

## Section 3. PROCEDURES & PROCESSES

### 3.1. Rezoning (Zoning Map Amendment)

- 3.1.1. Reason for amendment.** This Code, including the zoning map, is based on the Starkville Comprehensive Plan and is intended to carry out its objectives of sound, stable, and desirable development. This Code may be amended in accordance with Mississippi law only when one or more of the following conditions prevail:
- A. Error.** There is an error in the Code and a need to correct the error.
  - B. Change in conditions.** A change in the neighborhood has occurred to such an extent as to justify the proposed rezoning and there is a public need for the proposed rezoning.
- 3.1.2. Burden of proof.** The burden of proof is on the applicant to demonstrate by clear and convincing evidence that the requested amendment is justified.
- 3.1.3. Amendment procedure.** Amendments to this zoning map may be initiated by the City of Starkville, by the Planning and Zoning Commission, or by any person, firm, or corporation.
- A. Application.** All applications for rezoning shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Planning and Zoning Commission schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. A "completed application" shall include the application form, the applicable fee, a legal description of the subject property, letter of authorization if required, and all supplemental information necessary to render determinations related to the rezoning request including:
  - B. Interest and ownership.** The applicant's name, address, and interest in the application, the concurrence of the owner or owners of the entire land area, and structures to be included within the proposed district.

- C. Plat.** The plat of the land area which is proposed for amendment being affected, legal description of the property, and the proposed zoning classification of the area.
- D. Applicant statement.** A statement explaining the reason for the proposed amendment based on either error with a need to correct the error or change in condition and need that would be corrected by the proposed amendment.
- E. Administrative examination.** Upon receipt of an application for a zoning amendment, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed zoning amendment as is necessary. If the application is determined to be complete, the City Planner shall place the item on the agenda for the Commission. The date the item will be heard by the commission shall be determined by the Planning and Zoning Commission schedule.
- F. Public hearing.** Upon receipt of a completed application for a rezoning by the City Planner, the Planning and Zoning Commission shall hold a public hearing in accordance with the procedures established in this section. The Commission shall recommend approval with or without conditions or deny the request. If recommended for approval or denial, the request will then be scheduled for a public hearing for the Mayor and Board of Aldermen.
- G. Notice and public hearing procedure for a rezoning.** In considering and acting upon applications for a rezoning, the following procedures shall be observed:
  - 1. Mailing of notices.** The City Planner shall mail notices at least fifteen (15) calendar days prior to the scheduled public hearing, setting forth the time, place and purpose of the public hearing to all owners of real property within a minimum of one hundred sixty (160) feet of the boundaries of the land upon which the rezoning is requested. For the purpose of notice requirements to nearby owners of real property, the names and addresses of the owners shall be deemed to be those on the current tax records of

### Section 3. Procedures & Processes

- Oktibbeha County. The failure of any owner required by this section to be notified by mail sent to the address on the current tax records of Oktibbeha County shall not invalidate or otherwise have any effect on the recommendation or final decision of any application.
2. **Legal ad.** A legal ad shall be placed in the newspaper of record for Starkville at least fifteen (15) calendar days prior to the scheduled public hearing with the following information: governing body to hear the request, date of the hearing, time of the hearing, the location of the hearing, reason for the request, and a legal description of the property per Mississippi Code Title § 17-1-17.
  3. **Posting.** A sign shall be placed on the subject property in a conspicuous location at least fifteen (15) calendar days prior to the public hearing, notifying the general public of the request.
  4. **Applicant to pay costs.** All costs of notification shall be paid by the applicant. An application will not be considered complete until the application fee has been paid. Costs which exceed that paid at the time of application shall be billed and paid by the applicant prior to the public hearing by the Planning and Zoning Commission and/or Board of Aldermen.
  5. **Appearance and presentation.** At any public hearing upon any matter subject to the provisions of this article, the applicant seeking the rezoning and any other party desiring to be heard upon the application may appear in person, by agent, or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Planning and Zoning Commission shall, at the commencement of the hearing upon each application or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.
  6. **Action.** If approval or denial is recommended by the Planning and Zoning Commission, that recommendation and any specific conditions for approval shall be forwarded to the Mayor and Board of Aldermen for their binding decision.
  7. **Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
  8. **Effect of protest by neighbors.** In case of a protest against such change signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet therefrom or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fifths (3/5) of the members of the legislative body of such municipality or county who are not required by law or ethical considerations to recuse themselves.
  9. **Conditions of approval.** The Mayor and Board of Aldermen may attach conditions to an approval to any zoning map amendment. Such conditions, among other things, may provide that upon a failure to develop the area within a specified time and in accordance with approved conditions, no permit for the construction of any structures within the area shall be issued until the area shall be examined and zoned for its most appropriate use. Conditions attached in amendments relating to rezoning shall run with the land and shall be binding upon applicants for said amendment, their heirs, successors, and assigns.
  10. **Reapplication.** Reapplication for the same piece of property requesting the same type zoning cannot be made within one (1) year from the date the application was originally denied by the Planning and Zoning Commission and/or the Board of Aldermen.

### 3.2. Procedures for Planned Unit Development Review and Approval.

The Planned Unit Development review and approval process shall be followed for all proposed new planned unit developments.

**3.2.1. Application.** All applications for proposed planned unit developments shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Planning and Zoning Commission schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. Along with the application form and the applicable fee, a master plan, and all supplemental information necessary to render determinations related to the proposed planned unit development request shall be required for a "complete application".

**3.2.2. Rezoning.** The procedure for amending the zoning district for a planned unit development shall follow the application procedures for a rezoning as stated in this code.

**3.2.3. Master Plan.** Any application for a rezoning to a planned unit development district shall include a master plan. The master plan will be approved as part of the rezoning and shall be used to regulate all future applications for site plan review, infrastructure plan review, preliminary plat review, and final plat review. A master plan shall include the following:

- A. An accurate map of the project area including its relationship to surrounding areas, existing topography, and key features.
- B. A plan of development and presentation of the development concept. At a minimum, the plan shall contain sufficient detail to make possible the evaluation of approval criteria contained in the development standards of this code. The plan of development and presentation shall include the following:

- 1. The planning objective and the character of the development to be achieved through the planned unit development and the approximate phases in which the development will be built, if any.
  - 2. The approximate location and proportion of distinct development areas, such as residential, commercial, mixed, institutional, and industrial use areas in the planned unit development.
  - 3. The number and type of dwelling units proposed and density.
  - 4. The approximate proposed traffic and pedestrian circulation plan, including streets, trails, pedestrian, and bike paths.
  - 5. The approximate location of any proposed major common open space and any proposed community facilities, public facilities, floodplains, wetlands, or other natural resource areas designated for preservation.
  - 6. A statement explaining how the proposed planned unit development complies with the policies and objectives of the comprehensive plan.
  - 7. A statement or visual presentation of how the planned unit development will relate to and be compatible with adjacent and neighboring areas.
  - 8. A Traffic Impact Analysis may be required by the Development Review Committee and/or Planning and Zoning Commission. A Traffic Impact Analysis shall be done in accordance with the most recent edition of Trip Generation Manual, ITE.
- 3.2.4. Site Plan Review.** All planned unit developments shall obtain an approved site plan prior to the issuance of building permits. Site plan review and approval shall follow the procedures for site plan review as stated in this code based on the approved master plan.

## Section 3. Procedures & Processes

- 3.2.5. Preliminary Plat Review.** If the subdivision of land is required as part of a planned unit development, preliminary plat approval shall be required. Preliminary plat review and approval shall follow the procedures for preliminary plat approval as stated in this code based on the approved master plan.
- 3.2.6. Infrastructure Plan Review.** If the subdivision of land is required as part of a planned unit development, infrastructure plan approval shall be required after preliminary plat approval. Infrastructure plan review and approval shall follow the procedures for infrastructure plan approval as stated in this code based on the approved master plan.
- 3.2.7. Final Plat Review.** After the completion and acceptance of all required infrastructure, final plat approval shall be required. Final plat review and approval shall follow the procedures for final plat approval as stated in this code based on the approved master plan.
- 3.2.8. Sequence of Approvals.** The following is the sequence of approvals for planned unit developments:
- A. Without the Subdivision of Land.**
1. **Application.** Complete Application with Master Plan submitted to Planning Department
  2. **Master Plan Review.** After review by the Development Review Committee and any required modifications made, the master plan will then be placed on the Planning and Zoning Commission agenda with the Rezoning request.
  3. **Rezoning.** The master plan and the rezoning request will be reviewed together by the Planning and Zoning Commission. Final approval of the master plan and rezoning will be made by the Board of Aldermen.
  4. **Site Plan Review.** The Development Review Committee shall review any site plan that requires site plan approval.
  5. **Permits.** After approval of the site plan by the Development Review Committee, permits may be issued for any work on the site after review by the Building Department.

- B. With the Subdivision of Land.**
1. **Application.** Complete Application with Master Plan submitted to Planning Department
  2. **Master Plan Review.** After review by the Development Review Committee and any required modifications made, the master plan will then be placed on the Planning and Zoning agenda with the Rezoning request.
  3. **Rezoning.** The master plan and the rezoning request will be reviewed together by the Planning and Zoning Commission. Final approval of the master plan and rezoning will be made by the Board of Aldermen.
  4. **Preliminary Plat Review.** The Development Review Committee shall review the preliminary plat for compliance with the approved master plan.
  5. **Preliminary Plat.** The Planning and Zoning Commission shall review the preliminary plat for compliance with the approved master plan. Final approval of the preliminary plat shall be made by the Board of Aldermen.
  6. **Infrastructure Plan Review.** The Development Review Committee shall review the infrastructure plans for compliance with applicable standards, the preliminary plat, and the approved master plan.
  7. **Final Plat Review.** The Development Review Committee shall review the final plat for compliance with the approved preliminary plat and approved master plan.
  8. **Final Plat.** The Planning and Zoning Commission shall review the final plat for compliance with the preliminary plat and approved master plan. Final approval of the final plat shall be made by the Board of Aldermen.
  9. **Site Plan Review.** The Development Review Committee shall review any site plan that requires site plan approval.
  10. **Permits.** After approval of the site plan by the Development Review Committee, permits may be issued for any work on the site after review by the Building Department.

**3.2.9. Action**

**A.** The Planning and Zoning Commission shall recommend approval, denial, or request modification of an application for a planned unit development, or shall recommend approval of an application subject to conditions. A request for modification recommended by the Planning and Zoning Commission shall be forwarded to the Board of Aldermen for their review and final determination. Any recommended approval, denial, or conditions attached to a planned unit development approval shall be based on the development standards associated with the proposed use(s) along with the goals and objectives of the comprehensive plan.

**B.** The Board of Aldermen shall approve, deny, or request modifications of an application for a planned unit development, or shall approve an application subject to conditions. A request for modification shall be sent back to the Development Review Committee for review of requested modifications to the proposed master plan. The modifications to the master plan shall then be reviewed by the Board of Aldermen, unless specifically required by the Board of Aldermen to be reviewed by the Planning and Zoning Commission prior to being reviewed by the Board of Aldermen. The Board of Aldermen may approve the planned unit development with minor modifications, without requiring any additional review. Any approval, denial, or conditions attached to a planned unit development approval shall be based on the development standards associated with the proposed use(s) along with the goals and objectives of the comprehensive plan.

**3.2.10. Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.

**3.2.11. Effects of Approval of a Planned Unit Development.** Approval of a planned unit development shall establish the basic uses, densities, and intensities for the planned unit development in conformity with the master plan as approved by the Board of Aldermen, which shall be

recorded by the Planning Department as an integral component of the planned unit development district regulations. Any approved site plan within the planned unit development shall also be recorded by the Planning Department as part of the planned unit development.

**3.2.12. Reapplication.** Reapplication for the same piece of property requesting the same type planned unit development cannot be made within one (1) year from the date the application was originally denied by the Board of Aldermen.

**3.2.13. Amendment.**

**A. Minor Amendment.** The Director of Community Development may approve minor amendments to the final development plan. A minor amendment is an amendment required by technical or engineering considerations first discovered during site plan approval or construction that could not reasonably have been anticipated during the approval process for the rezoning and master plan approval.

1. The change is necessary because of natural features of the subject property not foreseen by the applicant or the city prior to the approval of the development plan.
2. The change will not have the effect of increasing the expected peak hour trip for either am or pm. A Traffic Impact Analysis may be required.
3. The change will not add square footage that is more than ten (10) percent of the existing gross square footage of the development plan.
4. The change will not result in a significant modification of vehicular or pedestrian circulation as determined by the City Engineer.
5. The change will not reduce or increase any approved setback by more than ten (10) percent.
6. The change will not result in an increase in the height of any structure more than ten (10) percent.
7. The change does not result in any significant adverse impacts beyond the site.

## Section 3. Procedures & Processes

- B. Major Amendment.** Any amendment determined not to be a minor amendment shall be required to be reapproved by Planning and Zoning Commission and the Board of Aldermen. A significant change in vehicular circulation and/or pedestrian circulation, as determined by the City Engineer, will constitute a major amendment.
- 3.2.14. Abandonment.** If construction of the planned unit development is not started within two (2) years of the date of approval, the Board of Aldermen may consider rezoning the site to its previous classification. The applicant, by showing good cause why he cannot adhere to the proposed timetable described in the master plan, may seek an extension of not more than one (1) year at a time. A request for extension shall be submitted in writing to the Planning Department and approved by the Board of Aldermen.

**3.3. Procedures for Review and Approval of Use Designation in Optional District.**

The optional district review and approval process shall be followed for all use designations and/or subdivisions within an optional district.

**3.3.1. Application.** All applications for a use designation and/or subdivision in an optional district shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Planning and Zoning Commission schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. Along with the application form and the applicable fee, a conceptual master plan, and all supplemental information necessary to render determinations shall be required for a “complete application”.

**3.3.2. Notice and approval procedure for Use Designation in an Optional District.** In considering and acting upon applications for a use designation, the following procedures shall be observed:

- A. Mailing of notices.** The City Planner shall mail notices to adjacent property owners at least fifteen (15) calendar days prior to the scheduled meeting of the Planning and Zoning Commission and Board of Aldermen for review of an application for a use designation in the Optional District. For the purpose of notice requirements to adjacent owners of real property, the names and addresses of the owners shall be deemed to be those on the current tax records of Oktibbeha County. The failure of any owner required by this section to be notified by mail sent to the address on the current tax records of Oktibbeha County shall not invalidate or otherwise have any effect on the recommendation or final decision of any application.
- B. Appearance and presentation.** At any meeting upon any matter subject to the provisions of this article, the

applicant seeking the use designation and any other party desiring to be heard upon the application may appear in person, by agent, or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Planning and Zoning Commission shall, at the commencement of the meeting upon each application or at any time during such meetings, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.

- C. Action.** If approval or denial for a use designation is recommended by the Planning and Zoning Commission, that recommendation and any specific conditions for approval shall be forwarded to the Mayor and Board of Aldermen for their binding decision.
- D. Appeal.** Parties aggrieved by the final decision of a use designation of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.

**3.3.3. Criteria for use designation review and approval.**

- A. Site and structure suitability.** The proposed location of the use designation has been adequately sized in accordance with the base dimensional standards of section 10 and can be adequately served with public utilities and safety services.
- B. Traffic.** There is no undue nuisance or serious hazard to pedestrian or vehicular traffic in the surrounding area by the addition of the proposed use designation(s).
- C. Immediate neighborhood impact.** The proposed use designation is not detrimental, injurious, obnoxious, or offensive to adjacent properties and/or mitigative measures are proposed to reduce such impacts.

