



**OFFICIAL AGENDA
PLANNING & ZONING COMMISSION
CITY OF STARKVILLE, MISSISSIPPI
SPECIAL CALL MEETING OF FRIDAY, FEBRUARY 16, 2017
1ST FLOOR CITY HALL – COURT ROOM
110 WEST MAIN STREET AT 12:00 PM**

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE
- III. ROLL CALL
- IV. CONSIDERATION OF THE OFFICIAL AGENDA
- V. CITIZEN COMMENTS
- VI. NEW BUSINESS
 - A. FP 18-04 REQUEST FOR FINAL PLAT APPROVAL FOR SUBDIVIDING A 5.30-ACRE PARCEL INTO 26 LOTS. ON THE SOUTH SIDE OF ACADEMY ROAD +/- 0.22 MILES WEST OF THE SOUTH MONTGOMERY ST AND ACADEMY ROAD INTERSECTION IN A R-3A ZONE WITH THE PARCEL NUMBER 102I-00-021.00
 - B. PUBLIC HEARING FOR SECTION 1 AND SECTION 2 OF THE UNIFIED DEVELOPMENT CODE AND A MODIFICATION TO THE FAÇADE REQUIREMENTS.
- VII. ADJOURN



THE CITY OF STARKVILLE
PLANNING DEPARTMENT
PLANNING AND ZONING COMMISSION
CITY HALL, 110 WEST MAIN STREET
STARKVILLE, MISSISSIPPI 39759

STAFF REPORT

To: Members of the Planning & Zoning Commission
From: Daniel Havelin, City Planner (662-323-2525 ext. 3136)
Emily Corban, Assistant City Planner (662-323-2525 ext. 3138)
Subject: FP 18-04 Request for Final Plat approval for subdividing a 5.30-acre parcel into 26 lots. On the south side of Academy Road +/- 0.22 miles west of the South Montgomery St and Academy Road Intersection in a R-3A zone with the parcel number 102I-00-021.00
Date: February 16, 2018

The purpose of this report is to provide information regarding the request by Jerry McBride for Final Plat approval for subdividing a 5.30-acre parcel into 26 lots. The proposed subdivision is named "Academy Hill Subdivision, Phase I". The proposed subdivision is located in an R-3A zone. The proposed subdivision is located at on the south side of Academy Road +/- 0.22 miles west of the South Montgomery St and Academy Road Intersection. On February 21, 2017, The Board of Alderman approved PP 17-05, a preliminary plat for Academy Hill Subdivision which was composed of 53 lots on 9.77 acres. Please see attachments 1-5.

Below is information pertaining to R-3A

Sec. R. - R-3A single-family, medium-density.

- A. Intent. These districts are intended to be composed of single-family dwellings. Appropriate neighborhood supporting facilities are provided for and the district's open residential character is protected by requiring minimum yard and area standards. R-3A zoning districts shall be more restrictive than the R-3 (multi-family) district but less restrictive than the R-1 (single-family) district.
- B. Required lot area and width, yards, building areas and height for single-family dwellings:
 - Front setback: 25 feet
 - Side setback: 5 feet
 - Rear setback: 20 feet
 - Minimum lot area: 5,000 square feet
 - Minimum width at building line: 50 feet
 - Maximum building height: 45 feet
- C. Off-street parking. A minimum of three off-street parking spaces shall be provided for each dwelling unit.
- D. Permitted and conditional uses shall be as follows:

1. The following uses are permitted by right in the R-3A zoning district:
 - a. Single-family dwelling.
 - b. Garden.
 - c. Home occupation.
 2. The following uses are allowed by conditional use in the R-3A zoning district:
 - a. Church or place of worship.
 - b. Golf course, not including commercial driving ranges; need not be enclosed within structure.
 - c. Public utilities.
 - d. Recreational facilities.
- E. Comprehensive plan. The R-3A zoning district shall be considered a medium density residential land use classification allowing a maximum gross density of eight dwelling units per acre, as allowed per Table 32 of the city's comprehensive plan.

(Ord. No. 2008-9, § II, 11-4-08)

PLAT PROPOSAL:

General Information

The subdivision has a gross acreage of +/- 5.30-acres with a total of 26 lots. The proposed development has a gross density of 4.91 lots per acre. At the time of this report, Staff has not reviewed the proposed covenants.

Easements and Dedications

All easements and dedications are provided on the final plat. The roadways will be dedicated to the City. The County has reviewed and approved of the proposed road name. Electrical service will be provided by Starkville Utilities and will be place underground. Potable water and sanitary sewer utility services will be provided by the City. Street numbers have been assigned for construction permitting and utility assignments. The required Landscape Buffer of 10' is shown on the plat.

Findings and Comments

The final plat is a Class "B" survey prepared by a professional licensed by the Mississippi Board of Licensure for Professional Engineers and Surveyors and meets the minimum standards for the State of Mississippi, as required by §17-1-23 and §17-1-25 of the Mississippi Code Annotated (1972), as amended. This subdivision is not part of any previously platted subdivision, therefore no adversely effected parties.

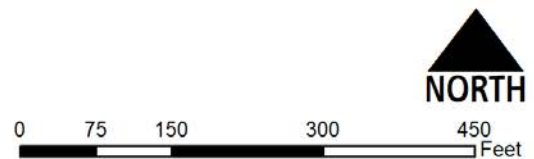
REQUESTED CONDITIONS:

1. The final plat shall meet the minimum standards for the State of Mississippi, as required by §17-1-23 and §17-1-25 of the Mississippi Code of 1972, as amended.
2. No Certificates of Occupancy or Temporary Certificates of Occupancy shall be granted for any structures until all conditions of approval have been met to the satisfaction of

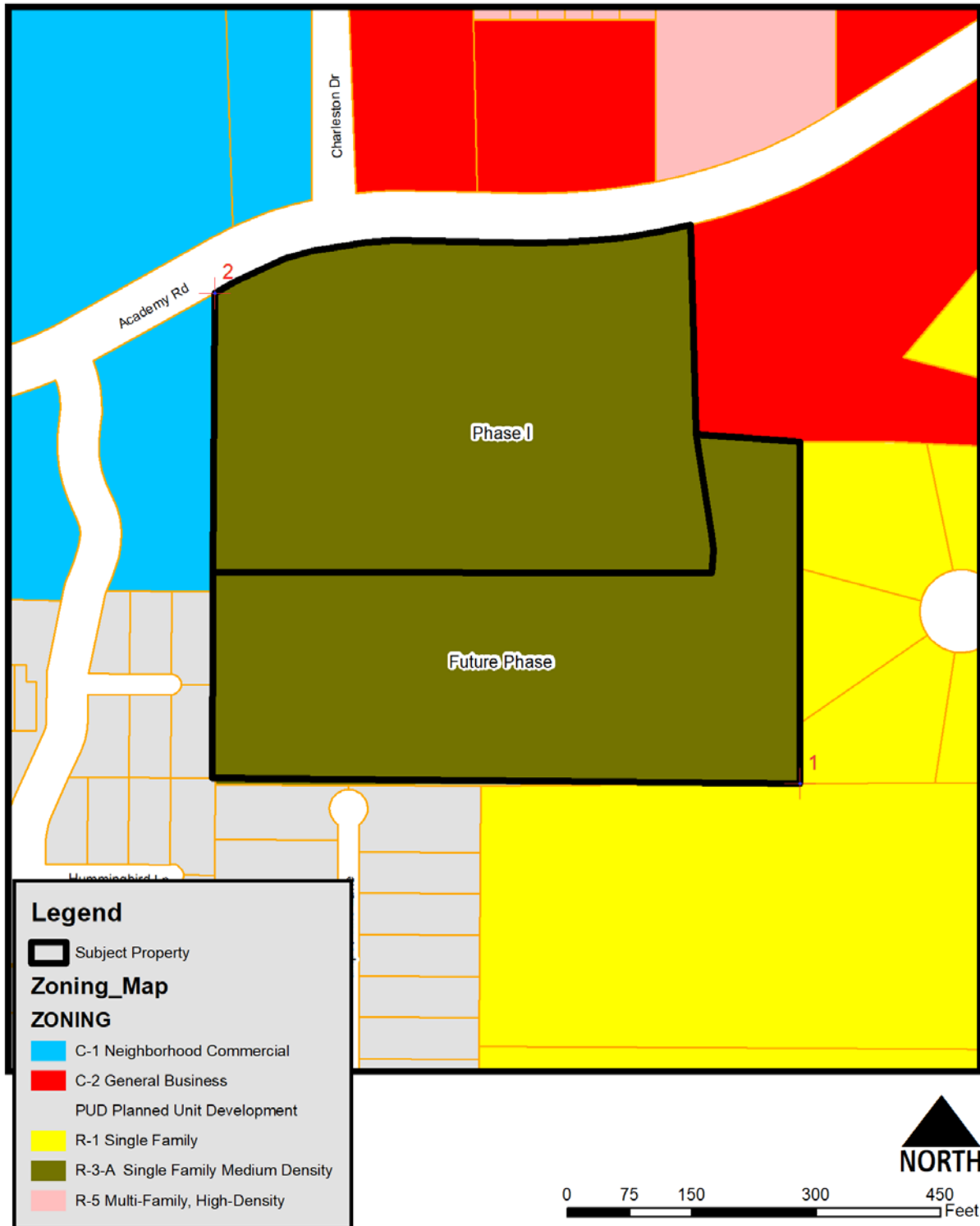
City Staff. A letter from the applicant acknowledging this requirement is required before final approval.

3. The final plat shall meet the minimum requirements for R-3A dimensions.
4. All public utilities must be inspected, tested, meet city requirements and be in place prior to any issuance of any Certificate of Occupancy.
5. Erosion control vegetation shall be established on all disturbed areas.
6. Sidewalk construction shall conform to the City's Sidewalk Ordinance and ADA standards.
7. The applicant shall provide adequate and satisfactory test reports for roadways, curbs and all drainage structures and facilities prior to issuance of any Certificate of Occupancy.
8. The covenants shall include provisions for the maintenance of common areas/stormwater management and the City Attorney's standard hold-harmless indemnification clause.
9. A guarantee in the amount of 200% of the current cost of all non-sidewalk remaining improvements is required to be posted prior to final plat approval by the Mayor and Board of Aldermen.
10. A bond or surety in the amount of 150% of the current cost of the proposed sidewalk shall be provided prior to approval by the Mayor and Board of Aldermen.
11. Financial assurance for the cost of the final layer of asphalt shall be determined by and provided to the City Engineer prior to approval by the Mayor and Board of Aldermen.
12. The roadways shall not be accepted by the City until at least 85% of all combined lots in Phase I and any future phase have been developed and received Certificates of Occupancy. The performance agreement shall remain in effect until such time.
13. The applicant shall execute the standard performance agreement ("developer contract") for the financial guarantee of the completion of the final requirements for acceptance of the streets and utilities and the Board of Aldermen shall authorize the Mayor to execute same.
14. The applicant shall provide two paper copies of the recorded plat to the City, along with a digital copy in "AutoCAD" format in standard state plane coordinates.
15. The applicant shall provide "as-built" drawings of all infrastructure improvements (water, sewer, storm drainage, roadways, sidewalks, etc.) in "AutoCAD" format as well as a paper copy that is signed and sealed by a licensed design professional, guaranteeing accuracy.
16. The final plat shall be recorded at the Office of the Oktibbeha County Chancery Clerk within thirty (30) days of the approval by the Mayor and Board of Aldermen.
17. The Applicant shall provide additional easements as required by City Staff based on as-built conditions of installed infrastructure.

Attachment 1
FP 18-04 - Aerial



Attachment 2
FP 18-04 - Zoning

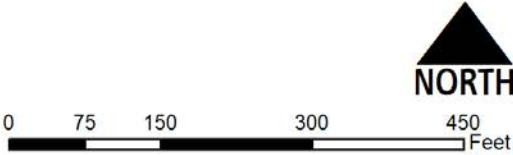


Attachment 3
FP 18-04 - Plat Overlay



Legend

 Subject Property



OF THE NORTHEAST QUARTER AND THE SOUTHEAST
THEAST QUARTER OF SECTION 10, TOWNSHIP 18 NORTH,
IBEHA COUNTY, MISSISSIPPI AND CONTAINING 5.30 ACRES.

