: The Director of Development Services or designee shall be authorized to approve minor specified deviations as specified in Sec. 3.14.3., Action by the Director of Development Services, where, owing to special conditions, strict enforcement of the provisions of this Code would be physically impractical. The Director of Development Services may also grant administrative exceptions as specified in Section 6.2.2.

(2) Documentation Requirements: No separate application is required for an administrative adjustment or exception.

(3) Action by the Director of Development Services: The Director of Development Services shall have the authority to authorize the following administrative adjustments:

(a) A reduction of up to fifteen (15%) of the required front, side, or rear yard setback for any encroachments into the required setback as of the effective date of these regulations;

(b) Minor adjustments to site plans consistent with the requirements of Sec. 12.11.14, Site Plan Amendments.

(c) Minor deviations from development plans consistent with the requirements of Sec. 13.9.20., Deviations from Approved Development Plans and Sec. 3.7, Authority of Director of Development Services.

(d) Any request for deviation from the provisions of this Code not listed above shall be reviewed as provided in Section 12.16., Variances.

- (e) Action on a request for administrative adjustment shall be made by notation on the plan document in which the adjusted element is described.

#### **12.16.11 Administrative Adjustment Criteria**

- (1) To approve an administrative adjustment, the Director of Development Services shall make an affirmative finding, based on the Development Review compatibility checklist and other information as necessary, that all of the following criteria are met:
  - (a) That granting the administrative adjustment will not have an adverse impact on land use compatibility;
  - (b) That granting the administrative adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations; and
  - (c) That granting the administrative adjustment shall be consistent with the purposes and intent of this Code.

#### **12.16.12 Appeals**

Final action on an administrative adjustment by the Director of Development Services or designee may be appealed in accordance with Section 12.17., Appeals.

#### **12.17 Appeal**

##### **12.17.1 Applicability**

An appeal by any person aggrieved by a final order, interpretation or decision of the Director of Development Services or any administrative official authorized to make decisions in regard to the provisions of this Code may be taken to the Planning Committee, except as otherwise provided in this Code.

##### **12.17.2 Procedure**

An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Director of Development Services and with the Planning Committee. The date and time of filing shall be entered on the notice.

##### **12.17.3 Deadline for Submission of Application**

An appeal of an administrative decision shall be filed with the Department of Development Services within three (3) days of receipt of the decision.

#### **12.17.4 Notice and Public Hearings**

If the action or decision being contested was made involved a public hearing, the Director of Development Services shall schedule a second public hearing at the next available Planning Committee meeting and give public notice as forth in Sec.12.3, Notice and Public Hearings.

#### **12.17.5 Action by the Director of Development Services**

The Director of Development Services shall transmit to the Planning Committee all the papers constituting the record upon which the action appealed from was taken.

#### **12.17.6 Action by Planning Committee**

- (1) The Planning Committee may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Planning Committee shall have all the powers of the official from whom the appeal is taken.
- (2) If a motion to reverse or modify is not made, or fails to receive the affirmative vote of the three-fifths (3/5<sup>ths</sup>) of the members necessary for adoption, then appeal shall be denied.
- (3) Any motion to overturn or modify a decision shall state the specific reasons or findings of fact that support the motion.

#### **12.17.7 Effect of Appeal**

- (1) An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from whom the appeal is taken certifies to the Planning Committee that, because of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this Code. In that case, proceedings shall not be stayed except by order of the Planning Committee or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.
- (2) An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this Code are stayed.

#### **12.17.8 Appeal of Planning Committee Action**

Appeal of the Planning Committee action under this subsection may be taken by filing a notice with the Clerk of the City Council.

## CHAPTER 13. ENFORCEMENT

### 13.1 General

**13.1.1. Purpose and Intent:** This article establishes procedures through which the city seeks to ensure compliance with the provisions of this Code and obtain corrections for Code violations. It also sets forth the remedies and penalties that apply to violations of this Development Code. The provisions of this chapter are intended to encourage the voluntary correction of violations where possible.

**13.1.2. Compliance Required:** Compliance with all the procedures, standards, and other provisions of this Code is required by all persons owning, developing, managing, using, or occupying land or structures in the city.

### 13.2 Violations

**13.2.1. General Violations:** Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Code, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Code, shall constitute a violation of this Code punishable as provided in this article.

**13.2.2. Permits or Permit Approvals:** Permits or permit approvals issued by a decision-making body authorize only the use, arrangement, location, design, density or intensity, and development set forth in such permits or development approvals.