**3.3.4. Purpose of a Conceptual Master Plan.** Any application for a use designation and/or subdivision in an optional district shall include a conceptual master plan. The conceptual master plan will be used to determine the use designation

## Section 3. Procedures & Processes

of the property and the location of future right-of-way for connectivity. Parcels may have multiple use categories depending on the size parcels and the base dimensional standards of the requested use designation. A conceptual master plan shall be the regulating plan used for the determination and application of the following:

- A. Use designation
    - 1. optional commercial development
    - 2. optional industrial development
    - 3. optional traditional neighborhood development
    - 4. optional conservation development
  - B. Base dimensional standards
  - C. Allowed densities.
  - D. Development standards.
  - E. Subdivision standards.
- 3.3.5. **Requirement of a Conceptual Master Plan.** The following shall be included in a conceptual master plan:
- A. A map of the project area including its relationship to surrounding areas, approximate existing topography, total approximate size in acres, and key features. A survey of the entire property is recommended, but not required for the conceptual master plan.
  - B. The requested use designation(s) for the entire property and the approximate acreage of each use category, if multiple use categories are proposed.
  - C. The anticipated vehicular circulation of the entire property to determine future right-of-way locations and connections to adjacent property.
  - D. Such other information as the Planning and Zoning Commission shall require, including any additional information necessary to determine compliance with the standards for the approval of an optional district contained in this code.
- 3.3.6. **Subdivision.** The subdivision of the property is not required at the time of approval of the conceptual master plan, but a conceptual master plan is required for any subdivision regulated by this Unified Development Code. The procedure for subdividing any property in an optional

district shall follow the procedures for a subdivision as stated in section 3.12.

- 3.3.7. **Sequence of Approvals.** The following is the sequence of approvals for use determination in an optional district:
- A. **Without the Subdivision of Land.**
    - 1. **Application.** Complete Application with conceptual master plan submitted to Planning Department
    - 2. **Review by Development Review Committee.** The development review committee shall review the conceptual master plan application in accordance with the criteria in section 3.3.3. After review by the Development Review Committee and any required modifications made, the conceptual master plan will then be placed on the Planning and Zoning Commission's agenda.
    - 3. **Review by Planning and Zoning Commission.** The conceptual master plan will be reviewed by the Planning and Zoning Commission in accordance with the criteria in section 3.3.3 and then a recommendation forwarded to the Board of Aldermen.
    - 4. **Review by Board of Aldermen.** The conceptual master plan will be reviewed by the Board of Aldermen in accordance with the criteria in section 3.3.3 and with consideration of the recommendation by the Planning and Zoning Commission.
  - B. **With the Subdivision of Land.**
    - 1. **Application.** Complete application with conceptual master plan and preliminary plat submitted to the Planning Department.
    - 2. **Review by Development Review Committee.** The development review committee shall review all conceptual master plan and preliminary plat application in accordance with the criteria in section 3.3.3 and 3.12. After review by the Development Review Committee and any required modifications made, the conceptual master plan and preliminary plat will then be placed on the Planning and Zoning Commission's agenda.



3. **Review by Planning and Zoning Commission.** The conceptual master plan and preliminary plat application will be reviewed by the Planning and Zoning Commission in accordance with the criteria in section 3.3.3 and 3.12. A recommendation shall then be forwarded to the Board of Aldermen.
4. **Review by Board of Aldermen.** The conceptual master plan and preliminary plat will be reviewed by the Board of Aldermen in accordance with the criteria in section 3.3.3 and 3.12 with consideration of the recommendation by the Planning and Zoning Commission.
5. **Final Plat.** The procedure for final plat approval of Section 3.12 shall be followed.
- 3.3.8. **Expiration.** The conceptual master plan approval shall be valid for two (2) years unless an approved and active site plan for the property has been issued or a final plat has been approved.
- 3.3.9. **Reapplication.** Reapplication for the same piece of property requesting the same conceptual master plan approval cannot be made within one (1) year from the date the application was originally denied by the Board of Aldermen.
- 3.3.10. **Amendment.**
  - A. **Minor Amendment.** The Director of Community Development may approve minor amendments to the conceptual master plan. A minor amendment is an amendment required by technical or engineering considerations first discovered during site plan approval or construction that could not reasonably have been anticipated during the approval process for the conceptual master plan, preliminary plat, and rezoning. The change will not result in a significant modification of vehicular or pedestrian circulation as determined by the City Engineer.
  - B. **Major Amendment.** Any amendment not determined to be a minor amendment shall be required to be reapproved by Planning and Zoning Commission and the Board of Aldermen.
- 3.3.11. **Exceptions.** Any parcel zoned Optional District may subdivide as a single dwelling residential subdivision without requiring rezoning if the subdivision meets the base dimensional standards of Section 6.3 for an RN zoning district. The subdivision procedures of Section 3.12 shall be followed.

### 3.4. Special Exception

1. Special exceptions shall include any building, sign, accessory structure, or site feature associated with the use that is being altered or built and is not permitted by right in a zoning district. Special exceptions shall follow the additional design standards associated with a use that shall be adhered to as a part of the approval unless specifically removed as part of approval. A special exception shall also include any request to deviate from the use standard or development requirements that are non-dimensional in nature.
2. The purpose and intent of this article is to ensure that special exceptions shall only be permitted on sites where the proposed building, sign, accessory structure, or site associated with the use may be adequately accommodated, without generating adverse impacts in the area of the proposed special exception. The determination of need for a special exception shall be made by the City Planner. A special exception shall be permitted only upon a finding by the Planning and Zoning Commission and the Board of Alderman in compliance with the procedures and criteria set forth below:

#### 3.4.1. **Criteria for special exception review and approval in all zoning districts.**

- A. **Site suitability.** The proposed location of the structure and use has adequate space for development, adequate access to the site, fits contextually with the surrounding area, and has been properly designed for any environmental constraints.
- B. **Traffic.** There is no undue nuisance or serious hazard to pedestrian or vehicular traffic in the surrounding area by the proposed structure and use.
- C. **Immediate neighborhood impact.** The proposed structure and use is not detrimental, injurious, obnoxious, or offensive to other properties in the neighborhood. Negative impacts can include excessive trip generation,

noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, and inappropriate hours of operation.

- D. **Availability of public services.** The proposed structure and use is adequately served by sewer, water, electricity, fire protection, police protection, and provides for any stormwater requirements.
- E. **Site plan.** A site plan shall be reviewed by the Development Review Committee prior to review by the Planning and Zoning Commission. This review shall be to determine if elements have been adequately provided on the plan. These elements can include, but are not limited to: parking areas, loading areas, buffers, screening, landscaping, and signage. Additional approval by the Development Review Committee may be required for site plan approval after approval of a special exception.
- F. **Impact on property values.** The proposed location of the structure and use will not cause or contribute to a decline in property values of surrounding properties.
- G. **Consistency with Comprehensive Plan.** The proposed special exception is consistent with the goals, objectives, and policies of the Comprehensive Plan.
- H. **Additional standards.** All associated additional standards for the proposed building, sign, accessory structure, or site associated with the use have been adequately provided for on the site plan.

#### 3.4.2. **Additional Criteria for special exception review and approval in form-based districts**

- A. The special exception request shall be consistent with the intent of the form-based districts.

#### 3.4.3. **Review procedures.**

- A. **Application.** All applications for a special exception shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Planning and Zoning Commission schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. A "completed application" shall include the

application form, the applicable fee, a legal description of the subject property, letter of authorization if required and all required supplemental information necessary to render determinations related to the special exception request including:

1. **Interest and ownership.** The applicant's name, address, and interest in the application, and the concurrence of the owner or owners of the entire land area and structures to be included within the subject property.
  2. **Applicant statement.** The applicant statement shall include an explanation with the reasoning for the special exception request and a citation of the specific code section from which the special exception is sought.
- B. Review by the Development Review Committee.** The application shall be reviewed by the Development Review Committee before their public hearing date. Comments from this meeting, if not addressed prior to the hearing, may be added to the staff report for the public hearing as recommended condition(s) of approval.
- C. Administrative examination.** Upon receipt of an application for a special exception, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed special exception as is necessary. If the application is determined to be complete, the City Planner shall place the item on the agenda for the Commission. The date the item will be heard by the Commission shall be determined by the Planning and Zoning Commission schedule.
- D. Public hearing.** Upon receipt of a completed application for a special exception by the City Planner, the Planning and Zoning Commission shall hold a public hearing in accordance with the procedures cited in this section. The Commission shall recommend approval with or without conditions or recommend denial of the request. If recommended for approval or denial, the request will then be scheduled for a public hearing for the Mayor and Board of Aldermen.
- E. Notice and public hearing procedure for special exception.** In considering and acting upon applications for special exception, the following procedures shall be observed:
1. **Mailing of notices.** The City Planner shall mail notices at least fifteen (15) calendar days prior to the scheduled public hearing, setting forth the time, place, and purpose of the public hearing to all owners of real property within a minimum of one hundred and sixty (160) feet of the boundaries of the land upon which the special exception is requested. For the purpose of notice requirements to nearby owners of real property, the names and addresses of the owners shall be deemed to be those on the current tax records of Oktibbeha County. The failure of any owner required by this section to be notified by mail sent to the address on the current tax records of Oktibbeha County shall not invalidate or otherwise have any effect on the recommendation or final decision of any application.
  2. **Legal ad.** A legal ad shall be placed in the newspaper of record for Starkville at least fifteen (15) calendar days prior to the scheduled public hearing with the following information: governing body to hear the request, date of the hearing, time of the hearing, the location of the hearing, reason for the request, and a legal description of the property per Mississippi Code Title § 17-1-17.
  3. **Posting.** A sign shall be placed on the subject property in a conspicuous location at least fifteen (15) calendar days prior to the public hearing, notifying the general public of the request.
- F. Applicant to pay costs.** All costs of notification shall be paid by the applicant together with the application fee established by resolution of the Mayor and Board of Aldermen. Costs which exceed that paid at the time of application shall be billed and paid by the applicant prior to the public hearing by the Planning and Zoning Commission and/or Board of Aldermen. The application fee for a special exception that did not receive approval prior to the commencement of construction and/or

### Section 3. Procedures & Processes

requires a modification of an approved site plan or building plan shall be charged an application fee three (3) times the established rate.

- G. **Appearance and presentation.** At any public hearing upon any matter subject to the provisions of this article, the applicant seeking the special exception and any other party desiring to be heard upon the application may appear in person, by agent, or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Planning and Zoning Commission shall, at the commencement of the hearing upon each application or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.
- H. **Action.** If approval or denial is recommended by the Planning and Zoning Commission, that recommendation and any specific conditions shall be forwarded to the Mayor and Board of Aldermen for their binding decision.
- I. **Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
- J. **Conditions of approval.** The Mayor and Board of Aldermen may attach conditions in accordance with the approval. Conditions attached to the approval of a special exception shall run with the land and shall be binding upon the applicants, their heirs, successors, and assigns for the duration of the use of the building, sign, accessory structure, or site.
- K. **Abandonment or discontinuance.** Any built structure or site associated with an approved special exception may continue with the associated use unless the use is made a nonconformity by any subsequent zoning ordinance and/or action by the Board of Aldermen. All nonconformities shall be regulated in accordance with

section 3.17. If a specific time is not set as part of the approval of a special exception, the special exception shall expire within 18 months if no building permit has been issued and/or construction activities have ceased on the site. A special exception for any sign type shall expire upon the abandonment or discontinuance of the use or business. Reapplication for a special exception for sign will be required.

- L. **Reapplication.** Reapplication for the same piece of property requesting the same special exception cannot be made within one (1) year from the date the application was originally denied by the Planning and Zoning Commission and/or the Board of Aldermen.
- 3.4.4. **Other uses not specified.** Any proposed structure or use not specifically prohibited by this Code shall be reviewed as a special exception application.

**3.5. Use Exception**

1. Use exceptions shall include uses that do not significantly modify or alter any building, sign, accessory structure, or site associated with the use. Use exceptions have additional design standards associated with a use that shall be adhered to as a part of the approval unless specifically removed as part of approval.
2. The purpose and intent of this article is to ensure that use exceptions shall only be permitted on sites where the proposed use may be adequately accommodated, without generating adverse impacts in the area of the use. The determination of need for a use exception shall be made by the City Planner. If a proposed use triggers the site plan review process, it will be required to go through the process for a special exception. A use exception shall be permitted only upon a finding by the Planning and Zoning Commission and the Board of Aldermen in compliance with the procedures and criteria set forth below:

**3.5.1. Criteria for a use exception review and approval.**

- A. **Site and structure suitability.** The proposed location of the use has adequate space for the use such as but not limited to: parking, available utilities, pedestrian access, vehicle access, loading areas, building size, building type, etc.
- B. **Traffic.** There is no undue nuisance or serious hazard to pedestrian or vehicular traffic in the surrounding area by the addition of the proposed use to the area.
- C. **Immediate neighborhood impact.** The proposed use is not detrimental, injurious, obnoxious, or offensive to other properties in the neighborhood. Negative impacts can include excessive trip generation, noise, vibration, dust, glare, heat, smoke, fumes, gas, odors, and inappropriate hours of operation.
- D. **Impact on property values.** The proposed location of the use will not cause or contribute to a decline in property values of surrounding properties.

- E. **Consistency with Comprehensive Plan.** The proposed special exception is consistent with the goals, objectives, and policies of the Comprehensive Plan.
- F. **Additional standards.** All associated additional standards for the proposed use have been adequately provided for on the site plan.

**3.5.2. Additional criteria for use exception review and approval in form-based districts**

- A. The use exception shall be consistent with the intent of the form-based districts.

**3.5.3. Review procedures.**

- A. **Application.** All applications for a use exception shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Planning and Zoning Commission schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. A "completed application" shall include the application form, the applicable fee, a legal description of the subject property, letter of authorization if required, and all required supplemental information necessary to render determinations related to the use exception request including:
  1. **Interest and ownership.** The applicant's name, address, and interest in the application, and the concurrence of the owner or owners of the entire land area and structures to be included within the subject property.
  2. **Applicant statement.** A statement explaining the reason for the use exception request.
- B. **Review by the Development Review Committee.** The application may be required to be reviewed by the Development Review Committee before their public hearing date at the discretion of the City Planner. Comments from this meeting, if not addressed prior to the hearing, may be added to the staff report for the public hearing as recommended condition(s) of approval.