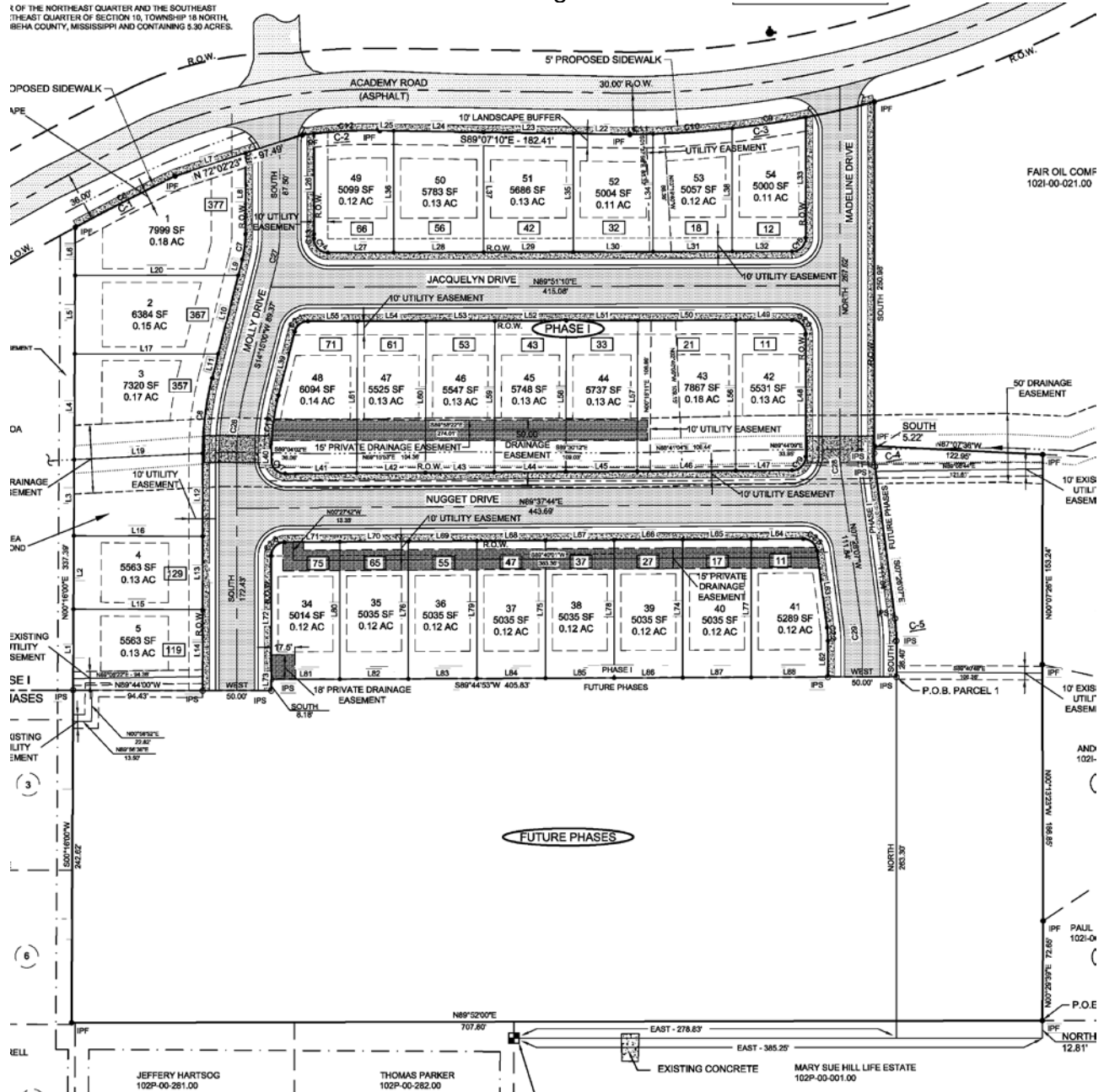


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draft 1/31/18

1.0 INTRODUCTION

1.1 Title

This Ordinance shall be known as the “Unified Zoning & Development Code” of the City of Starkville, Mississippi, dated XX, XXXXXX, 2018. The map herein referred to as the “Zoning Map of Starkville, Mississippi,” dated XX, XXXXXX, 2018 and all explanatory matter thereon is hereby adopted and made a part of this Code.

1.2 Authority

This Code is adopted pursuant to authority granted to the City of Starkville by the 2010 Mississippi Code and is adopted in accordance with:

- a. The enabling authority contained in Title 17 - Local Government; Provisions Common to Counties and Municipalities, Chapter 1 - Zoning, Planning and Subdivision Regulation (as amended); and
- b. All other relevant laws of the State of Mississippi.

Whenever any provision of this Code refers to or cites a section of the Mississippi Code (as amended), and that section is later amended or superseded, this Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.3 Purpose & Applicability

1.3.1 Purpose

In accordance with Mississippi Code Title 17-1-9, this Code is made in accordance with the City’s Comprehensive Plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations have been made with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, and with a view to conserving the value of buildings, and encouraging the most appropriate use of land throughout the City. Furthermore, these provisions have been intended to protect and enhance the quality of life of City residents, employees and visitors with respect to: the preservation of significant natural and cultural resources; the optimal use of land; appropriate densities, form and character of development; efficient and well-connected mobility accommodating varied transportation modes; sufficient infrastructure and utilities; open space and recreational facilities; varied and affordable housing alternatives; and economic development opportunities.

1.3.2 Applicability

The provisions of this Code shall apply to the use and development of all incorporated land within

the boundaries of the City of Starkville, Mississippi, unless exempted by this Code, State law, or Federal law.

1.4 Rules of Construction

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

1.4.1 Minimum Requirements.

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

1.4.2 Application of Most Restrictive Provisions.

In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Code and applying to an individual use or structure, the more restrictive provision shall apply.

1.4.3 Priority of Text.

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

1.4.4 Interpretation of Words.

The words "shall", "must", and "will", are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive in nature. Words used in the present tense include the future tense, and vice versa. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa. For words, terms, and phrases used in this Code that are not defined in the Definitions section or elsewhere in the City's Code, the City Planner shall have the authority to interpret or define such words, terms and phrases. In making such interpretations or definitions, the city planner may consult secondary sources related to the planning and legal professions, such as "Black's Law Dictionary" (West Publishing Company, St. Paul, Minn., most current edition), "The Latest Illustrated Book of Development Definitions" by Harvey S. Moskowitz and Carl G. Lindbloom (Center for Urban Policy Research, Rutgers University. N.J. 2007, or most current edition), for technical words, terms, phrases, and graphics, or any "Webster's Dictionary" for other words, terms and phrases.

1.5 Comprehensive Plan

The goal of this Code is to ensure that all development within the City's jurisdiction is consistent with, and conforms to the vision, goals, and objectives of the City's adopted Comprehensive Plan and any adopted specific area plans and functional plans addressing

growth and development within the City. To the extent that this Code is or becomes inconsistent with these adopted plans, it should be amended to become or remain consistent with the adopted plans. Additionally, all amendments to this Code's text or Official Zoning Map should maintain and enhance consistency between this Code and the adopted plans.

1.6 Relationship with Other Laws

1.6.1 Conflicts with Other City Codes or Laws.

If a provision of this Code is inconsistent with another provision of this Code, or with a provision found in other adopted Codes or Codes of the City, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

1.6.2 Conflicts with Private Agreements

The City shall not be responsible for monitoring or enforcing private easements, covenants, and restrictions, although the City may inquire as to whether land is subject to easements, covenants, and restrictions during the review of applications.

1.6.3 Conflicts with State or Federal Laws

Title 17 of the Mississippi Code establishes planning and zoning authority for local governments. If a provision of this Code is inconsistent with a provision found in the law or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law.

1.6.4 Vested Rights

Nothing in this Code is intended to repeal, supersede, annul, impair, or interfere with any existing vested rights previously adopted, established, or issued in accordance with all applicable laws, provided such rights are lawfully established and remain in effect.

1.7 Burden of Proof

The burden of demonstrating that an application or any development subject to this Code complies with applicable review and approval standards is on the applicant. The burden is not on the City or other parties to show that the standards have been met by the applicant or person responsible for the development.

1.8 Severability

If any court of competent jurisdiction invalidates any provision of this Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Code. If any court of competent jurisdiction invalidates the application of any provision of this Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment. If any court of competent jurisdiction judges invalid any

condition attached to the approval of an application for development approval or the approval of a conditional use, then such judgment shall not affect any other conditions or requirements attached to the same approval which are not specifically included in that judgment.

1.9 Repealer Section

All ordinances or codes or parts of ordinances or codes adopted heretofore by the City of Starkville, Mississippi, which are in conflict herewith or inconsistent with the provisions of this ordinance are hereby repealed.

1.10 Transitional Rules

1.10.1 Violations Continue

Any violation of the previous Zoning Code shall continue to be a violation under this Code and any other applicable codes, laws, or statutes. Violations of this Code shall be subject to the penalties set forth in 2.2.15 Enforcement, and any other applicable ordinances, laws, or statutes.

1.10.2 Completed Applications

1.10.2.1 Complete applications prior to this code. Any application submitted and accepted as complete before the effective date of this Code, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not comply with this Code, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of 2.2.12 Nonconformities.

1.10.2.2 Time frame of previous code. Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Code.

1.10.2.3 Option for pending applications. An applicant with a pending application accepted before the effective date of this Code may opt to have the proposed development reviewed and decided under the standards of this Code by withdrawing the pending application and submitting a new application in accordance with the standards of this Code.

1.10.2.4 Option for New Applications. An applicant with a new application accepted before the effective date of this Code may opt to have the proposed development reviewed and decided under the standards of this Code.

1.10.3 Approved Applications

1.10.3.1 Approvals per the previous code. Any development approvals granted before the effective date of this Code in accordance with the procedures outlined in

the City's previous Code, the Subdivision Regulations and/or other related regulations shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.

1.10.3.2 Prior or revoked approvals. If the prior approval expires or is revoked (i.e., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall comply with the procedures and standards of this Code.

1.10.3.3 Nonconforming status. To the extent a prior-approved application proposes development that does not comply with this Code, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of 2.2.12 Nonconformities.

1.10.4 Nonconformities

If any use, structure, lot, or sign legally existed on the effective date of this Code, but does not fully comply with the standards of this Code, then that use, structure, lot, or sign shall be considered nonconforming under this Code and shall be subject to the provisions of 2.2.12 Nonconformities.

1.11 Effective Date

This Code shall take effect and be in force after its passage according to law.

2.0 BODIES & PROCEDURES

2.1 Administrative & Governing Bodies

The City of Starkville has established Boards, Commissions and Committees and empowered them to act with either advisory or quasi-judicial authority over numerous aspects of the responsibilities created by the City's statutory and home rule existence in the State of Mississippi. The Boards, Commissions and Committees that were created with such quasi-judicial authority and that are not part of an existing interlocal agreement with any other governmental or authorized institution and are the sole product of the City of Starkville legislative enactment by the Mayor and Aldermen are advisory only.

2.1.1 Mayor & Board of Aldermen

This Code shall be known as the "Unified Zoning & Development Code" of the City of Starkville, Mississippi, dated XX, XXXXXX, 2018. The map herein referred to as the "Zoning Map of Starkville, Mississippi," dated XX, XXXXXX, 2018 and all explanatory matter thereon is hereby adopted and made a part of this Code.

The Board of Aldermen have the final binding authority over development issues including but not limited to: administrative appeals, preliminary plats, final plats, exceptions, conditional uses, variances, landscape waivers, and certificates of appropriateness.

2.1.2 Planning & Zoning Commission

2.1.2.1 Composition. The Planning and Zoning Commission shall consist of seven (7) members with one (1) member representing each political ward appointed by the Board of Aldermen. Each member of the Commission shall be a qualified elector of the City at the time of appointment and during incumbency. To be appointed to the Planning and Zoning Commission, a person shall be a resident of the City and reside in the ward they represent. Appointments to all vacancies occurring during a term shall be for the balance of that term.

2.1.2.2 Appointment. The members of the Planning and Zoning Commission shall be appointed by a simple majority of the Board of Aldermen. All seven (7) members of the Board shall be appointed to represent their respective political wards within the City. One (1) member shall be appointed from each political ward.

2.1.2.3 Terms of office. The members of the Planning and Zoning Commission shall be appointed for a term of six (6) years, with re-appointment possible after a period of two (2) years absence. Members appointed to fill a vacated unexpired term shall be eligible to be re-appointed for a one (1) full term without an absence.