**13.2.3. Specific Violations:** It shall be a violation of this Code to undertake any activity contrary to the provisions of this Code, including but not limited to any of the following:

- (1) Develop land or a structure without first obtaining all appropriate permits or development approvals and complying with their terms and conditions.
- (2) Occupy or use land or a structure without first obtaining all appropriate permits or development approvals and complying with their terms and conditions.
- (3) Subdivide land without first obtaining all appropriate permits or development approvals required to engage in subdivision and complying with their terms and conditions.
- (4) Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining all appropriate permits and development approvals and complying with their terms and conditions.
- (5) Remove existing trees or disturb any landscaped area or vegetation from a site or parcel of land without first obtaining appropriate permits and development approvals and complying with their terms and conditions.

- (6) Allow a hazardous tree or other vegetation to remain on property and cause a high risk of damage to persons or property. This includes trees which are likely to fall onto private property or public right-of-way and vegetation that impairs visibility on a public street.
- (7) Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals and complying with their terms and conditions.
- (8) Fail to remove any sign installed, created, erected, or maintained in violation of this Code or for which the permit has expired, including dilapidated or abandoned signs.
- (9) Create, expand, replace, or change any nonconformity except in compliance with this Code.
- (10) Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Code.
- (11) Increase the intensity or density of development, except in accordance with the standards of this Code.
- (12) Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Code.

**13.3 Responsible Persons:** The owner, tenant, or occupant of any land or structure, and a builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Code may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

### **13.4 Enforcement**

**13.4.1 Enforcement Responsibility:** The Director of Development Services shall have primary responsibility for enforcing the provisions of this Code. The Director may delegate enforcement authority to the City Engineer and Chief Building Inspector, who shall be responsible for assisting the Director of Development Services in enforcing this Code. All other officers and employees of the City, especially members of the Police Department and Fire Department, shall have the duty to assist in enforcing this Code by reporting apparent violations of this Code to the Director of Development Services, City Engineer, or Chief Building Inspector.

**13.4.2 Complaints Regarding Violations:** Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a complaint. The complaint, stating fully the cause and basis therefore, shall be filed with the Director of Development Services, who shall properly record such complaint, investigate, and take appropriate action as provided by this Code. The City of Tupelo has a Code Enforcement division dedicated to investigating potential Code violations and working with property owners to remedy violations.

**13.4.3 Inspections:** On presenting proper credentials, the Director of Development Services or designee may enter upon land or inspect any structure to ensure compliance with the provisions

of this Code. These inspections shall be carried out during normal business hours unless the Director of Development Services determines there is an emergency necessitating inspections at another time.

**13.4.4 Investigation of Complaint:** On receiving a complaint, the Director of Development Services shall investigate the complaint and determine whether a violation of this Code exists.

#### **13.4.5 Notice of Violation and Citation Procedure**

- (1) **Notice Required Before Penalty:** No penalty shall be assessed pursuant to 14.2.3 above unless and until the person alleged to be in violation has been notified of the violation in accordance with this section. This notice requirement shall not apply in case of repeat offender violating the same provision for which the notice has been previously given.
- (2) **Citation as Notice to Person Responsible:** Whenever the code official determines or has grounds to believe that a violation of this code exists, a citation shall be given in the manner prescribed below to the person or persons responsible for the violation as specified in the code.
- (3) **Method of Service:** Such citation prescribed in section 14.4.5(2) shall be in accordance with the City of Tupelo Code of Ordinances Section 4 and Section 7.2.
- (4) **Enforcement Conference:** The alleged violator may request a conference within the time frame set forth in the Notice of Violation. At the conclusion of the conference, the Director of Development Services or designee shall make a final determination of whether a violation exists and, if finding that a violation does exist, shall order the violator to undertake actions necessary to abate the violation within a stated deadline. The Director of Development Services shall also advise the violator of the right to appeal the final determination of violation to the City of Tupelo Municipal Court in accordance with Section 13.17, Appeal.
- (5) **Citation for Violation:** An alleged violator shall be subject to penalties if, after being given a notice of violation, s/he does not comply with this Code within the time period set forth in the notice of violation or file an appeal with the City of Tupelo Municipal Court. Each day that a violation continues shall be considered a separate violation of this Code.
  - (a) The City shall serve a written citation on the alleged violation by personal delivery or by mail to the owner of the property on which the violation exists and the person causing or maintaining the violation. The citation shall again describe the nature of the violation and any actions that the alleged violator must take to cure or correct the violation and shall specify the amount of any penalty which shall be levied against the alleged violator.
  - (b) The citation shall state a time frame in which the violation must be cured or corrected. The time frame may range from ten (10) business days to thirty (30) calendar days

from the date of the citation. During this time, the violator may schedule a hearing in Municipal Court to appeal the citation. At the end of the specified time frame, if the violation has not been corrected or appealed to the Municipal Court, the violator shall be liable for the specified fine.