### Section 3. Procedures & Processes

- C. **Administrative examination.** Upon receipt of an application for a use exception, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed use exception as is necessary. If the application is determined to be complete, the City Planner shall place the item on the agenda for the Commission. The date the item will be heard by the Commission shall be determined by the Planning and Zoning Commission schedule.
- D. **Public hearing.** Upon receipt of a completed application for a use exception by the City Planner, the Planning and Zoning Commission shall hold a public hearing in accordance with the procedures cited in this section. The Commission shall recommend approval with or without conditions or deny the request. If recommended for approval, the request will then be scheduled for a public hearing for the Mayor and Board of Aldermen.
- E. **Notice and public hearing procedure for use exceptions.** In considering and acting upon applications for a use exception, the following procedures shall be observed:
  - 1. **Mailing of notices.** The City Planner shall mail notices at least fifteen (15) calendar days prior to the scheduled public hearing, setting forth the time, place, and purpose of the public hearing to all owners of real property within a minimum of one hundred sixty (160) feet of the boundaries of the land upon which the use exception is requested. For the purpose of notice requirements to nearby owners of real property, the names and addresses of the owners shall be deemed to be those on the current tax records of Oktibbeha County. The failure of any owner required by this section to be notified by mail sent to the address on the current tax records of Oktibbeha County shall not invalidate or otherwise have any effect on the recommendation or final decision of any application.
  - 2. **Legal ad.** A legal ad shall be placed in the newspaper of record for Starkville with the following information: governing body to hear the request, date of the request, time of the request, location of the public hearing, reason for the request, and legal description of the property.
- 3. **Posting.** The City Planner shall place a sign on the subject property in a conspicuous location at least fifteen (15) calendar days prior to the public hearing, notifying the general public of the request.
- F. **Applicant to pay costs.** All costs of notification shall be paid by the applicant together with the application fee established by resolution of the Mayor and Board of Aldermen. Costs which exceed that paid at time of application shall be billed and paid by the applicant prior to the public hearing by the Planning and Zoning Commission and/or Board of Aldermen. The application fee for a use exception that did not receive approval prior to the commencement of operations shall be charged an application fee three (3) times the established rate.
- G. **Appearance and presentation.** At any public hearing upon any matter subject to the provisions of this article, the applicant seeking the use exception and any other party desiring to be heard upon the application may appear in person, by agent, or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Planning and Zoning Commission shall, at the commencement of the hearing upon each application or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.
- H. **Action.** If approval or denial is recommended by the Planning and Zoning Commission, that recommendation and any specific conditions shall be forwarded to the Mayor and Board of Aldermen for their binding decision.
- I. **Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.

- J. **Conditions of approval.** The Mayor and Board of Aldermen may attach conditions in accordance with the approval. Conditions attached to the approval of a use exception shall run for the duration of the use. Conditions for a requirement for a renewal of a use exception may be applied to approval at the discretion of the Board of Aldermen.
- K. **Abandonment or discontinuance.** If a use exception is abandoned, discontinued, or ceases for a continuous period of more than three (3) months, the use exception shall become null and void. The use exception shall only be tied to the applicant for that specific location and/or business and cannot be transferred to another entity or location without reapplication. Any use associated with an approved use exception may continue the associated use unless the use is made a nonconformity by any subsequent zoning ordinance and/or action by the Board of Aldermen.
- L. **Reapplication.** Reapplication for the same or similar piece of property requesting the same or similar use exception cannot be made within one (1) year from the date the application was originally denied by the Planning and Zoning Commission and/or the Board of Aldermen.

### 3.6. Administrative Adjustments.

1. An administrative adjustment is any minor deviation from the required dimensional, numerical amount, or percentage as required in a zoning district, use standards, or development standards that still meets the intent of this code. During the site plan and/or architecture review process, the Community Development Director is authorized to approve an administrative adjustment at the request of the applicant.
2. It is the responsibility of the applicant to meet the burden of clearly demonstrating the reason for the requested administrative adjustment and to provide sufficient documentation to illustrate how the adjustment is related to a site constraint and/or how the modification would equal or exceed the existing standard in terms of achieving the intent of this code.

**3.6.1. Adjustment Amounts.** Only the following requirements and the amounts stated are to be considered for administrative adjustments:

- A. Lot Coverage.** Increase of up to five (5) percent of the maximum building coverage allowance.
- B. Building Setback**
  - 1. Setbacks in form-based districts**
    - i. Increase of up to five (5) feet of a required maximum front or side setback adjacent to street.
    - ii. Decrease of up to two (2) feet of a required minimum front or side setback adjacent to street.
  - 2. Setbacks in non-form-based districts**
    - i. Increase of up to five (5) feet of a required maximum front, side, or rear setback adjacent to a street if a minimum distance of ten (10) feet from any adjacent structure is maintained.
    - ii. Decrease of up to two (2) feet of a required minimum front, side, or rear setback adjacent to a street if a minimum distance of ten (10) feet from any adjacent structure is maintained.

### C. Lot Frontage Buildout

1. Decrease of up to ten (10) percent of the lot frontage buildout requirement at the front or side setback adjacent to street.
2. For existing lots, the minimum decrease necessary to allow the applicant to meet the required side setbacks

**D. Minimum Lot Width.** A decrease of up to five (5) feet for any existing lot within a TN-E or MDU-g zoning district from the minimum lot width requirements for a residential or mixed-use development

### E. Access Drives and Driveway Width

- i. Increase of up to five (5) feet of the maximum driveway width for shared driveways serving multiple units or when fire service cannot be provided from the street.
- ii. Increase the width of a driveway up to a maximum width of 30 feet for lots located within a SD-2 or SD-6 zoning district when accessing a garage or carport with three or more car bays.
- iii. Increase in minimum curb radii for industrial or other similar uses when the applicant provides engineering documentation including truck turning templates that necessitate a larger radius for the curb return

**F. Required Amount of Parking.** Increase or decrease up to ten percent (10%) from the number of required spaces based on the use.

**G. Parking Setbacks.** Decrease of up to five (5) feet of a required primary or side street parking setback for form-based districts only. All other districts will require a variance.

### H. Parking Lot Layout.

1. **Parking space width.** A decrease of up to six (6) inches in parking space width, but maintaining a minimum overall width of nine (9) feet. The minimum width of parallel parking spaces is not eligible for administrative adjustments.
2. **Parking space length.** A decrease of up to six (6) inches in parking space length except for parallel and perpendicular parking spaces.



- 3. **Drive aisle width.** A decrease of up to six (6) inches in drive aisle width.
- I. **Required Amount of Parking.** An increase or decrease less than ten percent (10%) from the minimum or maximum number of required spaces.
- J. **Location of Recreational vehicles and equipment.** Maybe permitted on a hard surface on the side of the front yard if applicant demonstrates that the vehicle cannot be located in the side yard, rear yard, garage, carport, or an enclosed building due to physical constraints of the subject property. Physical constraints shall include existing trees, excessive grades, limited side yard width, HVAC equipment and existing utilities. The removal of existing trees in order to accommodate the parking requirements is not required or preferred.
- K. **Building Width.** Increase of up to ten (10) percent of the maximum street facing building width.
- L. **Articulation in Building Facade.** Decrease of up to 5 (5) percent of the required wall variation length.
- M. **Transparency.** An increase or decrease of up to five (5) percent of the minimum or maximum amount of required transparency.
- N. **Ground Floor Elevation**
  - 1. An increase or decrease of up to one (1) foot of a required minimum or maximum ground floor elevation for ADA accessibility.
  - 2. Ground floor elevation shall however be no lower than two (2) feet above the base flood elevation.
- O. **Story Height**
  - 1. Decrease of up to one (1) foot of a required minimum ground story floor height in form-based districts.
  - 2. Increase maximum building height up to five (5) feet.
- P. **Subdivision Requirements**
  - 1. **Blocks, Lots, Access.** Administrative adjustments may be appropriate where topographic changes are too steep, where existing buildings, streams, or other natural or man-

- made obstructions exist, or site layout of developed properties prevent cross-access, where adjoining uses are incompatible, or where strict compliance with this Unified Development Code would pose a safety hazard.
  - 2. **New Streets.** Administrative adjustments may be appropriate when an existing building would impede roadway expansion; when transitioning from a different street section; or where strict compliance with this Unified Development Code and City of Starkville Standards of Design & Specifications would pose a safety hazard.
- 3.6.2. **Review Procedure.**
- A. **Request.** The request for an administrative adjustment shall be made in writing and shall include any drawings and supporting materials to support the request.
  - B. **Review by Community Development Director.** The request will be reviewed by the Community Development Director and city staff during a Development Review Committee meeting.
  - C. **Approval procedure.** Upon approval of such administrative adjustment by the Community Development Director, a written explanation of the specific approved adjustments shall be attached to the approved site plan.
  - D. **Disapproval procedure.** A decision to not allow an administrative adjustment by the Community Development Director, shall require a variance or special exception to allow for the requested adjustment.

## Section 3. Procedures & Processes

### 3-7. Variances

1. A variance shall include any dimensional departure from the requirement in a zoning district such as but not limited to: building setbacks, sign setbacks, sign dimensions, lot area, parking lot dimensions, building height requirements (unless requiring a special exception), building design standards, etc.
2. The purpose and intent of this article is to ensure that variances granted are not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship. Examples of hardship include exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of this ordinance, by reason of the location of trees, natural drainage course, lakes, or other desirable or attractive features, which condition is not generally prevalent in the neighborhood. Hardships do not include deviation(s) from an approved site and/or building plan, adjustments to allow for maximum permitted density of the lot, etc.

#### 3-7.1. Criteria for variance review and approval.

- A. **Special Conditions.** That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and the same conditions are not applicable to other land, structures, and buildings in the surrounding area.
- B. **Literal Interpretation.** That the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.
- C. **Hardship.** That the hardship has not resulted from the actions of the applicant.
- D. **Special Privilege.** That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.

- E. **Minimum Variance.** That granting the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- F. **Consistency with Comprehensive Plan.** That the granting of the variance will be consistent with the general purpose, intent, goals, objectives, and policies of the Comprehensive Plan and this code and will not be injurious to surrounding areas or otherwise detrimental to the public welfare.

#### 3-7.2. Criteria for variance review and approval in form-based zoning districts. In addition to the criteria stated above, the following criteria shall also be used to review variances in any form-based district.

- A. **Physical Conditions.** The physical condition of the property, such as steep slopes, floodplain, drainage, or small or irregular shaped lots, make compliance to the specific standard physically impossible, and this hardship is not created by the applicant.
- B. **Burden.** The burden of proof is on the applicant to demonstrate by clear and convincing evidence that the requested variance meets the criteria for variance review and approval.
- C. **Impact.** The variance will not significantly impact adjacent property owners, the character of the area, traffic conditions, parking, public infrastructure, stormwater management, and other matters affecting public health, safety and general welfare.
- D. **Urban Principle.** The modification will not result in a substantial departure from the basic urban principle that buildings should directly front streets (as opposed to being set back from the right-of-way) and add value to the public realm and pedestrian walkability of the street edge.

#### 3-7.3. Review procedures

- A. **Application.** All applications for a variance shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Board of Adjustments and Appeals schedule. Such applications

shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. A "completed application" shall include the application form, the applicable fee, a legal description of the subject property, letter of authorization if required and all required supplemental information necessary to render determinations related to the variance request including:

1. **Interest and ownership.** The applicant's name, address, and interest in the application, the concurrence of the owner or owners of the entire land area and structures to be included within the subject property.
  2. **Applicant statement.** A statement explaining the reason for the variance request.
- B. Review by the development review committee.** The application may be required to be reviewed by the Development Review Committee before their public hearing date as determined by City Planner. Comments from this meeting, if not addressed prior to hearing, shall be added to the staff report for the public hearing as a recommended condition(s) of approval.
- C. Administrative examination.** Upon receipt of an application for a variance, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed variance as is necessary. If the application is determined to be complete, the City Planner shall place the item on the agenda for the Board of Adjustment and Appeals. The date the item will be heard by the Board shall be determined by the Board of Adjustment and Appeals schedule.
- D. Public hearing.** Upon receipt of an application for a variance, the Board of Adjustments and Appeals shall hold a public hearing upon the application in accordance with the procedures cited in the following subsection, and recommend approval with or without conditions or recommend denial of the request. If recommended for approval or denial, the request will then be scheduled for a public hearing for the Mayor and Board of Aldermen.
- E. Notice and public hearing procedure for variances.** In considering and acting upon applications for variances, the following procedures shall be observed:
1. **Mailing of notices.** The City Planner shall mail notices at least fifteen (15) calendar days prior to the scheduled public hearing, setting forth the time, place and purpose of the public hearing to all owners of real property within a minimum of one hundred sixty (160) feet of the boundaries of the land upon which the variance is requested. For the purpose of notice requirements to nearby owners of real property, the names and addresses of the owners shall be deemed to be those on the current tax records of Oktibbeha County. The failure of any owner required by this section to be notified by mail sent to the address on the current tax records of Oktibbeha County shall not invalidate or otherwise have any effect on the recommendation or final decision of any application.
  2. **Legal ad.** A legal ad shall be placed in the newspaper of record for Starkville at least fifteen (15) calendar days prior to the scheduled public hearing with the following information: governing body to hear the request, date of the hearing, time of the hearing, the location of the hearing, reason for the request, and a legal description of the property per Mississippi Code Title § 17-1-17
  3. **Posting.** A sign shall be placed on the subject property in a conspicuous location at least fifteen (15) calendar days prior to the public hearing, notifying the general public of the request.
- F. Applicant to pay costs.** All costs of notification shall be paid by the applicant together with the application fee established by resolution of the Mayor and Board of Aldermen. The application fee for a variance that did not receive approval prior to the commencement of construction and/or requires a modification of an approved site plan or building plan shall be charged an application fee three (3) times the established rate. Costs which exceed that paid at the time of application shall be

## Section 3. Procedures & Processes

- billed and paid by the applicant prior to the Board of Adjustment and Appeals' public hearing.
- G. Appearance and presentation.** At any public hearing upon any matter subject to the provisions of this article, the applicant seeking the variance and any other party desiring to be heard upon the application may appear in person, by agent or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Board of Adjustment and Appeals shall, at the commencement of the hearing upon each application or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.
  - H. Action.** If approval or denial is recommended by the Board of Adjustments and Appeals, that recommendation and any specific conditions for approval shall be forwarded to the Mayor and Board of Aldermen for their binding decision.
  - I. Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
- 3.7.4. Variance conditions.** In recommending any variance, the Board of Adjustments and Appeals shall have the authority to recommend appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted by the Mayor and Board of Aldermen, shall be deemed a violation of this Code. Under no circumstances shall the Board of Adjustments and Appeals recommend, and the Mayor and Board of Aldermen grant, a variance to permit a use other than a use permitted generally in the district involved, nor shall a variance be granted to any use expressly or by implication prohibited by the terms of this Code.
- 3.7.5. Variance requests related to sidewalk installation.**
- A. Criteria for sidewalk variance review and approval.**
    - 1.** The review and approval of all sidewalk variances except in form-based zoning districts shall be based on criteria as listed in Section 3.7.2.
    - 2.** The review and approval of all sidewalk variances in form-based zoning districts shall be based on criteria as listed in Section 3.7.2 and Section 3.7.3.
  - B. Requirements for variance approval.** Where the Board of Aldermen determine that construction of sidewalks would not be feasible and grant a variance to the sidewalk requirements, one of the two (2) options shall be required:
    - 1.** Fee in Lieu. A fee shall be paid prior to issuance of a Certificate of Occupancy or Final Plat to cover the cost of constructing a sidewalk. The fee shall be used to construct sidewalks as needed in accordance with the adopted Capital Improvements Plan. The fee shall be an amount not less than one hundred and fifty percent (150%) of the estimated installation cost. The installation cost of the sidewalks shall be based on unit prices. The unit prices shall be determined based upon quarterly posted construction bid averages provided by the Mississippi Department of Transportation (MDOT). The unit price used to determine the installation cost shall be reviewed and approved by the City Engineer.
    - 2.** Alternate Sidewalk Route. The applicant shall construct a sidewalk within the area of the project that is of equal or greater size than the required sidewalk. The location of the alternate sidewalk route shall be as determined by the City Engineer. If an alternate sidewalk route cannot be agreed upon, the fee in lieu option shall be used.