2.1.2.4 Removal of members. The Mayor and Board of Aldermen, by a two-thirds absolute majority vote, shall have the authority to remove any member of the

Planning and Zoning Commission whenever, in the opinion of the Board of Aldermen, the best interest of the City shall be served thereby. Any member of the Commission who is absent from four (4) of the regular meetings of the Commission in any fiscal year (October 1 through September 30) for any reason other than illness, shall automatically vacate his or her seat on the Commission. Additionally, any member of the Commission who moves away from the ward that he or she was appointed to represent, automatically vacates this seat and membership on the Commission.

2.1.2.5 Vacancies and compensation. Vacancies occurring in the membership of the Planning and Zoning Commission shall be filled as soon as possible. The City shall publish at least one (1) notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals who are interested in serving on the Commission. The City may contact known professionals and interested laypersons and invite submission of their qualifications in written resume form. The City shall establish a date for receipt that is a minimum of a two (2) week or fourteen (14) calendar day period for the receipt of applications and nominations, with said date for receipt included in the advertisement and authorization by the Mayor and Board of Aldermen. If applications or nominations are not received during the specified two (2) week period, then the position will remain open until filled. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, educational and professional background, membership in professional organizations, subscriptions to relevant professional publications, volunteer work, attendance at workshops and seminars, and other relevant experience. The members of the Commission shall serve without compensation.

2.1.2.6 Officers. In July of odd numbered years, members of the Planning and Zoning Commission shall meet in a regular session and organize by electing from their members a Chairman and a Vice-Chairman. The Chairman and Vice-Chairman shall be chosen by a simple majority of the Commission. The Chairman and Vice-Chairman shall be voting members of the Commission. All officers shall serve two (2)-year terms. If neither the Chairman nor the Vice-chairman is present, the City Planner shall act as Procedural Chair to initiate the meeting. Upon a motion from a present member, the remaining members shall select an Acting Chairman from the members in attendance at such meeting. The Commission shall have the authority to elect other officers or to organize in any other manner deemed necessary and appropriate to fulfill its duties.

2.1.2.7 Rules and procedures

- a. The Planning and Zoning Commission shall adopt a set of rules to expedite business at its meetings and shall establish a set of procedures for handling planning and zoning matters. The rules and procedures established may be amended from time to time. An absolute majority vote of the Commission shall be required for the approval of any amendment to the established rules

and procedures. All rules and procedures shall be in compliance with the requirements of MCA 1972, title 17, chapter 1, as amended.

- b.* The Planning Department shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

2.1.2.8 Powers and duties

The Planning and Zoning Commission shall have the following powers and duties:

- a.* To prepare and propose a master plan of physical development for the City or part thereof.
- b.* To prepare and present a proposed Unified Zoning and Development Code and Zoning Map and to hear requests for zoning changes, conditional uses, preliminary plat, final plat, non-dimensional variances, and use exceptions.
- c.* To prepare and propose regulations governing the subdivision of land and the items required for review of a developer's proposed subdivision.
- d.* Such other powers and authority as may be conferred by statute or are implied to fulfill the duties of the Commission.

2.1.2.9 Advisory capacity. The powers and duties of the Commission are generally of an advisory nature and the Commission shall not have any powers or duties which conflict with or supersede the powers and duties of the Mayor and Board of Aldermen.

2.1.2.10 Interdepartmental cooperation. All officers and department heads of the City shall cooperate with the Planning and Zoning Commission and render all reasonable assistance. The City Planner shall attend all meetings of the Commission for the purpose of advising and assisting the Commission. The City Attorney shall attend all meetings to provide legal counsel to the Commission.

2.1.2.11 Regular Meetings and Quorum. The Planning and Zoning Commission shall hold one (1) regular meeting the second (2nd) Tuesday of each month and shall hold other meetings as deemed necessary and appropriate. A Special Call meeting can be initiated by the Mayor, Board of Aldermen or Chairman of the Planning and Zoning Commission with a minimum of a three (3) hour notice. All meetings shall be open to the public. A simple majority of the members of the Commission shall constitute a quorum for the transaction of business. However, no action shall be taken which is binding upon the Commission unless concurred by not less than an absolute majority of all members comprising the Commission.

2.1.3 Board of Adjustments and Appeals

2.1.3.1 Composition, qualifications, and membership. The Board of Adjustments and Appeals shall consist of seven (7) members with one (1) member representing each political ward appointed by the Board of Aldermen. Each member of the Board shall be a qualified elector of the City at the time of appointment and during incumbency. To be appointed to the Board of Adjustments and Appeals,

a person shall be a resident of the City and reside in the ward they represent. Appointments to all vacancies occurring during a term shall be for the balance of that term.

- 2.1.3.2 Appointments.** The members of the Board of Adjustments and Appeals shall be appointed by a simple majority vote of the Board of Aldermen. All seven (7) members of the Board shall be appointed to represent their respective political wards within the City. One (1) member shall be appointed from each political ward.
- 2.1.3.3 Terms of office.** The members of the Board of Adjustments and Appeals shall be appointed for a term of four (4) years with a maximum of two (2) consecutive terms with re-appointment possible after a period of two (2) years absence. Members appointed to fill a vacated unexpired term shall be eligible to be re-appointed for one (1) full term without an absence.
- 2.1.3.4 Removal of members.** The Mayor and Board of Aldermen, by a two-thirds absolute majority vote, shall have the authority to remove any member of the Board of Adjustments and Appeals whenever, in the opinion of the Board of Aldermen, the best interest of the City shall be served thereby. Any member of the Board who is absent from four (4) of the regular meetings of the Board in any fiscal year (October 1 through September 30) for any reason other than illness, shall automatically vacate his or her seat on the Board. Additionally, any member of the Board who moves away from the ward that he or she was appointed to represent, automatically vacates this seat and membership on the Board.
- 2.1.3.5 Vacancies and compensation.** Vacancies occurring in the membership of the Board of Adjustments and Appeals shall be filled as soon as possible. The City shall publish at least one (1) notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals who are interested in serving on the Board. The City may contact known professionals and interested laypersons and invite submission of their qualifications in written resume form. The City shall establish a date for receipt that is a minimum of a two (2) week or fourteen (14) calendar day period for the receipt of applications and nominations, with said date for receipt included in the advertisement and authorization by the Mayor and Board of Aldermen. If applications or nominations are not received during the specified two (2) week period, then the position will remain open until filled. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, educational and professional background, membership in professional organizations, subscriptions to relevant professional publications, volunteer work, attendance at work- shops and seminars, and other relevant experience. The members of the Board shall serve without compensation.
- 2.1.3.6 Officers.** In July of odd numbered years, members of the Board of Adjustments and Appeals shall meet in regular session and organize by electing from their members a Chairman and a Vice-Chairman. The Chairman and Vice-Chairman shall be chosen by a simple majority of the Board. The Chairman and Vice-Chairman shall be voting members of the Board. All officers shall serve two (2)-

year terms. If neither the Chairman nor the Vice-chairman is present, the City Planner shall act as Procedural Chair to initiate the meeting. Upon a motion from a present member, the remaining members shall select an Acting Chairman from the members in attendance at such meeting. The Board shall have the authority to elect other officers or to organize in any manner that it deems necessary and appropriate to fulfill its duties.

2.1.3.7 Rules and procedures

- a.* The Board of Adjustments and Appeals shall adopt rules to expedite business at its meetings and shall establish a set of procedures for handling appeal and adjustment matters. The rules and procedures may be amended from time to time. An absolute majority vote of the Board shall be required for the approval of any amendment to the established rules and procedures. All rules and procedures shall be in compliance with MCA 1972, §§ 17-1-1—17-1-39, as amended.
- b.* The Planning Department shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

2.1.3.8 Powers and duties

The Board of Adjustments and Appeals shall have the following powers and duties:

- a.* To hear all requests for adjustments and variances allowed by the Unified Zoning and Development Code and/or the Code's Subdivision Regulations.
- b.* To recommend to the Planning and Zoning Commission or Board of Alderman that adjustments be made to the Unified Development Code.
- c.* To hear appeals on administrative interpretations of all Codes, Zoning Regulations and Subdivision Regulations.
- d.* To hear appeals and to pass judgment on administrative interpretations on all matters pertaining to the adopted Codes of the City.
- e.* To hear all requests for variance from stormwater related matters

2.1.3.9 Advisory capacity. The powers and duties of the Board are of an advisory nature and the Board shall not have any powers or duties which conflict with or supersede the powers and duties of the Mayor and Board of Aldermen.

2.1.3.10 Interdepartmental cooperation. All officers and department heads of the City shall cooperate with the Board of Adjustments and Appeals and render all reasonable assistance. The City Planner shall attend all meetings of the Board for the purpose of advising and assisting the Board of Adjustments and Appeals. The City Attorney shall attend meetings as needed to provide legal counsel to the Board.

2.1.3.11 Regular meetings and quorum. The Board of Adjustments and Appeals shall hold one (1) regular meeting the fourth (4th) Wednesday of each month and shall hold other meetings as deemed necessary and appropriate. A Special Call meeting can be initiated by the Mayor, Board of Aldermen or Chairman of the

Board of Adjustment and Appeals with a minimum of a three (3) hour notice. A simple majority of the members of the Board shall constitute a quorum for the transaction of business. However, no action shall be taken which is binding upon the Board unless concurred on by not less than an absolute majority of all members comprising the Board.

2.1.4 Historic Preservation Commission

By virtue of MCA 1972, §§ 39-13-5, 39-15-7 and 39-13-9 as amended, the City is authorized to establish a Historic Preservation Commission to preserve, promote, and develop the City's historical resources and to advise the City on the designation of historic districts, landmarks, and landmark sites, and perform such other functions as may be provided by law.

2.1.4.1 Statement of purpose and intent

- a.* The City hereby recognizes that the City of Starkville is known for unique qualities that have proven increasingly attractive to residents, business interests and tourists. As a matter of public policy, the City aims to preserve, enhance, and perpetuate those aspects of the City having historical, cultural, architectural, and archaeological merit. Such historic activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in, and visiting the City of Starkville.
- b.* More specifically, the City's Historic Preservation Code provisions and the establishment of the Commission are designed to achieve the following goals:
 - i.* Protect, enhance and perpetuate historic resources that represent distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological, and architectural identity;
 - ii.* Insure the harmonious, orderly, and efficient growth and development of the City;
 - iii.* Strengthen civic pride and cultural stability through neighborhood conservation;
 - iv.* Stabilize the economy of the City through the continued use, preservation, and revitalization of its historic resources;
 - v.* Protect and enhance the City's attractions to tourists and visitors, and the support and stimulus to business and industry thereby provided;
 - vi.* Promote the use of historic resources for the education, pleasure, and welfare of the people of the City of Starkville;
 - vii.* Provide a review process for the preservation and appropriate development of the City's historic resources.

2.1.4.2 Composition

- a.* The Historic Preservation Commission shall consist of seven (7) members appointed by the Board of Aldermen. Each member shall be a qualified elector of the City at the time of appointment and during incumbency. To be appointed to the Commission, a person shall be a resident of the City of Starkville.

by this article and by the current policies of the Board of Aldermen in their appointment process.

- c. Likewise, any member of the Commission who has an interest in the property in question or in property within three hundred (300) feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the Commission, shall be disqualified from participating in the consideration of any request for a Certificate of Appropriateness involving such a property. In such cases, a qualified substitute shall be appointed as provided above.

2.1.4.7 Vacancies and compensation

- a. Vacancies occurring in the membership of the Historic Preservation Commission shall be filled as soon as possible. The City shall publish at least one (1) notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals in the field of historic preservation and related fields, and who are interested in serving on the Commission. The City may contact known professionals and interested laypersons and invite submission of their qualifications in written resume form.
- b. The City shall establish a date for receipt that is a minimum of a two (2) week or fourteen (14) calendar day period for the receipt of applications and nominations, with said date for receipt included in the advertisement and authorization by the Mayor and Board of Aldermen. If applications or nominations are not received during the specified two (2) week period, then the position will remain open until filled. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, educational and professional background, membership in historic preservation organizations, subscriptions to relevant professional publications, volunteer work, attendance at workshops and seminars, and other relevant experience. The members of the Board shall serve without compensation.
- c. When the City has collected adequate information concerning the potential appointees to the Commission, it shall decide, with the assistance of the State Historic Preservation Office (Mississippi Department of Archives and History), if desired, which candidates are qualified for appointment to the Commission. The appointments shall be made by the Mayor and Board of Aldermen at a regular, recess or special call Board meeting as determined by the Mayor and Board of Aldermen.