(6) **Emergency Enforcement Without Notice:** On determining that delay in abating the violation would pose a danger to the public health, safety, or welfare, the Director of Development Services may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in Section 14.5, Remedies and Penalties.

(7) **Repeat Violations:** If the same violation is repeated by the same offender over any five (5) year period, the city may commence the application of remedies or penalties at the stage in the process where the previous violation was resolved.

**Timeline of Enforcement Procedures:**

Enforcement Procedure	Timeline to Correct Alleged Violation
Investigation of Complaint	
Notice of Violation	Ten (10) days to schedule an enforcement conference or correct the violation
Citation for Violation	Ten (10) business days up to thirty (30) calendar days to correct the violation or file an appeal in Municipal Court

**13.5 Remedies and Penalties:** The city may use any combination of the following remedies and enforcement powers to administer and enforce this Code:

**13.5.1 Issuance of Stop Work Order:** Whenever a building or structure is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this Code, the Director of Development Services, City Engineer, or Chief Building Inspector may issue a Stop Work Order. The Stop Work Order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

**13.5.2 Revocation of Permit or Approval:** The city may revoke any development permit or approval by written notice to the permit or approval holder when false statements or misrepresentations were made in securing the permit or approval, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Code, or a permit or approval has been mistakenly granted in violation of this Code.

**13.5.3 Injunction:** When a violation occurs, the city may, either before or after the initiation of other authorized actions, apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful use of the land in question.

**13.5.4 Order of Abatement:** In addition to an injunction, the city may apply for and the court may enter into an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

- (1) That buildings or other structures on the property be closed, demolished, or removed;
- (2) That fixtures, furniture, or other moveable property be moved or removed entirely;
- (3) That improvements, alterations, modifications, or repairs be made;
- (4) That removed trees be replaced; or
- (5) That any other action be taken as necessary to bring the property into compliance with this Code.

**13.5.5 Equitable Remedy:** The city may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Code. The fact that other remedies are provided under general law or this Code shall not be used by a violator as a defense to the city's application for equitable relief.

**13.5.6 Execution of Court Decisions:** The city may execute the Order of have a lien on the property in the nature of a mechanic's and material man's lien for the cost of executing the order.

**13.5.7 Denial or Withholding of Related Permits:** The city may deny or withhold authorization to use or develop any land, structure, or improvements until an alleged violation related to such land, use, or development is corrected and any associated civil penalty is paid.

**13.5.8 Additional Remedies for Demolition without Certificate of Appropriateness:** If a structure, historic landmark, or historic landmark site is demolished without a required Certificate of Appropriateness, the City Council may impose any of the following additional remedies:

- (1) Require the property owner to rebuild the demolished structure on the subject parcel, generally following the same form and using as much of the original building material as possible;
- (2) Prohibit issuance of any development permit or approval for any structure proposed on the subject parcel that would have a footprint larger than that of the demolished structure;
- (3) Prohibit issuance of any permit or approval for development on the subject parcel for a period of up to two (2) years.

**13.5.9 Additional Remedies for Removal, Destruction or Damage of Vegetation:** If existing trees are removed or damaged without a Tree Permit or in violation of a Tree Permit and its conditions, or vegetation required by this Code is destroyed or damaged, the city may require the

property owner or person responsible for the removal, destruction, or damage of the trees or vegetation to restore or replace the trees or vegetation within a specified reasonable time period with trees or other vegetation meeting the landscaping standards of Chapter 9: Landscaping and Buffering.

**13.5.10 Additional Remedies for Repeat Violations:** On determining that a violator has repeatedly violated or been in the violation of this Code over a period of at least six (6) months, and that the violator is likely to continue to engage in activities resulting in future violations of this Code, the Director of Development Services may impose any of the following additional remedies:

- (1) Revoke other permits issued to the violator in accordance with this Code;
- (2) Suspend the violator's right to apply for or receive development permits and approvals in accordance with this Code for a specified period of time;
- (3) Require the violator to provide a performance guarantee against which the city can charge monetary penalties for future violations; or
- (4) Require the violator to provide a performance guarantee against which the city may draw monies covering the city's costs in correcting the violations.

**13.5.11 Penalties for Violations:** No penalty shall be assessed unless and until the person alleged to be in violation has been notified of the violation in accordance with this Chapter. This notice requirement shall not apply in the case of a repeat offender violating the same provision for which notice has been previously given.