- 3.8. Administrative Appeal.** An administrative appeal is any appeal from administrative interpretations on all matters pertaining to the adopted codes of the city that does not require a variance, waiver, use exception, or special exception.
- 3.8.1. Application.** An application for an appeal shall be submitted along with any supporting information to the Planning Department within ten (10) days of the written denial of an application by the Building Department, City Planner, and/or Development Review Committee.
- 3.8.2. Administrative Examination.** Upon receipt of an application for an administrative appeal, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed administrative appeal as is necessary. If the application is determined to be complete, the City Planner shall place the item on the agenda for the Board of Adjustment and Appeals. The appeal shall be placed on the next regularly scheduled meeting of the Board of Adjustments and Appeals in accordance with the submittal schedule for non-advertised agenda items.
- 3.8.3. Appearance and Presentation.** At the hearing, the applicant seeking the administrative appeal and any other party desiring to be heard upon the application may appear in person, by agent or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Board of Adjustment and Appeals shall, at the commencement of the hearing upon each application or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.
- 3.8.4. Action.** The decision recommended by the Board of Adjustments and Appeals and any specific conditions for approval shall be forwarded to the Mayor and Board of

Aldermen for their binding decision. A super majority vote by the Board of Adjustments and Appeals shall be necessary to modify or reverse any order, requirement, decision, or determination of the city planner, building official, and/or development review committee. The Mayor and Board of Aldermen shall proceed to review the recommendation by the Board of Adjustment and Appeals. At the hearing, the decision of the Board of Adjustment and Appeals shall either be affirmed, modified, or reversed by the Board of Aldermen.

- 3.8.5. Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
- 3.8.6. Conditions of Approval.** The Mayor and Board of Aldermen may attach conditions in accordance with the approval. Conditions attached to the approval of an administrative appeal shall run for the duration of the use.

## Section 3. Procedures & Processes

### 3.9. Site and infrastructure plans

- 3.9.1. Intent of site plan and infrastructure plan review.** The intent of site plan review is to ensure that development within the City of Starkville is consistent with all applicable development standards. The approval of such development will be based upon the provisions of this code and availability of adequate public facilities and services. It should take into account the potential impact and compatibility of the development with existing and anticipated developments within the immediate area and the City as a whole.
- 3.9.2. Applicability and filing procedure**
- A.** Site plan approval shall be required for any site with a building modification resulting in one thousand (1,000) square feet or more of new floor space and/or any building modification in which the construction cost, as determined by the Building Department, for the modification is more than fifty (50) percent of its tax assessor's replacement value or an appraised replacement value at the time of modification of the structure only, not including the land. Site plan approval shall not be required on single lot detached dwellings and single lot attached dwelling duplex. Site Plan review shall be required prior to the public hearing for all special exceptions. Site plan review may be required prior to the public hearing for a use exception at the discretion of the City Planner.
- B.** All developments requiring site plan approval will be required to meet all current site plan design requirements including but not limited to: landscaping, parking lot layout, sidewalks, signage, stormwater management, etc.
- C.** Infrastructure plan approval shall be required on all subdivisions with public infrastructure after approval of the Preliminary Plat and prior to any construction activity including land disturbance and/ or the removal of existing trees
- D.** No structure or site requiring approval from the Development Review Committee shall be modified,

erected, or used prior to receiving site plan and/or infrastructure plan approval.

- E.** No erosion control or building permit shall be issued prior to site plan and/or infrastructure plan approval pursuant to the provisions of this section.

**3.9.3. Review and action by the Development Review Committee.** After reviewing a site and/or infrastructure plan and finding that the proposed plan meets the minimum requirements, the Development Review Committee will approve the site plan and/or infrastructure plan. If the site plan and/or infrastructure plan includes any requests for waiver, variance, special exception, use exception, preliminary plat, or final plat approval, the Development Review Committee will approve the site plan only after approval from the Board of Aldermen.

**3.9.4. Site and infrastructure plan application requirements**

**A. Application.** An application for review by the Development Review Committee shall be submitted along with a site plan and any other required information to the Planning Department a minimum of ten (10) days prior to a regularly scheduled meeting of the Development Review Committee. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. The application shall include the following:

- 1. Applicant and/or owner information.** The following shall be identified and contact information provided, when applicable: owner or authorized agent, engineer, architect, surveyor, landscape architect, or any others involved in the preparation of the application. All plans shall be stamped if required by state statute.
- 2. Project information.** The following shall be listed on the application when applicable: project name, project address, parcel id number, and zoning. If the project has no physical address, the applicant shall provide the name of street and distance to the nearest intersection.
- 3. Project description.** All projects shall include a description of the project. If the development is being proposed to be

built in phases, the applicant shall submit an application for the entire development showing all phases. Target dates for completion of each phase and the entire development shall be included.

- B. Site plan requirements.** The following sheets with required information shall be submitted as part of a complete application for review by the Development Review Committee. The maximum sheet size for site plans shall not exceed thirty (30) inches by forty-two (42) inches. A sheet size of twenty-four (24) inches by thirty-six (36) inches is preferred. Plans shall also be provided digitally in a Portable Document Format (PDF). Multiple sheets may be used, provided each sheet is numbered and the total number of sheets is indicated on each sheet. Cross referencing between sheets shall be required. All of the following information and any other required information specified in this code or as required by city staff shall be required:
1. **Coversheet.** The coversheet shall include:
    - i. Project name
    - ii. Vicinity map showing the relationship of the proposed site plan to surrounding streets and public facilities
    - iii. Sheet Index
    - iv. Contact information for the Owner, Design Professional, and Utilities providing service
    - v. Development data including the following: project area in acres, phase area(s) in acres, disturbed area in acres, and property zoning
    - vi. Building data including the following: total proposed square footage for all uses (commercial, residential, office etc.), total number of residential units, and total number of bedrooms
    - vii. Submittal date and any revision dates. Revisions shall be clearly identified using revision clouds
  2. **Existing Conditions Survey.** A site survey shall be drawn at a scale no more than one (1) inch to one hundred (100) feet or larger. A site survey, meeting minimum standards set forth by the Mississippi Licensure Board for

Professional Engineers and Surveyors, shall be prepared by a Mississippi licensed land surveyor and shall illustrate the following:

- i. Name and license number of surveyor and seal
- ii. Date of survey and references
- iii. North arrow, legend, and graphic scale
- iv. Lot or parcel numbers of lot and adjacent lots
- v. Bearing and distance of boundary lines
- vi. All existing features, structures, improvements, and encroachments
- vii. Existing contours shall be illustrated as a dashed line. Topographic contours shall be illustrated at a minimum of one (1)-foot intervals and extending a minimum of ten (10) feet beyond the property boundaries. Survey beyond the property boundaries may be supplemented with publicly available LIDAR topographic data if access is not feasible. Additional topographic information may be required beyond the minimum ten (10) feet if deemed necessary by City Staff.
- viii. All existing underground and above ground utilities to the greatest extent possible utilizing the best information available including but not limited to visible observation, publicly available maps, and utility locate markings
- ix. All known easements located in source deeds or provided by other parties
- x. All existing streams, water courses, creeks or other drainage ways including the flowline, toe of slope, top of each bank and other pertinent information as requested by City Staff
- xi. All wetlands or other environmentally sensitive areas to the greatest extent possible utilizing the best information available including but not limited to visible observation and publicly available maps.
- xii. Federal Emergency Management Agency (FEMA) flood hazard zone or limits of the one hundred (100) -year floodplain

### Section 3. Procedures & Processes

- xiii. The site area shall be labeled on the survey in acres for lots more than one (1) acre in size. Lots less than one (1) acre shall have acreage and square footage clearly labeled.
3. **Site plan.** Site plans shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. A site plan prepared by a Mississippi licensed Architect, Landscape Architect, Engineer, or Surveyor shall illustrate the following:
- i. Boundary, setback lines, existing easements, and proposed easements
  - ii. North arrow, legend, and graphic scale
  - iii. Vehicular areas for site plan review. The following shall be included: driveway widths, pavement markings, sight triangles at intersections, crosswalks, parking, ADA parking, loading zones, location of heavy-duty pavement, parking lot terminal islands, parking lot median islands, parking lot interior islands, accessory structures associated with parking lots, loading areas, curbs, and traffic control signage
  - iv. Vehicular areas for infrastructure plan review. The following shall be included: centerline, street widths, R.O.W. widths, curve radius, pavement markings, angle of intersection of roadways, sight triangles at intersections, crosswalks, and traffic control signage
  - v. Pedestrian areas. The following shall be included: sidewalk locations, sidewalk dimension, ADA accessible route from vehicular areas, ADA accessible route from right of way to buildings, ADA curb ramps, ADA access ramps, details of ramps, guardrails, or other minimum required site elements necessary to meet ADA standards
  - vi. Building areas for site plan review. The following shall be included: building square footage (with calculation method), number of residential units, number of bedrooms, number of stories, and total height of building in feet from grade from the average elevation of the finished grade surrounding the structure to the highest point of the structure as applicable
- vii. Fire protection and fire zones for site plan review. Occupancy load calculations shall be done per IFC 2012 section 1004
- viii. Dumpster enclosure location for site plan review
4. **Grading and drainage plan.** A grading and drainage plan shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. A grading and drainage plan shall be prepared by a Mississippi licensed design professional shall illustrate the following:
- i. Required items necessary for Grading and Drainage plan are outlined in the City of Starkville Standards of Design and Specifications
  - ii. ADA access to be provided on Grading and Drainage plan unless City Staff requests a separate sheet for ADA review. Spot elevations shall be provided at all corners of ADA ramps, both sides of all walkways every twenty (20) feet, all corners of ADA parking and access aisles. Spot elevations shall also be required on both sides of all proposed sidewalks at the property line for all major subdivision as part of infrastructure review
5. **Utility plan.** A utility plan shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided but if used they shall be defined in the notes. A Utility plan prepared by a Mississippi licensed design professional shall illustrate the following as required:
- i. Boundary, existing easements, and proposed easements
  - ii. North arrow, legend, and graphic scale
  - iii. Utilities. All of the following existing and proposed utilities shall be included: sanitary sewers, water, gas, telecommunications, utility poles, electric lines, and site lighting.



- iv. **Sanitary sewer.** For site plan review the following elements shall be included:
  - Service lateral size and type
  - Grease interceptor, if applicable
  - Proposed service connection locations
- v. **Sanitary sewer.** For infrastructure plan review the following elements shall be included:
  - Proposed sewer tap location, procedures, and materials
  - Pipes (size, type, length, slope) stationing at fifty (50) foot intervals
  - Manhole (type, rim) inverts in and out
  - Pump station easement
  - Force main (size, type, length) stationing at fifty (50) foot intervals
  - Force main air release and cleanout manholes, station, elevations
  - Identification number and stationing
- vi. **Water.** For site plan review the following elements shall be included:
  - Proposed water tap location, procedures, and materials
  - Fire hydrants
  - Water service connections
  - Back flow prevention
- vii. **Water.** For infrastructure plan review the following elements shall be included:
  - Water main size
  - Water main type
  - Water valves
- viii. **Sanitary sewer and manhole profile.** For infrastructure plan review the following elements shall be included:
  - Station of structure (left or right)
  - Rim elevation
  - Inverts (in, out, each pipe)
  - Pipe (check clearance with casting)
  - Identification number (referenced to plan)
  - Show water and storm pipe conflicts and clearance
- Sewer main size
- Sewer main material and type
- Length in feet
- Slope in percent (%)
- Check cover and clearance with water storm pipes
- Concrete encasements at crossings
- Show existing pipe/manholes in different symbols
- ix. **Electric.** For site plan review the following elements shall be included:
  - Location existing and proposed utility pole l
  - Location and type of overhead lines
  - Proposed and existing electrical connections to proposed and existing buildings
  - Proposed and existing electrical easements for public and private lines
  - Show proposed location and/or options for locations of electrical equipment (transformers, junction cabinets, secondary pedestals, etc.).
  - Show proposed and existing site lighting locations
- 6. **Erosion prevention and sediment control plan.** An Erosion prevention and sediment control plan shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. The Erosion prevention and sediment control plan shall be designed in accordance with the *MDEQ Field Manual for Erosion Control and Sediment Control on Construction Sites in Mississippi* and prepared by a Mississippi licensed design professional and shall illustrate the following:
  - i. Required items necessary for Grading and Drainage plan are outlined in the City of Starkville Standards of Design and Specifications

### Section 3. Procedures & Processes

7. **Roadway plan and profile for infrastructure review.** A roadway plan and profile shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. A roadway plan and profile prepared by a Mississippi licensed design professional shall illustrate the following:
  - i. **Plan.** The following shall be included:
    - Stationing at fifty (50) foot intervals
    - Existing and proposed utilities
    - Centerline curve and line labels (may be in tabular format)
    - Horizontal curve labels and station (PC, PT)
    - Roadway elements (right of way, curb, sidewalks, edge of pavement, etc.)
    - Street names
  - ii. **Profile.** The following shall be included:
    - Stationing and elevations at fifty (50) foot intervals
    - Existing and proposed centerline profile and elevations
    - Proposed centerline grades and slope in percent
    - Vertical curve labels and station (PVC, PVI, PVT, high and low point, K-value, Length)
    - Intersection (station at roadway centerline and name)
  - iii. **Construction details.** Construction details shall be drawn at a legible scale. Necessary labels and notes shall be included. Construction details prepared by a Mississippi licensed design professional shall illustrate the following as required:
    - Pavement cross section(s)
    - Curb detail
    - Sidewalk details
    - Pipe bedding (for paved and unpaved areas, and specific to each pipe material)
    - Drainage structures (inlets, manholes, castings)
    - Endwalls and flared end sections
    - Sanitary structures (manholes, cleanouts, castings)
    - Manhole drop connections
- Service laterals and cleanouts
- Water service
- Fire hydrants (valves, tees, thrust blocks)
- Wet tap, blow-off, valves
- Retaining wall details
- Lighting (fixture, poles, limit of illumination)
- Detention basin outlet structure
- Traffic signage, pavement markings (striping, arrows, etc.)
- Special site-specific details
- Ditches and swales
- Grease interceptor
- Back flow prevention
- Signage details
- Dumpster screen
8. **Landscape plan.** A landscape plan shall be drawn at a scale no larger than one (1) inch to fifty (50) feet. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. A landscape plan prepared by a Mississippi licensed design professional shall illustrate the following:
  - i. Boundary and disturbance limits
  - ii. North arrow, legend, and graphic scale
  - iii. Utilities. The following shall be included: existing and proposed sanitary sewers, water, gas, telecommunications, utility poles, and electric lines
  - iv. Topography. Existing contours shall be illustrated as a dashed line. Proposed contours shall be illustrated as a solid line. All contours are to be labeled. Topographic contours shall be illustrated at a minimum of one (1)-foot intervals
  - v. Building areas. All existing and proposed building and accessory structure footprints
  - vi. Site elements. The following shall be included: all proposed curbs, all existing curbs to remain, retaining wall location, all the trees to remain, all proposed vehicular use areas, all proposed buffer areas, and all proposed pedestrian use areas

- vii. Detention/Retention basin. The location of the any proposed detention/retention basin and structures
- viii. Existing landscaping, buildings, or other improvements on adjacent property within five (5) feet of the common property line
- ix. Plant schedule showing the botanical name, common name, height, caliber as measured at base of trunk (trees only), and quantity
- x. Plant details showing a typical planting for all trees, shrubs, and groundcovers

**3.9.5. Approval, disapproval, and appeal procedure**

- A. Comment procedure.** Comments from the Development Review Committee shall be issued in writing after each review by the department issuing the comment. The applicant shall revise the plan per the comments or reply in writing as to why the revisions cannot be made. Only after revisions to the plan that meet the requirements of the Development Review Committee can the approval procedure begin.
- B. Approval procedure.** Upon approval of such site plan and/or infrastructure plan by the Development Review Committee and by the Architectural Review Committee (if required), a building permit and/or site disturbance permit application may be submitted to the building department for subsequent review. The approved site plans shall be signed by each member of the Development Review Committee or their designated signee.
  - 1. Disapproval procedure.** If the Development Review Committee denies a site plan proposal, it shall specify the reasons said plan was denied with specific reference to those sections of the applicable City Code on which said denial was based.
- C. Appeal procedure.** A decision to deny a site plan by the Development Review Committee for any reason that does not require a variance, waiver, or exception, can be appealed to the Board of Aldermen. The applicant shall have ten (10) business days to appeal that decision to the Board of Aldermen. The appeal will be placed on the Board

of Aldermen agenda. Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.