- 2.1.4.8 Officers.** The Commission shall annually elect from its membership a Chairman and Vice-Chairman. The Chairman and Vice-Chairman shall be voting members of the Board. All officers shall serve two (2)-year terms. A recording Secretary shall be appointed from City staff. If neither the Chairman nor the Vice-Chairman attends a particular meeting, the City Planner shall act as procedural Chair to initiate the meeting. Upon a motion from a present member, the remaining members shall select an Acting Chairman from the members in attendance at such meeting.

2.1.4.9 Rules and procedures

- a.* The Commission shall adopt a set of rules to expedite business at its meetings and shall establish a set of procedures for handling planning and zoning matters. The rules and procedures established may be amended from time to time. An absolute majority vote of the Commission shall be required for the approval of any amendment to the established rules and procedures. All rules and procedures shall be in compliance with the requirements of MCA 1972, title 17, chapter 1, as amended.
- b.* The Commission shall develop design review guidelines for determining appropriateness as generally set forth in this article. Such criteria shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation.
- c.* The Planning Department shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

2.1.4.10 Powers and duties. To preserve, promote, and develop the distinctive appearance of the historic resources of Starkville, MS and to accomplish the purposes set forth in MCA 1972, § 39-13-5 as amended, the Historic Preservation Commission shall have the following powers:

- a.* The Commission shall develop Design Review Guidelines for determining the appropriateness of applications for Certificates of Appropriateness as generally set forth in this Code. Such criteria shall, insofar as possible, be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation.
- b.* The Commission shall conduct, or cause to be conducted, a continuing study and survey of historic resources within the City of Starkville.
- c.* With the concurrence of the Mayor and Board of Aldermen, the Commission shall hold public hearings and recommend to the City the adoption of ordinances designating historic districts, landmarks, and landmark sites. All properties presently listed in the National Register of Historic Places and located within the City of Starkville, whether publicly or privately owned, will be considered for designation as landmarks, landmarks sites, and historic preservation districts, whichever category is appropriate, with appropriate public notice, hearings and recommendations.
- d.* The Commission may recommend that the City recognize sub-districts within any historic district, so that the Commission may adopt specific guidelines for the regulation of properties within such a sub-district.
- e.* The Commission shall review applications proposing construction, alteration, demolition, or relocation of any historic resource as defined above. A COA shall not be required for work deemed by the Commission to be ordinary maintenance or repair of any historic resource.

- f. The Commission shall recommend that the Mayor and Board of Aldermen grant or deny Certificates of Appropriateness (within the rules and regulations of the City zoning and building codes, and within the guidelines established by the Commission), and may recommend granting Certificates of Appropriateness contingent upon the acceptance by the applicant of specified conditions.
- g. The Commission shall not consider interior arrangements of buildings and structures except that it shall advise the Mississippi Department of Archives and History on questions relating to the interiors of publicly-owned historic resources.
- h. The Commission, subject to the requirements and approval of the Mayor and Board of Aldermen, is authorized to apply for, receive, and spend funds from private and public sources, in addition to appropriations made by the City for the purpose of carrying out the provisions of this article.
- i. The Commission is authorized to request City staff, or contract with technical experts or other persons as may be required for the performance of its duties and to obtain the equipment, supplies, and other materials necessary, for its effective operation with the approval of the Mayor and Board of Aldermen.
- j. The Commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land for the examination or survey thereof. No member, employee, or agent of the Commission shall enter upon any private land or any private dwelling or structure without the consent of the owner of record or occupant thereof. Application for a Certificate of Appropriateness by property owners shall serve as authorization for right of entry. Notarized authorization shall be required of property owners who do not reside or conduct business at the property of interest.
- k. The City Planner shall be responsible for signing of the building department's "Building Permit Routing Form" for the issuance of a Building Permit for all applicable structures.
- l. Paint color changes shall not be within the jurisdiction of the Commission.

2.1.4.11 Advisory capacity. The powers and duties of the Commission are of an advisory nature and the Commission shall not have any powers or duties which conflict with or supersede the powers and duties of the Mayor and Board of Aldermen.

2.1.4.12 Interdepartmental cooperation. All officers and department heads of the City shall cooperate with the Historic Preservation Commission and render all reasonable assistance. The City Planner shall attend all meetings of the Commission for the purpose of advising and assisting the Commission. The City Attorney shall attend meetings as needed to provide legal counsel to the Commission.

2.1.4.13 Regular meetings and quorum. The Commission shall establish its own regular meeting time. However, a regular meeting shall be scheduled monthly unless no applications are brought before the Commission. A regular monthly meeting may be cancelled by the Chairman. The Commission must conduct a regular

meeting at least once every three (3) months. The Chairman or any two (2) members may call a special meeting to consider an urgent matter. A simple majority of the members of the Commission shall constitute a quorum for the transaction of business.

2.1.4.14 Appropriations and title to property acquired

- a.* Appropriations. The City is authorized to make appropriations to the Commission necessary for the expenses of the operation of the Commission and may make additional amounts available as necessary for the acquisition, restoration, preservation, operation, and management of historic properties.
- b.* Title to Property Acquired. All property acquired by funds appropriated by the City shall be acquired in the name of the City unless otherwise provided by the City. So long as owned by the City, properties may be maintained by or under the supervision and control of the City. However, all property acquired by the Commission from funds other than those appropriated by the City may be acquired and held in the name of the Commission, the City, or both.

2.1.4.15 Nonrestrictive clause

- a.* Regulation and Acquisition of Property. Nothing in this article shall be construed to prevent the regulation or acquisition of property, improved or unimproved, by the State of Mississippi or any of its political subdivisions, agencies, or instrumentalities or by the United States of America or any of its political subdivisions, agencies, or instrumentalities.
- b.* Mississippi State Antiquities Law. The City of Starkville hereby acknowledges that the Mississippi State Antiquities Law (MCA 1972 § 39-7-1 et. seq. as amended in 1983) provides for the sensitive treatment of publicly-owned property, improved or unimproved, shown to possess certain architectural, historical, or archaeological significance, which are designed by the Board of Trustees of the Mississippi Department of Archives and History as Mississippi Landmarks. Whenever the City proposes to rehabilitate, alter, or enlarge a Mississippi Landmark, or proposes similar actions which would affect a Mississippi Landmark, the City shall submit its plans to the Mississippi Department of Archives and History for review and compliance.
- c.* Likewise, all Codes and parts of Codes in conflict with the Mississippi Antiquities Act (MCA 1972 § 39-7-1 et. seq., as amended in 1983) are hereby repealed.

2.1.5 Development Review Committee

2.1.5.1 Composition

The Development Review Committee shall be composed of representatives from City departments for reviewing land development proposals. The Committee shall be comprised of the following and/or their designated personnel:

- a.* Planning Department
- b.* Engineering Department

- c. Fire Department
- d. Police Chief
- e. Sanitation Department
- f. Utility Department- Water and Sewer
- g. Utility Department- Electrical
- h. Building Department

2.1.5.2 Officers and procedures. The Chairperson of the Development Review Committee shall be the City Planner. Meetings of the Committee shall be held once a week as determined by the Committee.

2.1.5.3 Powers and duties. The Development Review Committee shall have the power to approve site plan applications for developments, redevelopments, and infrastructure plans that do not vary from regulations and requirements found in the Unified Zoning and Development Codes. The Committee shall review and provide comments for applications for conditional uses, variances, subdivision plats, right-of-way vacations, planned unit developments and other land development applications prior to meeting with the Planning and Zoning Commission and/or Board of Adjustment and Appeals. The Committee shall also review any unique applications at the request of a Department Head. An approved site plan is required prior to the issuance of any building permits. Once a representative from each City department has signed the site plan with or without conditions of approval, it shall be considered approved. The powers and duties of the Committee shall include other responsibilities and authority as specifically set forth in this article. All appeals of the decision of the Development Review Committee shall be done in accordance with section 2.2.4.5.

2.1.5.4 General considerations by the committee

The Development Review Committee has the authority to consider the following:

- a. Whether an application and/or a plan is consistent with applicable goals, objectives, policies, standards and proposals in the City's Comprehensive Plan.
- b. Whether all public facilities and services necessary to serve the proposed use shall be available concurrent with the actual impact of the use and/or development in question.
- c. Whether the proposed development satisfies the development review criteria and other applicable requirements of the City's land development regulations.

2.1.6 Architecture Review Committee

2.1.6.1 Composition. The Architecture Review Committee shall be composed of two (2) representatives from Community Development with one representative being the City Planner and a minimum of one (1) and maximum of three (3) independent consultants for reviewing building design proposals.

- 2.1.6.2 Appointment.** The independent consultants shall be appointed by the Board of Aldermen. To be appointed, a person shall be a licensed professional in the field of architecture or urban design.
- 2.1.6.3 Terms of office.** The independent consultants shall be appointed for a term of two (2) years. Re-appointment is at the sole discretion of the Board of Aldermen.
- 2.1.6.4 Removal of independent consultant.** The Mayor and Board of Aldermen shall have the authority to terminate the service agreement with any independent consultant.
- 2.1.6.5 Vacancies and compensation.** Vacancies for the position of independent consultant shall be filled as soon as possible. The City shall publish at least one (1) notice in a newspaper in its jurisdiction to solicit responses from professionals in the field of architecture or urban design who are interested in serving as the Independent Consultant. The City may contact known professionals and invite submission of their qualifications in written resume form. The City shall establish a date for receipt that is a minimum of a two (2) week or fourteen (14) calendar day period for the receipt of applications and nominations, with said date for receipt included in the advertisement and authorization by the Mayor and Board of Aldermen. If applications or nominations are not received during the specified two (2) week period, then the position will remain open until filled. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include educational background, professional background and other relevant experience. The independent consultant shall serve at a compensation rate established by the Board of Aldermen.
- 2.1.6.6 Officers and procedures.** The Chairperson of the Architecture Review Committee shall be the City Planner. Meetings of the Committee shall be held on an as needed basis as determined by the City Planner.
- 2.1.6.7 Powers and duties.** The Architecture Review Committee shall have the power to approve building design proposals as a part of the building permitting process. The Committee shall also review any unique applications at the request of a Department Head. An approved building design proposal is required prior to the issuance of any building permits for commercial, mixed use and multifamily of three (3) or more dwelling units. Once each member of the Committee has signed the building design proposal with or without conditions of approval, it shall be considered approved. The powers and duties of the Committee shall include other responsibilities and authority as specifically set forth in this article. All appeals of the decision of the Architecture Review Committee shall be done in accordance with section 2.2.5.5.
- 2.1.6.8 General considerations by the committee**
- The intention of the Mayor and Board of Aldermen is that no proposed structure or alteration shall be deemed to be in violation of this ordinance based upon personal preference, taste, choice, or architectural design of any person or persons involved in the administration and enforcement of this

ordinance. Therefore, the Architecture Review Committee, and the Board of Aldermen upon appeal, shall use the following standards and criteria while evaluating a building design proposal:

- a. Whether or not the proposed architectural design is suitable for a good collegiate community in terms of external architectural features, general design and arrangement, texture, color, line, mass, dimension, material, and lighting.
- b. Whether or not the proposed structure, building, or improvement is compatible with existing well-designed structures, acceptable to the Architecture Review Committee, in the vicinity and in the City as a whole.
- c. Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the City's tax base as a whole, generating business activity, maintaining and creating employment opportunity, preserving historical sites and structures and making the City a more attractive and desirable place in which to live.
- d. Whether or not the proposed free-standing buildings use the same or architecturally harmonious materials, color, texture, and treatment for all exterior walls: and in the case of a partially free-standing building, whether or not the same or architecturally harmonious materials, color, texture and treatment are used on all portions of all exterior walls.
- e. Whether or not the combination of architectural elements proposed for a structure, building or improvement, in terms of design, line, mass, dimension, color, material, texture, lighting, and roof line and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability.
- f. Whether or not, in terms of design, material, texture, color, lighting, dimension, line, or mass or roof line and height, the proposed structure, building, or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community.