- (1) Pursuant to the Mississippi Code 39-13-17, any person convicted of violating the Certificate of Appropriateness and other historic preservation provisions of this Code shall, on conviction, be guilty of a misdemeanor and subject to a fine of up to five hundred dollars (\$500).
- (2) Pursuant to the Mississippi Code 17-1-27, any person convicted of violating provisions of this Code other than those referenced in Section 13.5.11(1) above shall, on conviction, be guilty of a misdemeanor and subject to a fine of not more than one thousand dollars (\$1,000) or shall be imprisoned in jail for not more than thirty (30) days, or shall be punished by both fine and imprisonment for each offense.
- (3) Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (4) **Assessment for Court Costs:** In addition to any fine imposed, and regardless of the waiver or suspension of any fine, an assessment for the costs of court shall be imposed upon any person found to be in violation of this Code.

(5) **Cumulative Remedies and Penalties:** The remedies and penalties provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy or penalty provided by law, and they may be exercised in any order.

## CHAPTER 14. NONCONFORMITIES

### 14.1 Purpose and Scope

- (1) The purpose of this Section is to regulate and limit the development and continued existence of uses, structures, and lots established prior to the effective date of this Code. Many nonconformities may continue, but the provisions of this Section are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity of this Code and the character of the City. Any nonconforming use, structure, or lot which lawfully existed as of the effective date of this Code and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of this Code or any subsequent rezoning or amendment to this text of this Code, may be continued or maintained only in accordance with the terms of this Section.
- (2) This Section shall not apply, however, to any feature which is the subject of a variance or modification from particular regulations that has been granted by the Planning Committee or City Council, subsequent to the adoption of this Code. Where a variance or modification has been granted for a feature which does not otherwise conform to the requirements of this Code, that feature shall be deemed conforming.

### 14.2 Nonconforming Uses

- (1) **Extension of Use:** A nonconforming use shall not be enlarged or extended in any way except as provided in Section 14.5 below.
- (2) **Mobile and Manufactured Home:** A nonconforming mobile or manufactured home may be continued, maintained, repaired, or relocated on the same property or conveyed in the same manner as if a mobile or manufactured home were a permitted use. However, if the mobile or manufactured home is moved from the property or if the mobile or manufactured home is moved because of a condemnation or demolition order under the city's substandard building Code, then no mobile or manufactured home may again be placed on said property. If active use or operation of the mobile or manufactured home is discontinued for three (3) consecutive months or more, then the use of the mobile or manufactured home shall be automatically deemed abandoned and shall be removed from the city limits of the City of Tupelo immediately.
- (3) **Continuation, Maintenance, and Minor Repair:** The continuation of a nonconforming use and the maintenance or minor repair of a structure containing a nonconforming use are permitted, provided that the continuation, maintenance, or minor repair does not extend or expand the nonconforming use. For purposes of this Section, "maintenance or minor repair" shall mean:
  - (a) Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;

- (b) Maintenance of land areas to protect against health hazards and promote the safety of surrounding land uses;
  - (c) Repairs which are required to remedy unsafe conditions which cause a threat to public safety; and
  - (d) Maintenance or repair of a sign in a way which does not change the exterior message.
- (4) **Damage or Destruction:** If a nonconforming use or structure that is or contains a nonconforming use is damaged or destroyed by any means to an extent greater than fifty percent (50%) percent of its replacement cost at the time of the damage or destruction, then such use shall not be re-established in any way which does not conform to the requirements of this Code.
- (5) **Change of Use:** Any nonconforming use may be changed to a conforming use by securing all approvals and permits which this Code requires for the intended or resulting use, building, structure, or lot. No nonconforming use may be changed to another nonconforming use, except as provided in Section 14.5 below.
- (6) **Cessation of Use:** If a nonconforming use is discontinued for three (3) consecutive months or more, then the property shall thereafter be occupied and used only for a conforming use, except as provided for re-establishments in Section 14.5 below. If a nonconforming use is continued before three (3) months has passed it may continue, provided that the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconforming use was discontinued.
- (7) **Signs for Nonconforming Uses:** Nonconforming uses located in residential districts may erect non-illuminated wall signs only. Such signs shall conform in all other ways with the size, placement, and other standards set forth for such signs in Chapter 10 of this Code.