- D. Expiration.** The site plan approval shall expire twelve (12) months after approval by the Development Review Committee, if construction has not been started evidenced by steady and continuous progress as determined by the building official or the community development director.
- E. Extension.** The approval of a site plan may be extended for six (6) months by the Community Development Director. If an extension is not granted, reapplication is required.
- F. Transfer of approval.** In the event property with an approved site plan is sold, transferred, leased, or any other change in ownership, the approval shall be transferable and subject to the same terms of approval as the original approval.

## Section 3. Procedures & Processes

### 3.10. Architecture Review

- 3.10.1. Intent of architecture review.** The intent of architecture review is to ensure that development within the City of Starkville is consistent with all applicable development standards. The approval of such development will be based upon the provisions of this code, the contextual surroundings of the development, potential visual impacts, compatibility with existing developments, and compatibility with anticipated developments within the immediate area and the City as a whole.
- 3.10.2. Applicability and filing process**
- A.** All land areas in the city which are zoned for commercial use, industrial use, mixed-use, or multi-unit residential greater than two (2) dwelling units per site shall be subject to Architecture Review.
  - B.** All proposed buildings or proposed remodeled buildings that require site plan review shall require Architecture Review approval prior to receiving a building permit.
  - C.** The architecture review process can begin before, during, or after the site plan review and approval process.
- 3.10.3. Review and action by the Independent Consultant.** After reviewing the building design plan and finding that the proposed plan meets the minimum requirements, the Architecture Review Committee will approve the building design plan. If the building design plan includes any requests for waiver, variance, or exception, the Architecture Review Committee will approve the building design plan only after approval from the Board of Aldermen. Approval of a building design plan is required prior to building permit approval.
- 3.10.4. Building design plan application requirements**
- A. Pre-Application.** A pre-application meeting may be scheduled at the request of the applicant to discuss requirements and review conceptual drawings. A pre-application meeting is not required, but recommended.
  - B. Application.** An application for Architecture Review shall be submitted along with the building plans to the Planning Department. Such applications shall be submitted to the

City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. The application shall include the following:

- 1. Applicant and/or owner information.** The application shall list the property owner or authorized agents contact information including mailing address, email address, and phone number.
  - 2. Project information.** The following shall be listed on the application: project name, project address, parcel id number, and zoning district.
  - 3. Project description.** All projects shall include a description of the project indicating the proposed uses (commercial, residential, mixed-use, etc.). If the development is being proposed to be built in phases, the applicant shall submit an application for the entire development showing all phases. Target dates for completion of each phase and the entire development shall be included.
- C. Building design plan requirements.** The following sheet with required information shall be submitted as part of a complete application for review by the Architecture Review Committee. The maximum sheet size shall not exceed thirty (30) inches by forty-two (42) inches. A sheet size of twenty-four (24) inches by thirty-six (36) inches is preferred. Plans shall also be provided digitally as a Portable Document Format (PDF). Multiple sheets may be used provided each sheet is numbered and the total number of sheets is indicated on each sheet. Cross referencing between sheets shall be required. All of the following information shall be required prior to being placed on the Architecture Review Committee's agenda:

1. **Coversheet.** The coversheet shall include:
  - i. Project name
  - ii. Vicinity map
  - iii. Sheet Index
  - iv. Contact information for the Owner and Design Professionals
  - v. Building data including the following: total proposed square footage for each use (commercial, residential, office, etc.), the total number of residential dwelling units, and the total number of bedrooms
  - vi. Submittal date and any revision dates
2. **Site plan.** Site plans shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided but if used they shall be defined in the notes. Drawings shall illustrate the following:
  - i. Boundary, setback lines, and easements
  - ii. North arrow, legend, and graphic scale
  - iii. The location of parking areas, loading zones, dumpster enclosure, sidewalks, and walkways
  - iv. The locations of all buildings on the site
3. **Building plans.** Building drawings shall be drawn at a common scale so as to be legible. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. Drawings shall illustrate the following:
  - i. Schematic floor plan for each floor for the purpose of locating exterior windows and doors
  - ii. Door and window schedule for all exterior doors and windows
  - iii. Color rendered elevations of all sides of the building with facade requirements (see Development Standards Chart Section 14)
  - iv. An elevation of the street face side of the building with dimensions showing the overall height of the building and each individual floor
  - v. All proposed building finishes shall be labeled. A finish schedule shall be included on the sheet for which they are referenced. The finish schedule shall include material type, color, and product reference information
4. **Building Materials Board.** A material sample of all key materials and colors, properly labeled, and affixed to hard surface, shall be provided for review. Material samples shall be a minimum size of three inch by three inch (3"x3"). Major colors must be actual samples. Minor colors may be printed samples. Paint and stain samples from wood color fans are acceptable.
  1. **Comment procedure.** Comments from Architecture Review shall be issued in writing after each review. The applicant shall revise the proposed building plan per the comments or reply in writing as to why the revisions cannot be made. Only after revisions to the proposed building plan meets the requirements of the Architecture Review will the approval procedure begin.
  2. **Approval procedure.** Upon approval of such building design proposal by Architecture Review and an approved site plan by the Development Review Committee, a building permit application may be submitted to the building department for subsequent review. The approved building design proposal shall be signed by the consultant of the Architecture Review.
  3. **Disapproval procedure.** If Architecture Review denies a building design proposal plan, it shall specify the reasons said plan was denied.
5. **Approval, disapproval, and appeal procedures**
  1. **Comment procedure.** Comments from Architecture Review shall be issued in writing after each review. The applicant shall revise the proposed building plan per the comments or reply in writing as to why the revisions cannot be made. Only after revisions to the proposed building plan meets the requirements of the Architecture Review will the approval procedure begin.
  2. **Approval procedure.** Upon approval of such building design proposal by Architecture Review and an approved site plan by the Development Review Committee, a building permit application may be submitted to the building department for subsequent review. The approved building design proposal shall be signed by the consultant of the Architecture Review.
  3. **Disapproval procedure.** If Architecture Review denies a building design proposal plan, it shall specify the reasons said plan was denied.
6. **vi.** For projects located within a T-4, T-5D, T-5C, and T-5U zoning districts, a percentage of fenestration per floor shall be required (see Development Standards Chart Section 14).

### Section 3. Procedures & Processes

4. **Appeal procedure.** A decision to deny a building design proposal by the independent consultant for any reason that does not require a variance, waiver, or exception, can be appealed to the Board of Aldermen. The applicant shall have ten (10) business days to appeal that decision to the Board of Aldermen. The appeal will be placed on the Board of Aldermen agenda. Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
5. **Expiration.** The building design proposal approval shall expire twelve (12) months after approval by Architecture Review if construction has not been started evidenced by steady and continuous progress as determined by the building official or the Community Development Director.
6. **Extension.** The approval of a building design proposal may be extended for six (6) months by the Community Development Director. If an extension is not granted, reapplication is required.
7. **Transfer of approval.** In the event property with an approved building design is sold, transferred, leased, or any other change in ownership, the approval shall be transferable and subject to the same terms of approval as the original approval.

**3.11. Landscape Waiver.** The Landscape Advisory Board may recommend a waiver from the landscape requirements of the code only if it is determined that the waiver is not contrary to the intent of the code and that the literal enforcement of the provisions of the code would result in unnecessary hardship. Economic or financial hardship alone shall not be used as the basis for a landscape waiver request.

**3.11.1. Criteria for landscape waiver review and approval.**

- A.** That special conditions and circumstances exist which are peculiar to the property involved, and the same conditions are not applicable to other properties in the surrounding area.
- B.** That the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.
- C.** That the hardship has not resulted from the actions of the applicant.
- D.** That granting the waiver requested will not confer on the applicant any special privilege that is denied by this Code to other properties in the same district.
- E.** That granting the waiver is the minimum waiver that will make possible the reasonable use of the property.
- F.** That the granting of the waiver will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to surrounding areas or otherwise detrimental to the public welfare.

**3.11.2. Review procedures**

- A. Application.** All applications for a landscape waiver shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Landscape Advisory Board schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. The application fee for landscape waivers that require a modification of an approved site plan shall be charged an application fee three (3) times the established

rate. A “completed application” shall include the application form, the applicable fee (as determined by resolution), and all required supplemental information necessary to render determinations related to the landscape waiver request including:

- 1. Applicant statement.** A statement explaining the reason for the landscape waiver request and the specific requirements of the code for which the waiver is being requested.
- 2. Landscape plan.** A landscape plan shall be drawn at a scale of one (1) inch to fifty (50) feet or larger. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used, shall be defined in the notes. A landscape plan prepared by a Mississippi licensed design professional shall illustrate the following:
  - i.** Boundary and disturbance limits.
  - ii.** North arrow, legend, and graphic scale.
  - iii.** Utilities. The following shall be included: existing and proposed sanitary sewers, water, gas, telecommunications, utility poles and electric lines.
  - iv.** Topography. Existing contours shall be illustrated as a dashed line. Proposed contours shall be illustrated as a solid line. All contours are to be labeled. Topographic contours shall be illustrated at a minimum of one (1)-foot intervals.
  - v.** Building areas. All proposed buildings footprints.
  - vi.** Site elements. The following shall be included: all proposed curbs, all existing curbs to remain, all retaining wall locations with elevations, all trees to remain, all proposed vehicular use areas, and all proposed pedestrian use areas.
  - vii.** Detention/Retention basin. The location of any proposed/existing detention/retention basin and structures.
  - viii.** Existing landscaping, buildings, or other improvements on adjacent property within five feet of the common property line.

### Section 3. Procedures & Processes

- ix. Plant schedule showing the botanical name, common name, height, caliber as measured at base of trunk (trees only), and quantity.
- x. Plant details showing a typical planting for all trees, shrubs, and groundcovers.
- B. **Appearance and presentation.** At any meeting of the Landscape Advisory Board for a landscape waiver request, the applicant seeking the waiver and any other party desiring to be heard upon the application may appear in person, by agent, or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Landscape Advisory Board shall, at the commencement of the hearing upon each application or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.
- C. **Action.** The decision recommended by the Landscape Advisory Board and any specific conditions for approval shall be forwarded to the Mayor and Board of Aldermen for their binding decision. The Mayor and Board of Aldermen shall proceed to review the recommendation by the Landscape Advisory Board. At the hearing, the decision of the Landscape Advisory Board shall either be affirmed, modified, or reversed by the Board of Aldermen.
- D. **Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
- E. **Conditions of Approval.** The Mayor and Board of Aldermen may attach conditions in accordance with the approval. Conditions attached to the approval of a landscape waiver shall run with the land and shall be binding upon the applicants, their heirs, successors, and assigns for the duration of the use of the building, and/or site.



### 3.12. Subdivisions Procedure – Minor and Major.

- 3.12.1.** It shall be unlawful for any individual being the owner, agent, or person having control of any land within the incorporated area of Starkville, Mississippi, to subdivide or layout such land in lots unless by a plat, in accordance with the regulations contained herein. No lots shall be sold nor any plat recorded until such plat has been approved as herein provided. The division of land and buildings that is classified by State statute as a condominium shall not be deemed a subdivision. Condominium projects shall comply with the requirements of a condominium plat in this code. All applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen.
- 3.12.2.** Whenever any subdivision of land is proposed, before any recording of deeds, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the owner or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure:
- A. Major subdivision.** A major subdivision is any subdivision of land that requires the platting and construction of public infrastructure. Classification of the proposed subdivision shall be determined by City Staff. The following procedural steps shall be followed:
- 1. Preliminary Plat Review-** by the Development Review Committee
  - 2. Preliminary Plat-** by the Planning and Zoning Commission and the Board of Aldermen
  - 3. Infrastructure Plan Review-** by the Development Review Committee
  - 4. Final Plat Review-** by the Development Review Committee
  - 5. Final Plat-** by the Planning and Zoning Commission and the Board of Aldermen
- B. Minor subdivision.** A minor residential subdivision is any residentially zoned plot of land less than one (1.00) acre, creating a maximum of four (4) lots, and that has access to

public infrastructure. A minor subdivision can also be the subdividing of any plot of land in any zone that does not require infrastructure plan approval. A minor subdivision shall also include the aggregation of several lots into one (1) lot. Classification of the proposed subdivision shall be determined by the City Planner. The following procedural steps shall be followed:

- 1. Final Plat Review-** by the Development Review Committee
  - 2. Final Plat-** by the Board of Aldermen
- C. Major subdivision procedure.** To obtain preliminary approval of a proposed major subdivision, an applicant or applicant's authorized agent shall submit the following to the Planning Department:
- 1. Pre-application review.** It is recommended, but not required, that all applicants schedule an informal review session with Development Review Committee prior to making an official application for preliminary plat review. There shall be no fee associated with this review. The review shall be held during a regularly scheduled development review committee meeting.
  - 2. Preliminary plat review**
    - i.** A preliminary plat indicating the relationship of the proposed subdivision to existing development and nearby community facilities. The plat shall include all required preliminary plat specifications and preliminary plat certificates specified in section 3.14.1.
    - ii.** The preliminary plat and any required supporting information shall be submitted to the Planning Department for review by the Development Review Committee ten (10) days prior to the scheduled meeting.
    - iii.** As part of the application, the applicant must list the names and addresses of any adversely affected parties to the subdivision. If the party is not a signatory of the ownership certificate of the plat, a letter from each adversely affected party agreeing to the vacation or alteration shall be provided prior to the application being reviewed. The determination of the adversely affected