2.1.6.9 Disqualification of members by conflict of interest

- a. Because the City may possess few residents with experience in the fields of architecture and urban design, and to not impair such residents from practicing their trade for hire, the independent consultants are allowed to contract their services to an applicant. When doing so, they must expressly disqualify themselves from the Committee during all discussions for that application. In such cases, the City shall, upon the request of the Chairperson of the Committee in his/her stead, appoint a substitute member who is currently serving as the chairman or vice-chairman of the Historic Preservation Commission at no compensation.

- b. If the independent consultant must be disqualified due to a conflict of interest on a regular and continuing basis, the Chairperson in his/her stead, shall encourage the member to resign their Committee seat. If the conflict remains ongoing and the subject of the conflict is unable to perform the tasks to which he/she was appointed, they will upon the fourth (4th) instance in a fiscal year (October 1 through September 30) automatically be removed from the position and such vacancy will be brought to the attention of the Mayor and Board of Aldermen for action in advertising for interest in such position. The replacement of such a member shall be guided by this article.
- c. Likewise, any member of the Committee who has an financial interest in the property in question or in property within three hundred (300) feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the Committee, shall be disqualified from participating in the consideration of any request for an approved building design proposal involving such a property. In such cases, a qualified substitute shall be appointed as provided above.

2.1.7 Tree Advisory Board

- 2.1.7.1 Composition, qualifications, and membership.** The Starkville Tree Advisory Board shall consist of seven (7) members from any political ward appointed by the Board of Aldermen. Each member of the Board shall be a qualified elector of the City at the time of appointment and during incumbency. To be appointed to the Starkville Tree Advisory Board, a person shall be a resident of the City. Preference to applicants for appointment shall be given to experts in the following fields: ISA Certified Arborist, GIS Specialist, Landscape Architect, Master Gardner, Mississippi Urban Forestry Council Representative, Plant Ecology Expert, Tree and Landscape Ordinance Specialist, Horticulture Expert, and Wildlife Ecology Expert. Appointments to all vacancies occurring during a term shall be for the balance of that term.
- 2.1.7.2 Appointments.** The members of the Starkville Tree Advisory Board shall be appointed by a simple majority vote of the Board of Aldermen.
- 2.1.7.3 Terms of office.** The members of the Starkville Tree Advisory Board shall be appointed for a four (4) year term with a maximum of two (2) consecutive terms with re-appointment possible after a period of two (2) years absence. Members appointed to fill a vacated unexpired term shall be eligible to be re-appointed for a one (1) full term without an absence.
- 2.1.7.4 Removal of members.** The Mayor and Board of Aldermen, by a two-thirds absolute majority vote, shall have the authority to remove any member of the Starkville Tree Advisory Board whenever, in the opinion of the Board of Aldermen, the best interest of the City shall be served thereby. Any member of the Board who is absent from four (4) of the regular meetings of the Board in any fiscal year (October 1 through September 30) for any reason other than illness, shall automatically vacate his/her seat on the Board. Additionally, any member of the Board who moves outside the corporate boundary of the City of Starkville, automatically vacates this seat and membership on the Board.

2.1.7.5 Vacancies and compensation. Vacancies occurring in the membership of the Starkville Tree Advisory Board shall be filled as soon as possible. The City shall publish at least one (1) notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals who are interested in serving on the Board. The City may contact known professionals and interested laypersons and invite submission of their qualifications in written resume form. The City shall establish a date for receipt that is a minimum of a two (2) week or fourteen (14) calendar day period for the receipt of applications and nominations, with said date for receipt included in the advertisement and authorization by the Mayor and Board of Aldermen. If applications or nominations are not received during the specified two (2) week period, then the position will remain open until filled. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, educational and professional background, membership in professional organizations, subscriptions to relevant professional publications, volunteer work, attendance at workshops and seminars, and other relevant experience. The members of the Board shall serve without compensation.

2.1.7.6 Officers. In July of odd numbered years, the members of the Starkville Tree Advisory Board shall meet in regular session and organize by electing from their members a Chairman and a Vice-Chairman. The Chairman and Vice-Chairman shall be chosen by a simple majority of the Board. The Chairman and Vice-Chairman shall be voting members of the Board. All officers shall serve two (2)-year terms. If neither the Chairman or Vice-chairman is present, the City Planner shall act as Procedural Chair to initiate the meeting. Upon a motion from a present member, the remaining members shall select an Acting Chairman from the members in attendance at such meeting. The Board shall have the authority to elect other officers or to organize in any manner that it deems necessary and appropriate to fulfill its duties.

2.1.7.7 Rules and procedures

- a. The Starkville Tree Advisory Board shall adopt rules to expedite business at its meeting and shall establish a set of procedures for handling appeal and adjustment matters. The rules and procedures may be amended from time to time. An absolute majority vote of the Board shall be required for the approval of any amendment to the established rules and procedures. All rules and procedures shall be in compliance with MCA 1972, §§ 17-1-1—17-1-39, as amended.
- b. The Planning Department shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

2.1.7.8 Powers and duties

The Starkville Tree Advisory Board shall have the following powers and duties:

- a. To hear all requests for a landscape waiver from landscape requirements in the Unified Zoning and Development Code and/or the Code's Subdivision

Regulations.

- b.* Assist city employees on landscape and horticulture practices and developing recommended plant list.
- c.* Assist city employees on landscape and horticulture practices and developing recommended plant list.
- d.* To coordinate with other Advisory Committees and Community Groups to facilitate City related tree and horticulture activities.
- e.* To coordinate events and opportunities with the Mississippi Urban Forest Council
- f.* To recommend action that will promote the overall tree health and urban forestry for the City.
- g.* Provide guidance as needed to City staff during the development and site plan review process for proposed projects within the City

2.1.7.9 Advisory capacity. The powers and duties of the Board are of an advisory nature and the Board shall not have any powers or duties which conflict with or supersede the powers and duties of the Mayor and Board of Aldermen

2.1.7.10 Interdepartmental cooperation. All officers and department heads of the City shall cooperate with the Starkville Tree Advisory Board and render all reasonable assistance. The City Planner shall attend all meetings of the Board for the purpose of advising and assisting the Board.

2.1.7.11 Regular meetings and quorum. The Starkville Tree Advisory Board shall hold one (1) regular meeting the first (1st) Wednesday of each month as needed and shall hold other meetings as deemed necessary and appropriate. A Special Call meeting can be initiated by the Mayor, Board of Aldermen or Chairman of the Starkville Tree Advisory Board with a minimum of a three (3) hour notice. A simple majority of the members of the Starkville Tree Advisory Board shall constitute a quorum for the transaction of business. However, no action shall be taken which is binding upon the Starkville Tree Advisory Board unless concurred on by not less than an absolute majority of all members comprising the Starkville Tree Advisory Board.

2.2 Administrative Procedures

All development applications to the City shall demonstrate compliance with all applicable laws and ordinances. Where permits are required from governmental agencies other than the City, these permits shall be obtained as a condition of approval.

2.2.1 Rezoning

2.2.1.1 Reason for amendment. This Code, including the zoning map, is based on the Starkville Comprehensive Plan adopted in 2016 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 a manifest error in the Code and a public need to correct the error.
- b. **Change in conditions.** Changed or changing conditions in an existing area, or in the planning area generally and public need for the proposed amendment.

2.2.1.2 Burden of proof. The burden of proof is on the applicant to demonstrate by objective, verifiable and documented evidence that a requested amendment is justified.

2.2.1.3 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 a 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 (as determined by resolution) to cover the cost of advertisement and mailing of notices to adjacent property owners, a legal description of the subject property and all supplemental information necessary to render determinations related to the rezoning request including:

- i. **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.
- ii. **Plat.** In the case of a map amendment, 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.
- iii. **Applicant statement.** A statement explaining the reason for the

proposed amendment based on either error or change in condition and public need that would be corrected by the proposed amendment.

- b. 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.
- c. 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 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.
- d. Notice and public hearing procedure for a rezoning.** In considering and acting upon applications for a rezoning, the following procedures shall be observed:

 - i. Mailing of notices.** The City Planner shall also 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 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 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.
 - ii. 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
 - iii. 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.
- e. Applicant to pay costs.** All costs of notification shall be paid by the applicant. 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.

- f.* **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 presentation.
- g.* **Action.** If approval 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 within sixty (60) days. A recommendation for denial shall only be forwarded to the Mayor and Board of Aldermen if an appeal of the decision of the Planning and Zoning Commission is made in accordance with section 2.2.1.3 (h).
- h.* **Appeal.** Any person aggrieved by a decision of the Planning and Zoning Commission in approving or denying an application for a rezoning may, within five (5) business days from the date of the public hearing with the Planning and Zoning Commission, file a written request to the City Planner appealing the decision and thereupon, the Mayor and Board of Aldermen shall proceed to review said decision. An appeal must be noticed fifteen (15) days prior to the public hearing by legal ad and mail in accordance with section 2.2.1.3 (f). At the public hearing, the decision of the Planning and Zoning Commission shall either be affirmed, modified or reversed by the Board of Aldermen.
- i.* **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 within one hundred sixty (160) feet of the areas of the proposed change. The one hundred and sixty (160) feet extends to street frontage of lots opposite of the area of the proposed change. Any protested amendment shall not become effective except by the favorable vote of three-fifths (3/5) by the Board of Aldermen.
- j.* **Conditions of approval.** If an application to amend the zoning map contains representations that a specified area will be developed in accordance with a given plan and time schedule and is approved, the Mayor and Board of Aldermen may fix conditions, which may include a performance bond payable to the City of Starkville to ensure performance in accordance with the approval. 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 fixed in amendments relating to rezoning shall run with the land and shall be binding upon applicants for said

amendment, their heirs, successors and assigns.

- k. **Reapplication.** Reapplication for the same piece of property requesting the same or similar 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.

2.2.2 Conditional Use

The purpose and intent of this article is to ensure that conditional uses 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 procedures and criteria for considering conditional use requests are established as follows:

- 2.2.2.5 **Approval criteria generally.** A conditional use shall be permitted only upon a finding by the Planning and Zoning Commission and the Board of Alderman of compliance with the criteria set forth below:

- 2.2.2.6 **Criteria for conditional use review and approval.** Applications for a conditional use shall clearly demonstrate the following:

- a. **Land use compatibility.** The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts, are compatible and harmonious with adjacent land uses, and will not adversely impact land use activities in the immediate vicinity.
- b. **Sufficient site size and adequate site specifications to accommodate the proposed use.** The size and shape of the site, the proposed access and internal circulation, and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as screening, buffer yards, landscaping, open space, off-street parking, efficient internal traffic circulation, and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
- c. **Proper use of mitigative techniques.** The applicant shall demonstrate that the conditional use and site plan has been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design shall appropriately address offsite impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
- d. **Hazardous waste.** The proposed use shall not generate hazardous waste or required use of hazardous materials in its operation without use of city-approved mitigative techniques designed to prevent any adverse impact to the public health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, and regulate its

use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste or uses hazardous materials shall be located in the city unless the specific location is consistent with the comprehensive plan policies and land development regulations, and does not adversely impact well- fields, aquifer recharge areas, water bodies or other natural resources.

- e. **Compliance with applicable laws and ordinances.** A conditional use application shall demonstrate compliance with all applicable laws and ordinances. Where permits are required from governmental agencies other than the city, these permits shall be obtained as a condition of approval.

2.2.2.7 Requirements for public and semi-public buildings and/or structures receiving a Conditional Use.

- a. The building and/or structure shall be required to meet the setback of the zone or district of the proposed location. These setbacks shall not apply to utility equipment such as power substations and pumping stations; these shall be reviewed on a case by case basis.
- b. There is no maximum or minimum building area and the site must be able to accommodate adequate parking for the proposed use.
- c. Maximum height of building or structure shall be forty-five (45) feet except that the overall height of a place of worship and its spire shall not exceed the width of the widest right-of-way adjacent to the site.
- d. Off-street parking requirements are the same as those required by this Code. Parking shall not occupy any setback area between the building or structure and the adjacent street or roadway.

2.2.2.8 Other uses not specified. Any proposed use not specifically addressed by this Code shall be reviewed as a conditional use application with the exception of Transect Districts (form based).

2.2.2.9 Review procedures.

- a. **Content of application for conditional use.** In order to evaluate a conditional use request, the following information shall accompany a request for conditional use:
 - i. **Scale and intensity of use as measured by the following:**
 - (1) Square footage for each specific use.
 - (2) Traffic generation.
 - (3) Proposed number and type of service vehicles (both visiting and stored on the property).
 - (4) Anticipated employment.