### 14.3 Nonconforming Structures

- (1) **Expansion or Enlargement:** A nonconforming structure shall not be enlarged or extended in any way, except as provided in Section 14.5 below.
- (2) **Maintenance or Repair:** The maintenance or repair of a nonconforming structure is permitted, provided that it does not extend or expand the nonconforming structure.
- (3) **Damage or Destruction:** If a nonconforming structure is damaged or destroyed by any means to an extent greater than fifty percent (50%) percent of its replacement cost at the time of damage or destruction, then such structure shall not be restored, nor any use of the structure be re-established, in any way which does not conform to the requirements of this Code.
- (4) **Section Not Applicable to Nonconforming Signs:** This Section shall not apply to nonconforming signs, the continuation, replacement, removal, expansion, maintenance and repair of which are governed by Section 10.11.

- (5) **Illegal Signs:** Signs which were in place on December 31, 2012 and which do not conform to the terms of this Code, which signs were also in violation of the previous Sign Code of the City at the time they were erected, shall not be classified as nonconforming signs and shall be removed immediately.

#### **14.4 Nonconforming Lots of Record**

- (1) **Development Allowed.** Development shall be allowed on a lot of record which does not conform to the lot area and lot which requirements established in this Code for the zoning district in which it is located, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in a separate ownership and not of the continuous frontage with other lots in the same ownership. Yard requirements, lot coverage and all other requirements shall be satisfied.
- (2) **Adjacent Lots in Single Ownership:** If two (2) or more adjacent and vacant nonconforming lots are in single ownership at any time, and such lots individually have less frontage or area than the minimum requirements of the district in which such lots are located, then such lots shall be considered and treated as a single lot or several lots which meet the minimum requirements of this Code for the district in which such lots are located.

#### **14.5 Change, Re-establishment, Expansion, Alteration or Major Repair of Nonconformities**

- (1) **Intent:** The intent of this Part is to allow the continuation of any nonconformity and the normal maintenance and repair thereof, but to require any change, re-establishment, expansion, alteration or major repair of a nonconformity to obtain a flexible use permit to determine whether it will substantially injure the value, use, and enjoyment of neighboring properties. Minor repair to nonconforming structures shall, in accordance to Section 14.2.(3), be permitted without the necessity of obtaining such conditional use.
- (2) **Flexible Use Procedure:** Unless this Section expressly provides otherwise, change, re-establishment, expansion, alteration or major repair of any nonconformity shall be deemed a "flexible use," and shall occur only as approved by the Planning Committee in accordance with the procedures set forth in Section 12.12 of this Code.
  - (a) After holding a public hearing on the flexible use, the Planning Committee shall determine whether to approve the proposed change, re-establishment, expansion, alteration, or major repair. The Planning Committee shall not approve the proposed change, re-establishment, expansion, alteration or major repair unless and until it finds, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case, that the proposed change, re-establishment, expansion, alteration or major repair meets the standards set forth in Section 12.12 of this Code as well as the following:

- (i) That all access roads and entrance or exit drives to the nonconformity will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and control and access in the case of fire or other emergency;
  - (ii) That all off-street parking, loading, refuse collection, and other service areas will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, economic, noise, glare, odor and other impacts on adjoining properties;
  - (iii) That all water, wastewater treatment, schools, fire and police protection and other necessary public and private utilities and services will be adequate with respect to their location, availability and compatibility with adjoining properties;
  - (iv) That all landscaping, screening, and fencing will be adequate, with respect to the effectiveness of their type, dimensions and character; will be adequate with respect to minimizing the economic, noise, glare, odor and other impacts of the nonconformity on adjoining properties and other properties in the neighborhood;
  - (v) That the type, size and intensity of the proposed use, including such considerations as storage of items and arrangement, the size of the site and the location of the use upon it, and the hours of operation and numbers of people who are likely to utilize or be attached to the use, will be adequate with respect to minimizing the impact of the nonconformity upon adjoining properties, other properties in the neighborhood, and the purposes of the use district in which the property is located;
  - (vi) Surface drainage will be adequate with respect to on-site erosion, siltation, pollution, flooding or other detrimental effects of the nonconformity.
- (b) In determining whether the proposed change, re-establishment, expansion, alteration or major repair will substantially injure the value, use and enjoyment of other properties, the Planning Committee shall also consider and balance:
- (i) The possible detriment or benefit to the owner of the nonconformity resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request;
  - (ii) The possible detriment or benefit to the general public resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request.
- (c) The Planning Committee may impose any conditions on approval of the request as it deems necessary to mitigate any potential hazards or problems, or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of nearby property owners and the general public.

(d) In acting upon applications for such flexible uses, the Planning Committee shall not order the discontinuation or termination of a nonconformity. If an applicant is denied, then the continuation, maintenance and repair of the nonconformity shall still be allowed in accordance with the terms of this Section.