### Section 3. Procedures & Processes

- parties to the subdivision shall be the sole responsibility of the applicant.
- iv. After the preliminary plat has been determined to be acceptable by the Development Review Committee, the applicant may proceed to file a preliminary plat application for review by the Planning and Zoning Commission.
3. **Preliminary plat approval procedure**
- i. An application for preliminary plat approval shall be filed with the Planning Department for review by the Planning and Zoning Commission containing the information specified herein and which shall convey the intentions of the applicant with respect to the proposed type of development and layout.
  - ii. In order for the preliminary plat to be properly reviewed, the subdivider or his authorized agent shall submit seven (7) paper copies and a digital copy as a Portable Document Format (PDF) of the preliminary plat not less than fourteen (14) days in advance of the regular meeting date at which time the said plat is to be considered by the Planning and Zoning Commission.
  - iii. Upon receipt of an application for preliminary plat approval, the Planning Department shall create a staff report and add the request to the agenda of the Planning and Zoning Commission.
  - iv. The Planning and Zoning Commission shall proceed to consider the application based on the requirements of this Code. The Planning and Zoning Commission may recommend, recommend conditionally, or deny the request. Recommendations of approval shall be forwarded to the Mayor and Board of Aldermen of such preliminary plat within thirty (30) days after recommendation of approval by the Planning and Zoning Commission.
  - v. Approval of a preliminary plat by the Mayor and Board of Aldermen shall be denoted by the issuance of a letter of preliminary plat approval. One (1) paper copy and a digital copy of the approved preliminary plat shall be retained in the Planning Department's files.
  - vi. If the preliminary plat approval is recommended conditionally, the conditions and reasons therefor shall be stated, and if necessary, the Planning and Zoning Commission or Mayor and Board of Aldermen may require that the subdivider submit a revised preliminary plat.
  - vii. If denied by the Planning and Zoning Commission or the Board of Aldermen the reasons for such action shall be stated, and if possible, recommendations should be made on the basis of which the proposed subdivision could be recommended for approval. A disapproved preliminary plat may be resubmitted to the Planning and Zoning Commission and the Mayor and Board of Aldermen after the suggested changes have been made.
  - viii. Approval of a preliminary plat shall be tentative, pending the submission of the infrastructure plans and final plat as specified herein.
  - ix. Approval of the preliminary plat shall be effective and binding upon the City for one (1) year. An expired preliminary plat may be reapproved at the discretion of the Board of Aldermen.
  - x. Approval of the preliminary plat by the Board of Aldermen is the subdivider's authorization to proceed with infrastructure plan submittal.
  - xi. Infrastructure plan requirements. The subdivider shall submit infrastructure drawings to the Planning Department to be reviewed by the Development Review Committee prior to issuance of any permits. Such plans and information shall be furnished separately from the preliminary plat.
  - xii. Before commencing construction, a preconstruction conference shall be held by City Staff, the applicant and the contractor(s) performing the infrastructure installation.
  - xiii. All necessary arrangements must be made between the subdivider and the city engineer for third party laboratory and construction inspection to assure that the improvements shall comply with the standard specifications and testing requirements of the City.

- xiv. Upon the issuing of an approved infrastructure plan by the Development Review Committee and completion of the Preconstruction conference, and installation of initial erosion control measures, the subdivider may apply for permits to proceed with the construction of infrastructure improvements.
  - xv. As-builts, testing reports, and other requested documentation necessary for final approval shall be submitted to the engineering and utilities departments twenty (20) days prior to final plat review.
  - xvi. As-builts shall be prepared by a licensed PE and meet the requirements outlined in the City of Starkville Design Standards and Specifications
- 4. Final plat review**
- i. A final plat indicating the installed improvements to be dedicated to the City. The plat shall include all required final plat specifications and final plat certificates specified in section 3.14.2.
  - ii. The final plat, covenants, and all required supporting information shall be submitted to the Planning Department for review by the Development Review Committee ten (10) days prior to a scheduled Development Review Committee meeting.
  - iii. All comments and outstanding punch list items must be addressed and completed prior to being placed on the Planning and Zoning Commission agenda.
  - iv. Any required form of surety and the performance agreement for unfinished items shall be submitted and accepted by City Staff prior to being placed on the Planning and Zoning Commission agenda.
  - v. After the final plat has been determined to be acceptable by the Development Review Committee, the applicant may proceed to file a final plat application for review by the Planning and Zoning Commission.
  - vi. An incomplete application will not be processed or reviewed until all required documentation is submitted.

- 5. Final plat approval procedure**
- i. When the provisions of these rules and regulations have been complied with, and while the certificate of preliminary plat and/or infrastructure plan approval is in effect, the subdivider may submit a final plat application.
  - ii. An application for final plat approval shall be filed with the City Planner for review by the Planning and Zoning Commission containing the information specified herein and which shall convey the intentions of the applicant with respect to the proposed type of development and layout.
  - iii. In order for a final plat to be properly reviewed, the subdivider or his authorized agent shall submit seven (7) paper copies and a digital copy as a Portable Document Format (PDF) of the final plat not less than fourteen (14) days in advance of the regular meeting date at which the said plat is to be considered by the Planning and Zoning Commission.
  - iv. Upon receipt of an application for final plat approval, the Planning Department shall create a staff report and add the request to the agenda of the Planning and Zoning Commission.
  - v. The Planning and Zoning Commission shall proceed to consider the application based on the requirements of this Code. The Planning and Zoning Commission may recommend, recommend conditionally, or recommend denial of the request. Recommendations shall be forwarded to the Mayor and Board of Aldermen of such final plat within thirty (30) days after the submission.
  - vi. Approval of a final plat by the Mayor and Board of Aldermen shall be denoted by the issuance of a letter of final plat approval and required signatures on the final plat. One (1) paper copy, a digital copy as a Portable Document Format (PDF), and AutoCAD file of the approved final plat shall be retained in the Planning Department's files. The final plat shall be filed with the office of the chancery clerk of Oktibbeha County within sixty (60) days or the plat shall be void. A deposit in the amount of two hundred dollars (\$200) shall be required to

### Section 3. Procedures & Processes

- guarantee the return of one (1) signed copy of the final plat to the city planner.
- vii. If the final plat approval is recommended conditionally, the conditions and reasons therefore shall be stated, and if necessary, the Planning and Zoning Commission or Mayor and Board of Aldermen may require that the subdivider submit a revised final plat.
  - viii. If denied by the Planning and Zoning Commission or the Board of Aldermen, the reasons for such action shall be stated, and if possible, recommendations should be made on the basis of which the proposed subdivision could be recommended for approval. A denied final plat may be resubmitted to the Planning and Zoning Commission and the Mayor and Board of Aldermen after the suggested changes have been made.
  - ix. Whenever a subdivider has been issued a notice of final plat approval from the Mayor and Board of Aldermen, the staff shall be authorized to execute a certificate of final plat approval on the plat upon certification by the City Clerk that the City has received both of the following:
    - An executed development agreement for any outstanding improvements between the subdivider and the city to install the required improvements.
    - An approved form of surety as approved by the City Attorney to complete the improvements and installations for the subdivision shall be in compliance with these rules and regulations. Such surety shall not exceed two hundred percent (200%) of the estimated cost of the improvements.
- D. **Minor subdivision procedure.** To obtain minor subdivision plat approval of a proposed minor subdivision or lot aggregation, an applicant or applicant's authorized agent shall submit to the Planning Department the following:
- 1. **Pre-application review.** It is recommended, but not required, that all applicants schedule an informal review session with City Staff prior to making an official application for minor final plat review. There shall be no fee associated with this review.
2. **Minor final plat review**
- i. A minor subdivision plat indicating the relationship of the proposed subdivision to existing development and nearby community facilities, basic layout and design, and any other relevant information deemed appropriate. The plat shall include all required final plat specifications and final plat certificates specified in section 3.14.2.
  - ii. As part of the application, the applicant must list the names and addresses of any adversely affected parties to the subdivision. If the party is not a signatory of the ownership certificate of the plat, a letter from each adversely affected party agreeing to the vacation or alteration shall be provided prior to the application being reviewed. The determination of the adversely affected parties to the subdivision shall be the sole responsibility of the applicant.
  - iii. The final plat and any required supporting information shall be submitted to the Planning Department for review by the Development Review Committee ten (10) days prior to a scheduled Development Review Committee meeting.
  - iv. After the final plat has been determined to be acceptable by the Development Review Committee, the applicant may proceed to file a final plat application for review by the Board of Aldermen.
  - v. An incomplete application will not be processed or reviewed until all required documentation is submitted.
3. **Minor final plat approval procedure**
- i. An application for minor final plat approval shall be filed with the City Planner for review by the Board of Aldermen containing the information specified herein and which shall convey the intentions of the applicant with respect to the proposed type of development and layout.
  - ii. In order for a minor final plat to be properly reviewed, the subdivider or his authorized agent shall submit one (1) paper copies and a digital copy as a Portable Document Format (PDF) of the plat not less than ten (10) days in

- advance of the regular meeting date at which the said plat is to be considered by the Board of Aldermen.
- iii. Upon receipt of an application for final plat approval, the Planning Department shall create a staff report and add the request to the agenda of the Board of Aldermen.
  - iv. Approval of a final plat by the Mayor and Board of Aldermen shall be denoted by the issuance of a letter of minor final plat approval. One (1) paper copy and a digital copy of the approved final plat shall be retained in the Planning Department's files. A deposit in the amount of two hundred dollars (\$200) shall be required to guarantee the return of one (1) signed copy of the final plat to the city planner.
  - v. If the minor final plat approval is recommended conditionally, the conditions and reasons therefore shall be stated, and if necessary, the Mayor and Board of Aldermen may require that the subdivider submit a revised final plat.
  - vi. If denied by the Mayor and Board of Aldermen, the reasons for such action shall be stated, and if possible, recommendations should be made on the basis of which the proposed subdivision could be approved. A denied final plat may be resubmitted to the Mayor and Board of Aldermen after the suggested changes have been made.
  - vii. Whenever a subdivider has been issued a notice of minor final plat approval from the Mayor and Board of Aldermen, the staff shall be authorized to execute a certificate of final plat approval.

## Section 3. Procedures & Processes

### 3.13. Condominium Plat

- 3.13.1.** A condominium plat consisting of subdivided lands shall comply with this ordinance and the Mississippi Condominium Law. Condo plat applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. In order to receive a certificate of occupancy, the provisions of this regulation must be adhered to and shall apply to property divided or to be divided into condominiums only if there shall be recorded in the office of the Chancery Clerk in Oktibbeha County a plan consisting of the following:
- A.** A description or survey map of the surface of the land included within the project.
  - B.** Diagrammatic floor plans of the building or buildings built or to be built thereon in sufficient detail to identify each unit, its relative location and dimensioned per state statute. The method used to dimension diagrammatic floor plan shall be stated on the plan (e.g. wall to wall, center of wall to center of wall, etc.).
  - C.** A certificate consenting to the recordation of such plan pursuant to this chapter signed and acknowledged by the record owner of such real property and all record holders of security interests therein. Such plan may be amended or revoked by a subsequently acknowledged recorded instrument executed by the record owner of such real property and by all record holders of security interests therein. Until such recordation of a revocation, the provisions of this chapter shall continue to apply to such real property. The term "record owner" as used in this section includes all of the record owners of such real property at the time of recordation, but does not include holders of security interests, mineral or royalty interests, easements, or rights-of-way. The plat shall include all required condo plat specifications and condominium plat certificates specified in section 3.14.3.
  - D.** A declaration of restrictions as required by Mississippi Condominium Law.

- 3.13.2.** These regulations shall apply to any land and improvements where portions of which are designated for separate ownership and the remainder of which is designated for common ownership by the owners of these portions. Existing structures shall not be converted into condominiums unless the building and site meet all current development standards, use standards, and building codes. The burden of demonstrating compliance shall be placed on the applicant. To obtain approval of a condominium plat, an applicant or applicant's authorized agent shall secure approval of such proposed condominium plat in accordance with the following procedure:
- A. Condominium plat review.** The condominium plat, condominium declaration, and any other relevant information deemed appropriate shall be submitted to the Planning Department for review by the Development Review Committee ten (10) days prior to the scheduled meeting. Condo plat shall include:
    - 1.** A completed site plan checklist on standard forms provided.
    - 2.** A draft of proposed private easement descriptions for utilities serving the condominium development.
    - 3.** A draft of the proposed condominium declaration for review and comment, but not for any formal approval.
  - B. Condominium final plat**
    - 1.** After the condominium plat has been determined to be acceptable by the Development Review Committee, the staff shall be authorized to execute a certificate of condo final plat approval.
    - 2.** One (1) paper copy and a digital copy of the approved condominium final plat shall be retained in the Planning Department's files. A deposit in the amount of two hundred dollars (\$200) shall be required to guarantee the return of one (1) signed copy of the condominium plat to the city planner.

**3.14. Plat Specifications and Certifications**

**3.14.1. Preliminary plat**

**A. Preliminary engineering certificate**

**PRELIMINARY CERTIFICATE OF ACCURACY**

I, \_\_\_\_\_, hereby certify that this proposed preliminary plat correctly represents a survey completed by me or under my supervision on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 20 \_\_\_\_\_; and is a true and correct representation of surveys made on the ground; and that all monuments which were found or placed on the property are correctly described and located.

\_\_\_\_\_  
Date of Execution

(signature of Registered Professional Engineer or Surveyor)  
(Printed Name of Registered Professional Engineer or Surveyor)  
No. (license number), Mississippi

### Section 3. Procedures & Processes

#### 3.14.2. Final plat, minor final plat, and lot aggregation

##### A. Certificate of ownership. If multiple owners, add a signature line for each owner

###### **CERTIFICATE OF OWNERSHIP**

I (We), the undersigned, owner(s) or lien holder of the real estate shown and described herein do hereby certify that I (we) have laid off, platted, and subdivided, and do hereby lay off, plat and subdivide the real state in accordance with the within plat.

\_\_\_\_\_ (signature of Owner)  
Date of Execution (Printed Name of Owner/Lien Holder and Title if Applicable)  
(Address of Owner/Lien Holder)

\_\_\_\_\_ (signature of Notary Public)  
Date of Execution (Printed Name of Notary Public)

##### B. Certificate of recording

###### **CERTIFICATE OF RECORDING**

This document, Number \_\_\_\_\_, filed for record on this the \_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, in Plat Book, \_\_\_\_\_, page \_\_\_\_\_.

(signature of Chancery Clerk)  
(Printed Name of Chancery Clerk), Chancery Clerk  
Oktribbeha County, Mississippi

##### C. Certificate of accuracy

*(For Minor Subdivision as defined in section 3.12.2 (B) Only)*

###### **CERTIFICATE OF ACCURACY**

I, (Print Name), hereby certify that this plat correctly represents a survey and plan made by me or under my supervision; that all monuments shown hereon actually exist and their location, size, type and material are correctly shown; and that all requirements of the City of Starkville, Mississippi, subdivision standards have been fully complied with.

\_\_\_\_\_ (signature of Registered Professional Engineer or Surveyor)  
Date of Execution (Printed Name of Registered Professional Engineer or Surveyor)  
No. (license number), Mississippi



*(For Major Subdivision as defined in section 3.12.2 (A) Only)*

**CERTIFICATE OF ACCURACY**

I, (Print Name), hereby certify that this plat correctly represents a plan made by me or under my supervision; that all improvements and requirements of the City of Starkville, Mississippi, subdivision standards have been fully complied with.

\_\_\_\_\_ (signature of Registered Professional Engineer)  
Date of Execution (Printed Name of Registered Professional Engineer)  
No. (license number), Mississippi

I, (Print Name), hereby certify that this plat correctly represents a survey made by me or under my supervision; that all monuments shown hereon actually exist and their location, size, type and material are correctly shown; and that all requirements of the City of Starkville, Mississippi, subdivision standards have been fully complied with.