(5) Off-street parking needs.

ii. **On or off-site improvement needs generated by the proposed use, including:**

- (1) Proposed accessory structures or facilities.
- (2) Other unique facilities/structures proposed as part of site improvements.
- (3) On-site amenities proposed to enhance the site and planned improvements. Amenities may include mitigative techniques such as open space, setbacks from adjacent properties, screening and buffer yards, and other acceptable techniques to mitigate against adverse impacts to adjacent site.

b. **Application.** All applications for a conditional use 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 (as determined by resolution) to cover the cost of advertisement and mailing of notices to adjacent property owners, a legal description of the subject property, and all required supplemental information necessary to render determinations related to the conditional use request including:

i. **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.

ii. **Applicant statement.** A statement explaining the reason for the conditional use request

c. **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 hearing, shall be added to the staff report for the public hearing.

d. **Administrative examination.** Upon receipt of an application for conditional use, the City Planner shall examine, or cause to be examined, the application and shall make such investigation into the proposed conditional use 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.

e. **Public hearing.** Upon receipt of a completed application for a conditional use 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.

- f.* **Notice and public hearing procedure for conditional uses.** In considering and acting upon applications for conditional uses, the following procedures shall be observed.
- i.* **Mailing of notices.** The City Planner shall also 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 hundred sixty (160) feet of the boundaries of the land upon which the conditional use 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.
 - ii.* **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
 - iii.* **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.
- g.* **Applicant to pay costs.** All costs of notification shall be paid by the applicant. 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.
- h.* **Appearance and presentation.** At any public hearing upon any matter subject to the provisions of this article, the applicant seeking the conditional use 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 presentation.
- i.* **Action.** If approval 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 within sixty (60) days. A recommendation for denial shall only be forwarded to the Mayor and Board of Aldermen if an appeal of the decision of the Planning and Zoning Commission is made in accordance with section 2.2.2.5 (j) Appeal.

- j.* **Appeal.** Any person aggrieved by a decision of the Planning and Zoning Commission in approving or denying an application for a conditional use may, within five (5) business days from the date of the public hearing with the Planning and Zoning Commission, file a written request to the City Planner appealing the decision and thereupon, the Mayor and Board of Aldermen shall proceed to review said decision. An appeal must be noticed fifteen (15) days prior to the public hearing by legal ad and mail in accordance with section 2.2.2.5 (f). At the public hearing, the decision of the Planning and Zoning Commission shall either be affirmed, modified or reversed by the Board of Aldermen.
- k.* **Conditions of approval.** The Mayor and Board of Aldermen may fix conditions in accordance with the approval. Conditions fixed in the approval of a conditional use shall run with the land and shall be binding upon applicants, their heirs, successors and assigns for the duration of the use.
- l.* **Abandonment or discontinuance.** If a conditional use is abandoned, discontinued or ceases for a continuous period of more than six (6) months, the conditional use shall become null and void. If the conditional use is for a new development, the applicant shall have six (6) months to obtain an approved site plan. Once site plan approval has expired, the conditional use shall become null and void.
- m.* **Reapplication.** Reapplication for the same or similar piece of property requesting the same or similar conditional use 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.

2.2.3 Variances

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.

2.2.3.1 Criteria for variance review and approval.

- a.* 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 same district.
- b.* That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district

under the terms of this Code.

- c. That the special conditions and circumstances have not resulted from the actions of the applicant.
- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures or buildings in the same district.

2.2.3.2 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 (as determined by resolution) to cover the cost of advertisement and mailing of notices to adjacent property owners, and all required supplemental information necessary to render determinations related to the variance request including:
 - i. **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.
 - ii. **Applicant statement.** A statement explaining the reason for the variance request.
- 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 hearing, shall be added to the staff report for the public hearing.
- 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 conditional use 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 deny the request. If recommended for approval, the request will then be scheduled to be heard by 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:
- i. **Mailing of notices.** The City Planner shall also 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 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.
 - ii. **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.
 - iii. **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. The sign shall remain in place until either a denial by the Board of Adjustment and Appeals or the Board of Aldermen.
- f. **Applicant to pay costs.** All costs of notification shall be paid by the applicant. Costs which exceed that paid at time of application shall be billed and paid by the applicant prior to the Board of Adjustment and Appeal's 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 presentation.
- h. **Action.** If approval 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.** Any person aggrieved by a decision of the Board of Adjustment and Appeals in approving or denying an application for a variance may, within five

(5) business days from the date of the public hearing with the Board of Adjustments and Appeals, file a written request to the City Planner appealing the decision and thereupon, the Mayor and Board of Aldermen shall proceed to review said decision. An appeal must be noticed fifteen (15) days prior to the public hearing by legal ad and mail in accordance with section 2.2.3.2 (e). At the public hearing, the decision of the Board of Adjustment and Appeals shall either be affirmed, modified or reversed by the Board of Aldermen.

2.2.3.3 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.

2.2.3.4 Variance requests related to sidewalk installation

- a. The sole criteria to be evaluated in granting a variance shall be that the cost of constructing the sidewalk constitutes an undue hardship.
- b. The determination of whether undue hardship exists in relation to sidewalk construction shall be based solely on the cost per linear foot to install sidewalks. The sidewalk construction cost estimate used to claim undue hardship should include only items that are related to the sidewalk installation. It shall not include any items that would be required as part of the project in the absence of the requirement to include sidewalks imposed by this article.
- c. The applicant shall submit an itemized cost estimate for sidewalk installation with line item quantities, unit price, and extended price for each type of work required to complete the sidewalk (earthwork, concrete sidewalk, retaining wall, etc.) for the proposed site. For sidewalk construction requiring large earthwork volumes (greater than three hundred (300) cubic yards), a volume calculation shall be submitted with the cost estimate along with supporting documentation to justify the calculation. If alternate sidewalk routes are possible that meet the standards of this article the provided estimate shall be based on the least costly conforming route.
- d. It shall be the responsibility of the applicant to provide sufficient justification for the granting of the variance.
- e. The Board of Adjustments and Appeals shall determine that sidewalk construction constitutes an undue hardship on the applicant only if the estimated cost of sidewalk construction, per linear foot, is more than three (3) times the average rate as determined by the City Engineer.

2.2.3.5 Variance requests related to stormwater

- a. The following procedures shall apply to all applications for variance from stormwater requirements:
 - i. The application for variance shall state the specific stormwater requirement from which the variance is being sought and the reasons for the request.
 - ii. It shall be the applicant's responsibility to provide sufficient justification for granting the variance.
 - iii. The city engineer shall prepare an evaluation statement concerning each application for variance. The evaluation shall consider the circumstances and supporting documents supplied by the applicant and other generally available technical information pertaining to the variance request. The evaluation statement may include recommendations by the city engineer concerning the variance to the Board of Adjustment and Appeals.
- b. In addition to the criteria in section 2.2.3.1, the following criteria shall be used for all stormwater related variance review and approval:
 - i. That granting the variance will not result in increased stormwater runoff greater than ten (10) percent, increased flood elevations, additional threats to public safety, extraordinary public expense, or create nuisances, cause fraud on or victimization of the public.
 - ii. That the necessity for a waiver is not the result of conditions on the property which have been self-imposed by the applicant.
 - iii. That the waiver is the minimum necessary, considering the adverse impacts of stormwater runoff.

2.2.4 Site and infrastructure plans

2.2.4.1 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.

2.2.4.2 Applicability and filing procedure

- a. Site plan approval shall be required for all permitted (except single lot one and two-family dwellings and accessory structures) resulting in one thousand (1,000) square feet or more of new floor space or any building modification with construction cost exceeding fifty (50) percent of the value of the

structure. All conditional uses that expand an existing structure shall require site plan approval.

- b. All developments requiring site plan review will be required to meet all current site plan design requirements.
- c. Infrastructure Plan approval shall be required on all subdivisions with public infrastructure after approval of Preliminary Plat and prior to any construction activity including 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.

2.2.4.3 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, conditional use, preliminary plat or final plat approval, the Development Review Committee will approve the site plan after approval from the appropriate advisory board and the Board of Aldermen.

2.2.4.4 Site 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 10 days prior to a regularly scheduled meeting of the Development Review Committee. The application shall include the following:
 - i. **Applicant and/or owner information.** The following shall be identified, when applicable: owner or authorized agent, engineer, architect, surveyor, landscape architect, or any others involved in the preparation of the application.
 - ii. **Project information.** The following shall be listed on the application when applicable: project name, project address, parcel id number, and zoning.
 - iii. **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 sheet 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. 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 and any other required information specified in this code or by city staff shall be required:

i. **Coversheet.** The coversheet shall include:

- (1) Project name
- (2) Vicinity map showing the relationship of the proposed site plan to surrounding streets and public facilities
- (3) Sheet Index
- (4) Contact information for the Owner, Design Professional, and Utilities providing service
- (5) Development data including the following: project area in acres, phase area(s) in acres, disturbed area in acres, and property zoning
- (6) Building data including the following: total proposed square footage for all uses (commercial, residential, office), total number of residential units, and total number of bedrooms
- (7) Submittal date and any revision dates

ii. **Survey.** A site survey shall be drawn at a scale of one (1) inch to one hundred (100) feet or larger. A site survey prepared by a Mississippi licensed land surveyor shall illustrate the following:

- (1) Name and license number of surveyor and seal
- (2) Date of survey and references
- (3) North arrow, legend, and graphic scale
- (4) Lot or parcel numbers of lot and adjacent lots
- (5) Bearing and distance of boundary lines
- (6) All existing features, structures, improvements, and encroachments
- (7) 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. Additional topographic information may be required beyond the minimum ten (10) feet if deemed necessary by City Staff.
- (8) All existing underground and above ground utilities
- (9) All existing easements

- (10) Federal Emergency Management Agency (FEMA) flood hazard zone or limits of the one hundred (100) -year floodplain

iii. **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. A site plan prepared by a Mississippi licensed design professional shall illustrate the following:

- (1) Boundary, setback lines, existing easements, and proposed easements
- (2) North arrow, legend, and graphic scale
- (3) 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 and traffic control signage.
- (4) 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.
- (5) 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, and ADA access ramps.
- (6) Building areas for site plan review. The following shall be included: building square footage, number of residential units, number of bedrooms, number of stories, and total height of building in feet from grade.
- (7) Fire protection and fire zones for site plan review.
- (8) Dumpster enclosure location for site plan review.

iv. **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 they shall be defined in the notes. A grading and drainage plan prepared by a Mississippi licensed design professional shall illustrate the following:

- (1) Boundary, existing easements, and proposed easements
- (2) North arrow, legend, and graphic scale
- (3) Utilities. The following shall be included: existing and proposed sanitary sewers, water, gas, telecommunications, utility poles and electric lines.
- (4) Topography. Existing contours shall be illustrated as a dashed line.

Proposed contours shall be illustrated as a solid line. All contours shall be labeled. Topographic contours shall be illustrated at a minimum of one (1) foot intervals. All permanent benchmarks shall be illustrated.

- (5) Building areas. All proposed buildings with the finished floor elevation for the first floor.
- (6) Site elements. The following shall be included: all proposed curbs, all existing curbs to remain, retaining wall location with elevations, all trees to remain, all proposed vehicular use areas, and all proposed pedestrian use areas.
- (7) Detention/Retention basin. The following shall be included: inlet and outlet structures, emergency outfall spillway designed for one hundred (100) year storm, permanent erosion protection, and any other required information specified in this code or by city staff.
- (8) Storm drainage system: The following shall be included: pipe size, pipe length, pipe slope, drainage structures, manholes, junction boxes, outlets, amount of pipe cover, and all drainage structures labeled with an identification number.
- (9) ADA access. 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.

v. **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:

- (1) Boundary, existing easements, and proposed easements
- (2) North arrow, legend, and graphic scale
- (3) Utilities. All of the following existing and proposed utilities shall be included: sanitary sewers, water, gas, telecommunications, utility poles, electric lines, and site lighting.
- (4) Sanitary sewer. For site plan review the following elements shall be included:
 - Service lateral size and type
 - Grease interceptor, if applicable
- (5) Sanitary sewer. For infrastructure plan review the following elements shall be included:
 - 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

(6) Water. For site plan review the following elements shall be included:

- Fire Hydrants
- water service connections
- back flow prevention.