\_\_\_\_\_ (signature of Registered Surveyor)  
Date of Execution (Printed Name of Registered Surveyor)  
No. (license number), Mississippi

Section 3. Procedures & Processes

D. Certificate of final approval

**CERTIFICATE OF FINAL APPROVAL**

Pursuant to the subdivision standards of the City of Starkville, Mississippi’s Unified Development Code, this document was approved by the Development Review Committee. All of the conditions of approval having been completed, this document is hereby accepted, and this certificate executed under the authority of these regulations:

_____	<u>(signature of City Engineer)</u>
Date of Execution	Engineering Department
_____	<u>(signature of City Planner)</u>
Date of Execution	Planning Department
_____	<u>(signature of Fire Department Representative)</u>
Date of Execution	Fire Department
_____	<u>(signature of Utility Department Water/Sewer Representative)</u>
Date of Execution	Utility Department- Water/Sewer
_____	<u>(signature of Utility Department Electric Representative)</u>
Date of Execution	Utility Department- Electric

Pursuant to the approval requirements of the City of Starkville, Mississippi’s Unified Development Code, this document was given approval by the Mayor and Board of Aldermen at a meeting held on this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_. All of the conditions of approval having been completed, this document is hereby accepted, and this certificate executed under authority of these regulations, provided, however, this approval shall be invalid, null and void, unless this plat is filed with the chancery clerk within six months hereafter.

_____	<u>(signature of Mayor)</u>
Date of Execution	Mayor, City of Starkville, Mississippi

_____	<u>(signature of City Clerk)</u>
Date of Execution	City Clerk



Section 3. Procedures & Processes

D. Certificate of final approval

**CERTIFICATE OF FINAL APPROVAL**

Pursuant to the condominium regulations of the City of Starkville, Mississippi’s Unified Development Code, this document was approved by the Development Review Committee. All of the conditions of approval having been completed, this document is hereby accepted, and this certificate executed under the authority of these regulations:

_____	<u>(signature of City Engineer)</u>
Date of Execution	Engineering Department
_____	<u>(signature of City Planner)</u>
Date of Execution	Planning Department
_____	<u>(signature of Fire Department Representative)</u>
Date of Execution	Fire Department
_____	<u>(signature of Utility Department Water/Sewer Representative)</u>
Date of Execution	Utility Department Water/Sewer
_____	<u>(signature of Utility Department Electric Representative)</u>
Date of Execution	Utility Department Electric

**3.15. Designation of Landmarks, Landmark Sites, and Historic Districts.**

The City may establish landmarks, landmark sites, and historic districts within the area of its jurisdiction. Such landmarks, landmark sites, or historic districts shall be designated following the criteria as specified in this article.

- 3.15.1. The Historic Preservation Commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the city's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The Commission shall work toward providing complete documentation for locally designated historic districts, which would include:
  - A. An inventory of all property within the boundaries of the district, with photographs of each building and an evaluation of its significance to the district. Building evaluations are to be used only as a reference or guide and shall not be used as the determining factor for issuing or denying a certificate of appropriateness.
  - B. An inventory, which would be in a format consistent with the statewide inventory format of the Historic Preservation Division of the Mississippi Department of Archives and History.
- 3.15.2. The Historic Preservation Commission shall advise the City on the designation of historic districts, landmarks, or landmark sites and provide appropriate assistance on ordinances that will be considered by the Mayor and Board of Aldermen.
- 3.15.3. A resource or resources may be nominated for designation upon motion of three members of the Historic Preservation Commission or by an owner of the property. A nomination shall contain information as specified by the Commission. The Commission must reach a decision on whether to recommend a proposed nomination to the city

within six (6) months in the case of a historic district and two (2) months in the case of either a landmark or landmark site.

- 3.15.4. If the Historic Preservation Commission votes to recommend to the City the designation of a proposed resource, it promptly forwards to the City its recommendation, in writing, together with an accompanying file.
- 3.15.5. The Historic Preservation Commission's recommendations to the City for the designation of a historic district shall be accompanied by:
  - A. A map of the historic district that clearly delineates the boundaries.
  - B. A verbal boundary description and justification.
  - C. A written statement of significance for the proposed historic district.
- 3.15.6. After the nomination of a resource to the City for possible local designation, the resource shall be fully protected by the provisions of this article for a period of six (6) months, as if it were already designated.
- 3.15.7. Any property designated under a previous city ordinance shall remain designated.
- 3.15.8. No historic district or districts shall be designated until the Mississippi Department of Archives and History has been notified by certified letter by the City and invited to make recommendations concerning the proposed district boundaries. The Mississippi Department of Archives and History may comment by letter, email, or other written communication. The City shall provide to the Mississippi Department of Archives and History the dates of the next two (2) public meetings at which action on the designation of such a district might be taken so that the Mississippi Department of Archives and History may comment in a timely manner. Failure of the Mississippi Department of Archives and History to comment by the date of the second such meeting shall relieve the City of any responsibility for awaiting and responding to such

### Section 3. Procedures & Processes

- analysis, and the City may at any time thereafter take any necessary action to create the proposed historic district.
- 3.15.9.** If a proposed ordinance is to designate a landmark or landmark site, the Mississippi Department of Archives and History need not be consulted.
  - 3.15.10.** The City shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the City. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in the resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date.
  - 3.15.11.** Within sixty (60) calendar days after the public hearing held in connection herewith, the City shall adopt the ordinance as proposed, reject it entirely, or adopt the ordinance with modifications.
  - 3.15.12.** Furthermore, the Historic Preservation Commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and historic districts. An updated list and map shall be maintained by such agencies and made available to the public.

### 3.16. Certificates of Appropriateness and Historic Districts.

The purpose and intent of this article is that no exterior feature of any historic resource within a locally designated historic district shall be altered, relocated, or demolished until after an application for a certificate of appropriateness of such work has been reviewed by the Historic Preservation Commission and approved by the Board of Aldermen. Likewise, no construction that affects a historic resource shall be undertaken without a certificate of appropriateness.

#### 3.16.1. Criteria for issuance of certificates of appropriateness.

The Historic Preservation Commission and the Board of Aldermen shall use the following criteria in approving or denying a certificate of appropriateness:

##### A. General factors criteria

1. Architectural design of the existing building, structure, or appurtenance and proposed alteration
2. Historical significance of the resource
3. General appearance of the resource
4. Condition of the resource
5. Materials composing the resource
6. Size of the resource
7. The relationship of the above factors, and their effect upon the immediate surroundings and, if within a historic district, upon the district as a whole and its architectural and historical character and integrity.

##### B. New construction criteria

1. In advance of new construction, steps shall be taken to ensure evaluation of possible archaeological resources, as set forth in the Mississippi Antiquities Act.
2. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: the height, the gross volume, the proportion between the width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by

openings in the facade, materials, textures, colors, patterns, trims, and design of the roof.

3. Existing rhythm created by existing building masses and spaces between them shall be preserved.
4. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.
5. No specific architectural style shall be required.

##### C. Exterior alteration criteria

1. All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the historic resource itself and other resources with which it is related, and the original design of a building, structure, object, or landscape feature shall be considered in applying these standards.
2. Exterior alterations shall not affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.

##### D. Demolition criteria. In considering an application for the demolition of a landmark or a historic resource within a historic district, the following shall be considered:

1. The Historic Preservation Commission shall consider the individual architectural, cultural, and/or historical significance of the historic resource.
2. The Historic Preservation Commission shall consider the importance or contribution of the resource to the architectural character of the district.
3. The Historic Preservation Commission shall consider the importance or contribution of the resource to neighboring property values.
4. The Historic Preservation Commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.
5. Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, set forth in Section 3.16.1 B, prior to receiving a demolition

## Section 3. Procedures & Processes

permit and other permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction.

6. Applicants that have received approval for demolition shall be permitted to receive a demolition permit from the Building Department, following the approval of a certificate of appropriateness by the Board of Aldermen, approval by appropriate city departments, and approval by any other agency that has jurisdiction over the resource. Permits for demolition and construction shall be issued simultaneously if requirements of the Unified Development Code are met, and the applicant provides financial proof of his ability to complete the project.

**3.16.2. Review procedures.** No building permit shall be issued by the Building Department that affects a historic resource without a certificate of appropriateness. In the event that a building permit is not required for a building, structure, or object to be erected within a historic district or on a landmark or landmark site, a certificate of appropriateness is still required before such building, structure, or object may be erected. Thereafter, such application shall be reviewed in accordance with the following procedure:

- A. **Application.** All applications for certificate of appropriateness shall be in the form required and provided by the City Planner. Completed application packages are due by 5:00 pm on the deadline date as set forth by the approved Historic Preservation Commission schedule. Such applications shall be submitted to the City Planner together with the fee established by resolution of the Mayor and Board of Aldermen. A "complete application" shall include the application form, the applicable fee (as determined by resolution) and all required supplemental information necessary to render determinations related to the certificate of appropriateness request including:

1. **Applicant statement.** A statement explaining the reason for the certificate of appropriateness request.

2. **Plans.** Any plans or renderings needed to illustrate the request.

**B. Administrative examination**

1. The applicant shall, upon request, have the right to a preliminary conference with the Planning Department for the purpose of making any changes or adjustments to the application that might be more consistent with the Historic Preservation Commission's standards.

2. The Historic Preservation Commission shall delegate their certificate of appropriateness approval authority to the City Planner for specified minor issues for which clear standards exist that require no subjective interpretation, such as signage. The Commission Chair and/or Vice-Chair shall be consulted on such approvals and the Commission shall be notified at their next regular meeting.

3. Upon receipt of an application for a certificate of appropriateness, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed certificate of appropriateness as is necessary. If the application is determined to be complete, the City Planner shall place the item on the agenda for the Historic Preservation Commission. The date the item will be heard by the commission shall be determined by the Historic Preservation Commission's schedule.

**C. Appearance and presentation.** At any meeting of the Historic Preservation Commission for a certificate of appropriateness, the applicant seeking the certificate of appropriateness and any other party desiring to be heard upon the application may appear in person, by agent or by attorney. The applicant shall be entitled to make a presentation and at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal if desired. The chairman of the Historic Preservation Commission shall, at the commencement of the hearing upon each application or at



any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such a presentation.

**D. Action.**

1. In all cases of applications affecting National Historic Landmarks, at least two-thirds of the members of the Historic Preservation Commission must recommend approval of a certificate of appropriateness for it to be forwarded to the Mayor and Board of Aldermen for their binding decision.
2. Whenever the Board of Aldermen denies a certificate of appropriateness, the applicant may resubmit a new application at any time, except that the applicant must wait six (6) months whenever an application for a certificate of appropriateness is denied for a landmark property of statewide or national significance, and notice of any second or subsequent application must be sent to the Mississippi Department of Archives and History as well as to the local Historic Preservation Commission.
3. The Commission shall have the right to recommend changes and modifications to enable the applicant to meet the requirements of the Commission and attached such recommendations as conditions of approval.
4. The decision recommended by the Historic Preservation Commission and any specific conditions for approval shall be forwarded to the Mayor and Board of Aldermen for their binding decision. The Mayor and Board of Aldermen shall proceed to review the recommendation by the Historic Preservation Commission. At the hearing, the decision of the Historic Preservation Commission shall either be affirmed, modified, or reversed by the Board of Aldermen.
5. Denial of a certificate of appropriateness shall be binding upon the Building Department and shall prevent the issuance of other building permits for the same parcel until a certificate of appropriateness is approved. The Building Department shall be responsible for verifying with the

Planning Department that a certificate of appropriateness has been approved prior to issuance of a building permit for all applicable structures.

- E. **Expiration.** A certificate of appropriateness shall expire after six (6) months after Board of Aldermen approval if work has not begun.
- F. **Appeal.** Parties aggrieved by the final decision of the Mayor and Board of Aldermen, may appeal to a court of competent jurisdiction pursuant to state statute.
- G. **Effect of certificate of approval.**
  1. The issuance of a COA shall not remove the requirement of the applicant to obtain a building permit, special exceptions, use exceptions, variance, or other required approvals in the Unified Development Code concerning zoning, construction, repair, or demolition.
  2. A certificate of appropriateness may be required for work that does not require a building permit.
- H. **Unreasonable economic hardship**
  1. **Required applicant information.** When a claim of unreasonable economic hardship is made due to the effect of this Code's historic zoning provisions, the owner of record must present evidence sufficient to prove that, as a result of the Historic Preservation Commission's action, he/she is unable to obtain a reasonable financial return or a reasonable beneficial use. The owner of record shall submit by affidavit to the Commission for its review at least the following information:
    - i. Date the property was acquired by its current owner
    - ii. Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property
    - iii. Mortgage history of the property, including current mortgage
    - iv. Current market value of the property
    - v. Equity in current use and in alternative uses
    - vi. Past and current income and expense statements for a two (2) year period

## Section 3. Procedures & Processes

- vii. Past capital expenditures during ownership of current owner
  - viii. Appraisals of the property obtained within the previous two (2) years
  - ix. Income and property tax factors affecting the property
2. **Additional information considered**
- i. The Historic Preservation Commission may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.
  - ii. The Commission may receive and consider studies and economic analyses from other city agencies and from private organizations relating to the property in question.
3. **Commission decision**
- i. Should the Historic Preservation Commission determine that the owner's present financial return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable financial return and whether such a return could be obtained through investment in the property for rehabilitation purposes.
  - ii. Should the applicant satisfy the Commission that he/she will suffer an unreasonable economic hardship if a certificate of appropriateness is not approved, such certificate of appropriateness must be recommended for approval to the Board of Aldermen.

**3.17. Nonconformities.** Any parcel of land, use, building, structure, or feature lawfully existing on the date of enactment of this Code, brought into the City by annexation, or on the date of a zoning map change that does not conform to the requirements of the district in which it is located may be continued and maintained in accordance with the provisions of this section and other applicable provisions of this Code. Nonconformities may continue as prescribed, but the provisions of this section are designed to curtail substantial investment in nonconformities and to bring about their eventual conformity or elimination. Existing commercial and/or residential multi-dwelling unit developments within the TN-E zoning districts that lawfully exist on the date of enactment of this Code shall not be considered nonconforming unless the commercial and/or residential multi-dwelling unit use ceases for any reason for a duration of more than twelve (12) months. Any expansion of an existing building and/or the addition of new habitable structures and/or dwelling units on a lot with an existing commercial and/or residential multi-dwelling unit development within the TN-E zoning district shall require approval as a special exception. Nonconformities shall be further defined according to one of the types of nonconformities listed below, or combination thereof, for the purpose of regulation.