(7) Water. For infrastructure plan review the following elements shall be included:

- Water main size
- water main type
- water valves

(8) 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

vi. **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 they 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:

- (1) Boundary lines and disturbance limits
- (2) North arrow, legend and graphic scale
- (3) 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. All permanent benchmarks shall be illustrated.
- (4) Existing natural drainage conveyances (creeks, ditches, etc.) and flow direction
- (5) Existing trees to remain and tree protection
- (6) Floodplain and floodway, if applicable
- (7) Proposed construction entrance
- (8) All proposed BMPs (silt fence, inlet protection, sediment basin, etc.)
- (9) Details of all proposed BMPs
- (10) EPSC notes
- (11) Proposed phasing of BMPs, if applicable
- (12) Construction sequence
- (13) Seeding specifications and seedbed preparation notes

vii. **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 they shall be defined in the notes. A roadway plan and profile prepared by a Mississippi licensed design professional shall illustrate the following:

- (1) 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
- (2) 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)

viii. **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:

- (1) Pavement cross section(s)
- (2) Curb detail
- (3) Sidewalk details
- (4) Pipe bedding (for paved and unpaved areas, and specific to each pipe material)
- (5) Drainage structures (inlets, manholes, castings)
- (6) Endwalls and flared end sections
- (7) Sanitary structures (manholes, cleanouts, castings)
- (8) Manhole drop connections
- (9) Service laterals and cleanouts
- (10) Water service
- (11) Fire hydrants (valves, tees, thrust blocks)
- (12) Wet tap, blow-off, valves
- (13) Retaining wall details
- (14) Lighting (fixture, poles, limit of illumination)
- (15) Detention basin outlet structure
- (16) Traffic signage, pavement markings (striping, arrows, etc.)
- (17) Special site-specific details
- (18) Ditches and swales
- (19) Grease interceptor
- (20) Back flow prevention
- (21) Signage details
- (22) Dumpster screen

ix. **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 they shall be defined in the notes. A landscape plan prepared by a Mississippi licensed design professional shall illustrate the following:

- (1) Boundary and disturbance limits
- (2) North arrow, legend and graphic scale
- (3) Utilities. The following shall be included: existing and proposed sanitary sewers, water, gas, telecommunications, utility poles and electric lines.
- (4) 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.
- (5) Building areas. All proposed buildings footprints.
- (6) Site elements. The following shall be included: all proposed curbs, all existing curbs to remain, retaining wall location with elevations, all trees to remain, all proposed vehicular use areas, and all proposed pedestrian use areas.
- (7) Detention/Retention basin. The location of the any proposed detention/retention basin and structures.
- (8) Existing landscaping, buildings, or other improvements on adjacent property within five feet of the common property line.
- (9) Plant schedule showing the botanical name, common name, height, caliber as measured at base of trunk (trees only), and quantity.
- (10) Plant details showing a typical planting for all trees, shrubs, and groundcovers.

2.2.4.5 Approval, disapproval and appeal procedure

- a. Comment procedure.** Comments from the Development Review Committee shall be issued in writing after each review. 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, a building permit and/or erosion control 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.
- c. 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.
- d. Appeal procedure.** A decision to deny a site plan by the Development Review Committee for any reason that does not require 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 within forty-five (45) days.

- e. **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 city planner.
- f. **Extension.** A site plan approval may be extended for six (6) months by the Development Review Committee if the applicant submits a petition for such extension prior to the site plan's expiration and demonstrates "reasonable cause" for the extension. The burden of proof in justifying "reasonable cause" shall rest with the applicant.
- g. **Transfer of approval.** In the event the property receiving site plan approval shall be sold, transferred, leased, or the ownership thereof changes in any way whatsoever, the site plan approval shall be transferrable.

2.2.5 Architecture review

2.2.5.1 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.

2.2.5.2 Applicability and filing process

- a. All land areas in the city which are zoned for commercial use, industrial use, mixed use, or multifamily residential greater than two dwelling units shall be designated an architectural control district.
- b. All proposed buildings or proposed remodeled buildings within the architectural control district that require site plan review shall be required to receive approval from the Architecture Review Board prior to receiving a building permit.
- c. The architecture review process can begin before, during, or after the site plan approval process.

2.2.5.3 Review and action by the Architecture Review Board. After reviewing the building design proposal and finding that the proposed plan meets the minimum requirements, the Architecture Review Committee will approve the building design proposal. If the building design proposal includes any requests for waiver, variance, or conditional use, the Architecture Review Committee will approve the building design proposal after approval from the appropriate

advisory boards and the Board of Aldermen. Approval of a building design proposal is required.

2.2.5.4 Building design proposal application requirements

- a. Application.** An application for review by the Architecture Review Committee shall be submitted along with the building plans to the planning department. The application shall include the following:

 - i. 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.
 - ii. Project information.** The following shall be listed on the application: project name, project address, parcel id number, and zoning.
 - iii. 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. Building design proposal 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 for the building design proposal shall not exceed thirty (30) inches by forty-two (42) inches. 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.

 - i. Coversheet.** The coversheet shall include:

 - (1) Project name
 - (2) Vicinity map showing the relationship of the proposed site plan to surrounding streets and public facilities
 - (3) Sheet Index
 - (4) Contact information for the Owner, Design Professional, and Utilities providing service
 - (5) Building data including the following: total proposed square footage for all uses (commercial, residential, office), total number of residential units, and total number of bedrooms.
 - (6) Submittal date and any revision dates
 - ii. 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. A site plan prepared by a Mississippi licensed design professional shall illustrate the following:

- (1) Boundary, setback lines, and easements
- (2) North arrow, legend, and graphic scale
- (3) Vehicular areas. The following shall be included: parking areas, pavement markings, and loading zones.
- (4) Pedestrian areas. The following shall be included: public and private sidewalk locations
- (5) Building areas. The following shall be included: building square footage, number of residential units, number of bedrooms, number of stories, and total height of building in feet from grade.
- (6) Dumpster enclosure location

iii. **Building elevations.** Building elevations 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 they shall be defined in the notes. A building plan prepared by a Mississippi licensed design professional shall illustrate the following:

- (1) All sides of each proposed building.
- (2) Dimensions showing the overall height of the building and each individual floor.
- (3) 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, texture, and product reference information.
- (4) If multiple finish materials are proposed, a chart showing the percentage of each material being proposed in relationship to each elevation of the building.
- (5) For projects located within a transect district (T District), a percentage of fenestration per floor shall be required.

2.2.5.5 Approval, disapproval, and appeal procedures

a. **Comment procedure.** Comments from the Architecture Review Committee 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 meet the requirements of the Architecture Review Committee can the approval procedure begin.

- b. **Approval procedure.** Upon approval of such building design proposal by the Architecture Review Committee 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 each member of the Architecture Review Committee.
- c. **Disapproval procedure.** If the Architecture Review Committee denies a building design proposal plan, it shall specify the reasons said plan was denied.
- d. **Appeal procedure.** A decision to deny a building design proposal by the Architecture Review Committee for any reason that does not require 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 within forty-five (45) days.
- e. **Expiration.** The building design proposal approval shall expire twelve (12) months after approval by the Architecture Review Committee, if construction has not been started evidenced by steady and continuous progress as determined by the building official or the city planner.
- f. **Extension.** A building design proposal approval may be extended for six (6) months by the Architecture Review Committee if the applicant submits a petition for such extension prior to the building design proposal's expiration and demonstrates "reasonable cause" for the extension. The burden of proof in justifying "reasonable cause" shall rest with the applicant.
- g. **Transfer of approval.** In the event the property receiving building design proposal approval shall be sold, transferred, leased, or the ownership thereof changes in any way whatsoever, the plan approval shall be transferrable.

2.2.6 Subdivisions procedure – Minor and Major

- 2.2.6.1** 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 for purposes of a condominium project not involving construction of a new public infrastructure shall not be deemed a subdivision.
- 2.2.6.2** 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 platting and construction of public infrastructure. Classification of the proposed subdivision shall be determined by City Staff.

- i. Preliminary Plat Review

- ii. Preliminary Plat

- iii. Final Plat Review

- iv. Final Plat

- b. **Minor subdivision.** A minor subdivision is any subdividing of a plot of land less than one (1.00) acre and four (4) lots or less that does not require the construction of public infrastructure other than sidewalks. A minor subdivision shall also include the aggregation of several lots into one (1) lot. Classification of the proposed subdivision shall be determined by City Staff.

- i. Final Plat Review

- ii. Final Plat

2.2.6.3 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:

- a. **Preapplication 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 preliminary plat review. There shall be no fee associated with this review.

- b. **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 2.2.8.
 - 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 a 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 effected party agreeing to the vacation or alteration shall be provided prior to the application being reviewed.
 - 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.

c. Preliminary plat

- 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 ninety (90) days after the submission.
- 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. Before commencing construction, 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 of the City. Upon the issuing of an approved infrastructure plan by the Development Review Committee, the subdivider may apply for permits to proceed with the construction of infrastructure improvements.
- xii. As-built and testing reports shall be submitted to the engineering department fifteen (15) days prior to final plat review.

d. 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 2.2.8.
- ii. The final plat 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. 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.
- iv. An incomplete application will not be processed or reviewed until all required documentation is submitted.

e. Final plat

- 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 as 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 deny the request. Recommendations of approval shall be forwarded to the Mayor and Board of Aldermen of such preliminary plat within ninety (90) 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. 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.
- 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:
 - (1) An executed development agreement for any outstanding improvements between the subdivider and the city to install the required improvements.

- (2) 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 (200) percent of the estimated cost of the improvements.

2.2.6.4 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:

- a. **Preapplication 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.
- b. **Minor final plat review**
 - i. A minor subdivision plat indicating of 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 2.2.8.
 - 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 effected party agreeing to the vacation or alteration shall be provided prior to the application being reviewed.
 - 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.
- c. **Minor final plat**
 - 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 as 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 seven (7) paper copies and a digital copy as a Portable Document Format (PDF) of the plat not less than seven (7)

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. The Board of Aldermen shall proceed to consider the application based on the requirements of this Code. The Board of Aldermen may approve, approve conditionally, or deny the request of such final plat within ninety (90) days after the submission.
- v. 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.
- vi. If the minor final plat approval is recommended conditionally, the conditions and reasons therefor shall be stated, and if necessary, the Mayor and Board of Aldermen may require that the subdivider submit a revised final plat.
- vii. If the Mayor and Board of Aldermen should decide a disapproval, 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 disapproved final plat may be resubmitted to the Mayor and Board of Aldermen after the suggested changes have been made.
- viii. 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.

2.2.7 Condo Plat

2.2.7.1 A condo plat consisting of subdivided lands shall comply with this ordinance and the Mississippi Condominium Law. 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 approximate dimensions.
- 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 condo plat certificates specified in section 2.2.8.

2.2.7.2 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. To obtain condo plat approval of a condo plat, an applicant or applicant's authorized agent shall secure approval of such proposed condo plat in accordance with the following procedure:

a. Condo plat review

- i. The condo plat 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 a scheduled meeting.

b. Condo final plat

- i. After the condo 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.
- ii. One (1) paper copy and a digital copy of the approved condo final plat shall be retained in the Planning Department's files.

2.2.8 Plat Specifications and Certifications

2.2.8.1 Preliminary plat

a. Preliminary engineering certificate

PRELIMINARY ENGINEERING CERTIFICATE

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

2.2.8.2 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.

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

Date of Execution (signature of Notary Public)
(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
Oktibbeha County, Mississippi

- c. **Certificate of engineering accuracy**

CERTIFICATE OF ENGINEERING 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 Starkville, Mississippi, Subdivision Regulations have been fully complied with.

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

d. Certificate of final approval

CERTIFICATE OF FINAL APPROVAL

Pursuant to the subdivision regulations of the City of Starkville, Mississippi, 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	City Engineer
_____	<u>(signature of City Planner)</u>
Date of Execution	City Planner
_____	<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 subdivision regulations of the City of Starkville, Mississippi, 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

2.2.8.3 Condo Plat

- a. Certificate of ownership.** If multiple owners, add a signature line for each owner

CERTIFICATE OF OWNERSHIP

I (We), the undersigned, record owner(s) 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.

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

Date of Execution (signature of Notary Public)
(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
Oktibbeha County, Mississippi

c. Certificate of engineering accuracy

CERTIFICATE OF ENGINEERING 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 Starkville, Mississippi, Subdivision Regulations have been fully complied with.