- 3.17.1. Nonconforming lots.** A legal nonconforming lot is a lot existing legally at the time of the passage of this Code, or the time of annexation into the City's jurisdiction, which does not by reason of design or dimensions conform to the regulations of the district in which it is located. A lot established after the passage of this Code, which does not conform to regulations of the district in which it is located, shall be considered an illegal nonconforming lot and is a violation of this Code. Legal nonconforming lots may continue only in accordance with the following provisions.
- A. Vacant lots.** Vacant lots for which plats or deeds have been recorded in the office of the Chancery Clerk for Oktibbeha County, which fails to comply with the minimum area or other dimensional requirements of the

districts in which they are located may be used for any of the uses permitted in the district in which it is located, provided that:

- 1.** Where the lot area is not more than twenty percent (20%) below the minimum specified in this Code, and other dimensional and setback requirements are otherwise complied with, the lot shall be allowed to be built upon.
  - 2.** Where the lot area is more than twenty percent (20%) below the minimum specified in this Code, and/or other dimensional and setback requirements cannot be met, the applicant will have to apply for a variance from the dimensional and setback requirements.
- B. Combination of nonconforming vacant lots.** When two (2) or more adjacent and vacant nonconforming lots are in single ownership, and either of such lots individually has less frontage or area than the minimum requirements of the district in which they are located, these lots shall be combined into a single lot of record by means of a lot aggregation. The property owner may choose to resubdivide such lots in conformity with this Code in order to create two or more legal lots of record.
- 3.17.2. Nonconforming uses.** A legal nonconforming use is a use existing legally at the time of the passage of this Code, or the time of annexation into the City's jurisdiction, which does not by reason of use conform to the regulations of the district in which it is located. A use established after the passage of this Code which does not conform to regulations of the district in which it is located shall be considered an illegal nonconforming use and is a violation of this Code. Legal nonconforming uses of land or structures may continue only in accordance with all of the following provisions:
- A. Expansion prohibited.** All requests for expansion of a nonconforming use shall be processed and reviewed as a special exception or use exception. Expansion shall include an intensification of use, a physical expansion that results in increased capacity or activity associated with the use, an

### Section 3. Procedures & Processes

- extension of the hours of operation or number of days of activity, and any similar change in activity or location.
- B. Relocation restrictions.** A nonconforming use shall not be moved from one location on a site to another location on the same site without approval through the special exception or use exception process.
- C. Change of use must conform.** A nonconforming use shall not be changed to any other use unless the new use conforms to the additional use standards and standards of the zoning district and in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.
- D. Reestablished restricted.** A legal nonconforming use, when discontinued or abandoned, shall not be resumed. Discontinuance or abandonment shall be defined as:
1. When land used for a legal nonconforming use ceases to be used in a genuine manner for thirty (30) days.
  2. When a building designed or arranged for a nonconforming use ceases to be used in a genuine manner as a legal nonconforming use for a continuous period of three (3) months.
- E. Structural alterations restricted.** No structural changes shall be made in any structure occupied by a nonconforming use except as follows:
1. Structural changes ordered by an authorized official in order to insure the safety of the structure shall be permitted.
  2. Maintenance and repairs to keep a structure in sound condition shall be permitted.
  3. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
  4. An existing nonconforming residential structure may be enlarged or altered provided no additional dwelling units are created. Any such enlargement or alterations shall be in compliance with all setback requirements of the district for the use.
- 5.** The structure and its accompanying use may be moved to another location on the lot so long as the structure meets all applicable requirements of the district.
- 3.17.3. Nonconforming structures, excluding signs.** A legal nonconforming structure is a building or structure existing legally at the time of the passage of this Code, or the time of annexation into the City's jurisdiction, which does not by reason of location, design, or dimensions conform to the regulations of the district in which it is situated. A structure established after the passage of this Ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming structure and is a violation of this Code. Legal nonconforming structures may continue only in accordance with all of the following provisions:
- A. Continuation permitted.** A nonconforming structure devoted to a use permitted in the zoning district in which it is located, may continue only in accordance with the provisions of this Section.
- B. Repair, maintenance, and modification permitted.** Normal repair, maintenance, and modification may be performed to allow for the continuation of a nonconforming structure provided that the construction cost, as determined by the Building Department, for the repair, maintenance, and/or modification is less than fifty (50) percent of its tax assessor's replacement value or an appraised replacement value at the time of repair for the structure only, not including the land. A remodel of an existing structure shall be considered a modification.
- C. Changes for conversion permitted.** Structural changes necessary to convert the nonconforming structure to a conforming structure shall be permitted.
- D. Movement restricted.** A nonconforming structure shall not be moved unless afterwards it conforms to the standards of the zoning district in which it is located.
- E. Restoration restricted.** A nonconforming structure destroyed or damaged by any means to an extent that the construction cost, as determined by the Building

Department, to restore the structure is less than fifty (50) percent of its tax assessor's replacement value or an appraised replacement value for the structure only, not including the land, at the time of the damaging event, can be restored if:

1. A building permit for the repair or restoration is issued within one hundred and eighty (180) calendar days of the date of the damage and remains valid until the repairs or restoration are complete.
  2. The gross square footage of the nonconforming structure is not increased and the degree of nonconformity of the structure is not increased.
- F. Conformity.** If the Community Development Director determines that the building or structure has been damaged to such an extent that the repair costs will exceed fifty percent (50%) of the tax assessor's replacement value or an appraised replacement value of the building or structure as it existed before the damage occurred, future use of the building and site must conform to the regulations of the district in which it is located. However, any building or structure listed on the National Register of Historic Places or any building certified as a state historic building may be rebuilt or restored to its original dimensions or the dimensions of the building or structure before such damage occurred, provided such restoration conforms to the Secretary of Interior's Standards for Rehabilitation. For the purposes of this Section, the extent of damage or destruction shall be determined by comparing the estimated cost of repair or restoration with the current assessed tax value.
- G. Replacement restricted.** A nonconforming structure shall not be replaced with another nonconforming structure regardless of the degree of nonconformity
- 3.17.4. Nonconforming site feature.** A legal nonconforming feature is a physical site feature existing legally at the time of the passage of this Code, or the time of annexation into the City's jurisdiction, which does not because of design or dimension conform to the use or development standards

for the district in which it is situated. Nonconforming features include, but are not limited to: driveway widths, fence height, parking lot layout, parking lot paving, number of required parking spaces, loading areas, buffer areas, landscaping, sidewalks, ADA requirements, etc. A site feature added, changed, repaired, or modified after the passage of this Code which does not conform to the regulations of the district in which it is situated shall be considered an illegal nonconforming feature and is a violation of this Code. Legal nonconforming features may be continued subject to the following limitations:

- A. Increase in nonconformity prohibited.** No action shall be taken which increases the degree or extent of the nonconformity. Any enlargement, extension, structural alteration, layout changes, access modifications, landscaping, and other changes to the site shall conform to all current requirements use and development standards.
- B. Continuation permitted.** For a development existing before the effective date of current regulations, a feature made nonconforming by a change in use and development standards may continue to exist until any proposed improvements on the site require site plan approval or the existing primary structure on the same site as the nonconforming feature is modified to the extent that the construction cost, as determined by the Building Department, for the modification is less than fifty percent (50%) of its tax assessor's replacement value or an appraised replacement value at the time of modification of the structure only, not including the land. A remodel of an existing structure shall be considered a modification.

## Section 3. Procedures & Processes

- 3.17.5. Nonconforming accessory uses and structures.** No nonconforming accessory use or accessory structure shall continue after the principal use or primary structure is terminated by abandonment, discontinuance, damage, or destruction unless such accessory use or accessory structure after that is made to conform to the standards for a primary structure for the zoning district in which it is located.
- 3.17.6. Nonconforming manufactured and mobile home parks.**
- 1. Expansion prohibited.** Nonconforming manufactured home parks shall not be expanded or increased in size. Expansion shall include adding spaces to the park.
  - 2. Replacement of park prohibited.** When a nonconforming manufactured home park is vacated in its entirety, the park shall not be reestablished.
- 3.17.7. Changes of tenancy and ownership.** There may be a change in tenancy or ownership of an existing nonconforming structure provided there is no change in the nature or character of such nonconforming structure except as permitted in this Section.
- 3.17.8. Nonconforming signs.** The requirements of this section shall not apply to signs. Nonconforming signs shall meet the provisions for nonconformity under the development standards for signs.
- 3.17.9. Nonconforming outdoor advertising (billboards) sign.** The requirements of this section shall not apply to signs that are classified as class I outdoor advertising (billboard) signs.

**3.18. Building Permit Requirements.** After the approval of a site plan by the Development Review Committee and the approval of building design plan by the Architecture Review Committee or the determination by the Planning Department that the site and building plan approval are not required, a building permit may be issued by the Building Department. All applications for building permits shall be processed and reviewed in accordance with Section 17.3.

### 3.19. Enforcement & Penalties for Violations

- 3.19.1. Enforcing Officer.** The provisions of this Code shall be administered by the Community Development Director and enforced by the Code Enforcement Officer or other appropriate city employee(s). The Building Official, Code Enforcement Officer, or other appropriate City employee(s) shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary in carrying out their duties in the enforcement of this Code.
- 3.19.2. Code enforcement action.** The following shall be the general process for issuance of a violation:
- A.** Discovery by a code enforcement officer, city official, or receipt of a report of an alleged violation of the Code of Ordinances;
  - B.** Verification of violation;
  - C.** For a case of nuisance, issue a written warning or a courtesy notice to the owner of the property, allowing ten (10) calendar days to correct the violation;
  - D.** For a case of public health and safety that requires immediate attention or after ten (10) days from the issuance of a written warning, issue a written Violation Notice to the owner of the property and/or a responsible party where the alleged violation occurred;
  - E.** Reinspect the code violation for compliance;
  - F.** A summons will be issued and turned over to Municipal Court for a hearing;
  - G.** The Judge can issue a judgement against the violator which can result in fines, assessments, additional fees, and/or jail time; and,
  - H.** Each day such violation continues shall constitute a separate offense.
- 3.19.3. Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure, land subdivision/platting, land re-subdivision or re-platting, or land is used in violation of this ordinance, the city, in addition to other remedies, may institute any appropriate

action or proceedings under city ordinance and state law to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Specific remedies may include the following as well as any other remedies permitted under Mississippi State Law.

- 3.19.4. Specific Remedies.** Specific remedies for the violation of any provision of this ordinance may include the following:
- A. Permit Revocation.** The Community Development Director may revoke any zoning permit or building permit issued by staff after written notification to the permit holder when violations of this ordinance have occurred, when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, or a permit has been mistakenly issued in violation of this ordinance.
  - B. Stop Work Orders.** Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this ordinance, the Community Development Director may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing posted on the property, state the specific work to be stopped, and the specific reasons for stop work order.
  - C. Penalties.** Any person, firm, or corporation who shall knowingly and willfully violates any terms, conditions or provisions of the Unified Development Codes shall, upon conviction, be guilty of a misdemeanor and shall be sentenced to pay a fine of not to exceed one thousand dollars (\$1,000.00), and in the case of continuing violations without reasonable effort on the part of the defendant to



correct the same, each day the violation continues thereafter shall be a separate offense.

- D. **Injunction.** The city may, either before or after the institution of other authorized action, seek injunctive relief from any appropriate court, commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.
- E. **Order of Abatement.** In addition to an injunction, the city may seek an order of abatement from any appropriate court, directing any or all of the following actions:
  - 1. Buildings or other structures on the property be closed, demolished, or removed.
  - 2. Fixtures, furniture or other movable property be moved or removed entirely.
  - 3. Improvements, alterations, modifications or repairs be made or removed.
  - 4. Any other action be taken that is necessary to bring the property into compliance with this ordinance.
- F. **Withholding Approvals.** Any violation of this ordinance shall constitute grounds for withholding new building permits, sign permits, or certificate of occupancy for structures that are directly related to the violation until the violation has been corrected, including the payment of all fines and fees.
- G. **Subdivision Violations.** The owner of a subdivision shall not transfer title to any lot in such subdivision until such time as the final plat has been approved by the appropriate authority as outlined in this ordinance and duly recorded in the office of the Chancery Clerk of Oktibbeha County, Mississippi. Transfers prior to such approval and recording shall be deemed a violation of this ordinance and shall be subject to any and all remedies available to the city.
- H. **Recording Violations.** The Chancery Clerk of Oktibbeha County, Mississippi shall not receive, file, or record a plat of a subdivision within the jurisdiction of this Unified Development Code without prior approval of the appropriate authority as outlined in this ordinance. Plats

recorded prior to such approval shall be deemed unlawful and invalid.

- I. **Continuing Violations.** If a violation is repeated within a two (2) year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a warning citation or civil citation has been issued by the city.
- 3.19.5. **Enforcement of the Americans With Disabilities Act.**
  - A. Violation by any person of the provisions of this article or failure to comply with any of its requirements, after written notification including e-mail by the city's ADA Coordinator, Building Official, or City Engineer of this article, shall, upon conviction thereof, be deemed guilty and shall be fined a civil penalty not less than one thousand dollars (\$1,000.00).
  - B. Any person who violates the provisions of this article or fails to comply with any of its requirements within 90 days after having been duly notified in writing, by certified mail, return receipt requested, from the city's ADA Coordinator, Building Official, or City Engineer, shall, upon conviction thereof, shall be fined in accordance with the penalty fee section or an amount as otherwise determined by the court, for each offense. Each day such violation continues shall be considered a new and separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
- 3.19.6. **Enforcement of Erosion Control Provisions.**
  - A. Any entity violating any provision of this article shall be deemed guilty of a civil penalty and fined not less than five hundred dollars (\$500.00) nor more than one thousand (\$1,000) dollars per day of violation.
  - B. Each twenty-four (24) hour period after notice is given by the City Engineer, Building Official, or other appropriate

### Section 3. Procedures & Processes

City employee(s) shall be considered a separate offense hereunder.

- C. An entity found guilty of such violation who fails to remove the sediment after notice is given, shall be required to pay to the city restitution equaling the costs and expenses of removal. In calculating the costs and expenses incurred by the City, a reasonable rate shall be charged for the use of all City equipment and employees, with such rate to be at least equal to the costs of contracting the removal of such sediment with a private entity.

**3.19.7. Enforcement of Historic District Provisions.** The following penalties may be imposed upon those persons, firms, or corporations found to have violated requirements or prohibitions contained within this Code for historic districts:

- A. Any person who constructs, alters, relocates, or demolishes any resource in violation of this Code shall be required to restore the historic resource to its appearance or setting prior to the violation. Any action to enforce this provision shall be brought by the City of Starkville. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.
- B. If construction, alteration, or relocation of any historic resource occurs without a certificate of appropriateness, then the license of the company, individual, principal owner, or its or his/her successor in interest performing such construction, alteration, or relocation shall be revoked for a period of three (3) years.
- C. If the demolition of a historic resource occurs without a certificate of appropriateness, then any permits on the subject property will be denied for a period of three (3) years. No permit will be issued for any structure or structures proposed for the same parcel that would require a footprint larger than the footprint of the demolished structure, or structures. In addition, the owner must rebuild on the site using as much of the original building material as possible, and in general following the same form. In addition, unauthorized demolition of a portion of

a structure shall not serve as justification for a demolition permit whenever it can be shown that restoration or rehabilitation would still be feasible. The applicant shall not be entitled to have issued to him/her by any City office a permit allowing any curb cuts on the subject property for a period of three (3) years from and after the date of such demolition.

- D. If a historic landmark or landmark site of statewide or national significance is demolished without review and approval by the Historic Preservation Commission, no permit for any construction on the parcel from which the landmark or landmark site has been removed may be issued for a period of up to twenty-four (24) months.
- E. If the demolition of a historic resource occurs without a certificate of appropriateness, then the license of the company, individual, principal owner, or their successor in interest performing such demolition shall be revoked for a period of five (5) years.
- F. The fine imposed upon the determination of a violation shall be not less than one hundred dollars (\$100) nor more than five hundred (\$500). Each day that a violation continues shall constitute a separate offense.