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

d. Certificate of final approval

CERTIFICATE OF FINAL APPROVAL

Pursuant to the condominium regulations of the City of Starkville, Mississippi, 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:

Date of Execution (signature of City Engineer)
City Engineer

Date of Execution (signature of City Planner)
City Planner

_____	<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

2.2.9 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.

2.2.9.1 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 boundary 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 or appropriateness.
- b. An inventory, which would be in format consistent with the statewide inventory format of the Historic Preservation Division of the Mississippi Department of Archives and History (SHPO).

2.2.9.2 The Historic Preservation Commission shall advise the City on the designation of historic districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designations that will be considered by the Mayor and Board of Aldermen.

2.2.9.3 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.

2.2.9.4 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.

2.2.9.5 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.

2.2.9.6 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.

2.2.9.7 Any property designated under a previous city ordinance shall remain designated.

2.2.9.8 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, e-mail or other written communication. The City shall provide to the Mississippi Department of Archives and History the dates of the next two 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 analysis, and the city may at any time thereafter take any necessary action to create the proposed historic district.

2.2.9.9 If a proposed ordinance is to designate a landmark or landmark site, the Mississippi Department of Archives and History need not be consulted.

2.2.9.10 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 consecutive weeks in at least one (1) newspaper published in the City. If a newspaper is not published in the City, then the notice shall be published in a paper published in the county. The first publication of such 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.

2.2.9.11 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.

2.2.9.12 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.

2.2.10 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 recommended by the Starkville Historic Preservation Commission and approved by the Mayor and Board of Aldermen. Likewise, no construction that affects a historic resource shall be undertaken without a Certificate of Appropriateness.

2.2.10.1 Criteria for issuance of certificates of appropriateness. The Historic Preservation Commission and the City shall use the following criteria in granting or denying certificates of appropriateness (COAs):

a. General factors criteria

- i. Architectural design of the existing building, structure, or appurtenance and proposed alteration
- ii. Historical significance of the resource
- iii. General appearance of the resource
- iv. Condition of the resource
- v. Materials composing the resource
- vi. Size of the resource
- vii. The relationship of the above factors to, 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

- i. In advance of new construction, steps shall be taken to ensure evaluation of possible archaeological resources, as set forth in the Mississippi Antiquities Act.
- ii. 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 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, the materials, the textures, the colors, the patterns, the trims, and the design of the roof.
- iii. Existing rhythm created by existing building masses and spaces between them shall be preserved.

- iv. 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.
- v. No specific architectural style shall be required.

c. Exterior alteration criteria

- i. 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 (as is provided in this article), and the original design of a building, structure, object, or landscape feature shall be considered in applying these standards.
- ii. 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:

- i. The Historic Preservation Commission shall consider the individual architectural, cultural, and/or historical significance of the historic resource.
- ii. The Historic Preservation Commission shall consider the importance or contribution of the resource to the architectural character of the district.
- iii. The Historic Preservation Commission shall consider the importance or contribution of the resource to neighboring property values.
- iv. The Historic Preservation Commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.
- v. Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, set forth in this article, prior to receiving a demolition 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.
- vi. Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional Commission action on demolition, following the Commission's

recommendation of a permit for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of the article are met, and the applicant provides financial proof of his ability to complete the project.

- vii. When the Historic Preservation Commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate City boards, commissions, departments, and agencies.

2.2.10.2 Procedures for issuance of certificates of appropriateness. Anyone desiring to take action requiring a certificate of appropriateness concerning a historic resource for which a permit, variance, or other authorization from either the City Building Official or the City is also required, shall make application therefore in the form and manner required by the applicable code section. Any such application shall also be considered an application for a Certificate of Appropriateness and shall include such additional information as may be required by the Commission. Completed application packages are due by 5:00 p.m. on the deadline date as set forth by the approved Historic Preservation Commission schedule. After receipt of any such application by the planning department, the City Building Official shall be assured that the application is proper and complete. No building permit shall be issued by the City Building Official that affects a historic resource without a certificate of appropriateness. In the event that a building permit need not be obtained 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 application shall be submitted to the City Planner 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) to cover the cost of advertisement and mailing of notices to adjacent property owners and all required supplemental information necessary to render determinations related to the certificate of appropriateness request including:
 - i. **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.
 - ii. **Applicant statement.** A statement explaining the reason for the certificate of appropriateness request.

b. Administrative examination

- i. 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.
- ii. 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.
- iii. 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.

c. Public hearing. Upon receipt of a completed application for a certificate of appropriateness by the City Planner, the Historic Preservation 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 to be heard by the Mayor and Board of Aldermen.

d. Notice and public hearing procedure for certificate of appropriateness. In considering and acting upon applications for certificate of appropriateness, the following procedures shall be observed:

- i. **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.
- ii. **Posting.** The City Planner shall place a sign at City Hall in a conspicuous location at least fifteen (15) calendar days prior to the public hearing, notifying the general public of the request. The sign shall remain in place until either an approval or denial by the Historic Preservation Commission or the Board of Aldermen.

e. Applicant to pay costs. All costs of notification shall be paid by the applicant. Costs which exceed that paid at time of application shall be billed and paid by the applicant prior to the Board of Adjustment and Appeal's public hearing.

f. Appearance and presentation. At any public hearing upon any matter subject to the provisions of this article, 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 presentation.

g. Action

- i. 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 consideration.
 - ii. The Commission shall have the right to recommend changes and modifications to enable the applicant to meet the requirements of the Commission.
 - iii. If approval is recommended by the Historic Preservation Commission, that recommendation and any specific conditions for approval shall be forwarded to the Mayor and Board of Aldermen for their binding decision.
 - iv. Whenever the Commission shall recommend denial of a certificate of appropriateness, an applicant may resubmit a new application at any time, except that an 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.
 - v. Denial of a certificate of appropriateness shall be binding upon the City Building Official and shall prevent the issuance of other building permits for the same parcel until a certificate of appropriateness is approved. The City Planner shall be responsible for signing of the building department's "building permit routing form" for the issuance of a building permit for all applicable structures.
- h. Expiration.** A certificate of appropriateness shall expire after six (6) months if work has not begun.
- i. Appeal.** Any person aggrieved by a decision of the Historic Preservation Commission in approving or denying an application for a certificate of appropriateness may, within five (5) business days from the date of the public hearing with the Historic Preservation Commission, file a written request to the City Planner appealing the decision and thereupon, the Mayor and Board of Aldermen shall proceed to review said decision. An appeal must be noticed fifteen (15) days prior to the public hearing by legal ad in accordance with

section 2.2.10.2 (d). At the public hearing, the decision of the Historic Preservation Commission shall either be affirmed, modified or reversed by the Board of Aldermen.

j. Effect of certificate of approval

- i. The issuance of a COA shall not relieve an applicant from obtaining a building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the City concerning zoning, construction, repair, or demolition.
- ii. A certificate of appropriateness may be required for work that does not require a building permit. A certificate of appropriateness may be evidenced by either a written and dated letter to an owner or applicant or such a letter accompanied by a signed and dated stamp on the face of any and all architectural or project drawings prepared for a project.

k. Unreasonable economic hardship

- i. **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:

- (1) Date the property was acquired by its current owner
- (2) Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property
- (3) Mortgage history of the property, including current mortgage
- (4) Current market value of the property
- (5) Equity in current use and in alternative uses
- (6) Past and current income and expense statements for a two (2) year period
- (7) Past capital expenditures during ownership of current owner
- (8) Appraisals of the property obtained within the previous two (2) years
- (9) Income and property tax factors affecting the property

ii. Additional information considered

- (1) The Historic Preservation Commission may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.
- (2) The Commission may receive and consider studies and economic analyses from other city agencies and from private organizations relating to the property in question.

iii. Commission decision

- (1) 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.
- (2) 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 approved.

I. Appeals

The applicant who desires to appeal a recommendation by the Historic Preservation Commission shall file a written appeal to the City Planner within ten (10) calendar days after the recommendation of the issue by the Commission. Any such appeal shall be reviewed by the Mayor and Board of Aldermen at their next regularly scheduled meeting upon the record established before the Commission after the formal approval of the minutes of the Commission at which the matter was decided. Any local property owner or organization that is aggrieved or damaged by the Commission's recommendation may appeal in the same manner.

2.2.11 Exceptions, Variances and Administrative Adjustments for Transect Districts

There are three types of permitted deviations from the requirements of the form-based section of this Code:

2.2.11.1 Exception

- a. Requests for Exception shall only be permitted as specifically indicated in this Section.
- b. To apply for an Exception, the applicant shall provide the following:
 - i. The specific Exception(s) requested including citation from this Code's form-based section and why the Exception is being sought.
 - ii. Maps, text, drawings and/or statistical data related to the requested Exception(s).
- c. No Exception shall be approved unless the Planning and Zoning Commission recommends to the Mayor and Board of Aldermen that the approval would:
 - i. Be consistent with the intent of the Transect Districts of this Code's form based section.

- ii. Be consistent with the goals, objectives and policies of the City of Starkville's Comprehensive Plan.
- d. Any recommendation regarding an approval or denial of an Exception shall state, in writing, the reasons for the approval or denial.
- e. Each exception shall be considered unique and shall not set precedent for others.
- f. The following standards and requirements shall not be available for exceptions (i.e. do not meet the intent of the code)
 - i. Requirements of parking location
 - ii. Requirements for frontage
- g. All Exception request shall be advertised pursuant to section 2.2.2.6.f.

2.2.11.2 Dimensional variances. All Dimensional Variance request shall be reviewed and advertised pursuant to section 2.2.3.2.e.

2.2.11.3 Administrative adjustments. The Planning Department has the discretion to approve any site or building plan that deviates less than fifteen (15) percent from any specific numerical standard prescribed in this Code.

2.2.12 Nonconformities. A nonconformity is any land, lot, building, structure or parts thereof, existing prior to the enactment of this ordinance, which subsequent to the enactment of this ordinance or amendment thereto, does not conform with the use regulations and/or dimensional regulations of the district in which it is situated, and/or does not comply with any other requirements herein.

2.2.12.1 Intent. It is the intent of this ordinance to permit nonconforming uses to continue until they are removed, but not to permit their expansion or encourage their survival. It is further the intent of this ordinance that nonconforming buildings, structures or parts thereof may be enlarged upon, expanded or extended provided such expansion is in conformance with this ordinance.

Nonconforming uses that are declared by this ordinance to be incompatible with permitted land uses in the districts involved. Therefore, a nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance by:

- Attachment on a building or premises of additional signs intended to be seen from off the premises; or
- By the addition or other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change of plans, construction, or designated use of any building on which actual construction was lawfully initiated prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially initiated preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

2.2.12.2 Types of nonconformities. Nonconformities shall be further defined according to one of the types of nonconformities listed below, or combination thereof, for the purpose of regulation.

- a. Nonconforming undeveloped lot of record.** This type of nonconformity is an undeveloped lot of record (i.e., part of a subdivision, the map of which has been recorded in the office of the chancery clerk of Oktibbeha County, Mississippi, or a lot described by metes and bounds, the description of which has been recorded in said office) the dimensions of which, subsequent to the passage of this ordinance, do not meet the area or width requirements, or both, of the district wherein such lot is located.
- b. Nonconforming structure.** This type of nonconformity includes anything lawfully constructed or erected with a fixed location on the ground (or attached to something having a fixed location on the ground) prior to the passage of this ordinance, but which subsequently does not comply with the bulk, placement, and/or dimensional requirements of the zoning district wherein located.
- c. Nonconforming use.** This type of nonconformity includes the uses of any land, lot, building, structure, or parts thereof, which lawfully existed prior to the passage of this ordinance but which subsequently does not comply with all or some part of the use requirements of the zoning district wherein located.

2.2.12.3 Regulations concerning nonconforming undeveloped lots of record. Erection of single-family dwellings allowed on single nonconforming undeveloped (or vacant) lots of record in separate ownerships: In any district in which one-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single nonconforming undeveloped (or vacant) lot of record after the effective date of this ordinance notwithstanding limitations imposed by other provisions of this ordinance. This provision shall apply even though such single lot of record fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that:

- a.** The required yard dimensions and other requirements (than those applying

to lot area or width, or both) of the proposed single-family residential use shall conform to the regulations in the district in which such single nonconforming lot of record is located.

- b. Variance of yard requirements shall be obtained only through action of the mayor and board of aldermen.

2.2.12.4 Regulations concerning nonconforming structures. Where a lawful structure exists before the effective date of adoption or amendment of this ordinance that could not subsequently be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its placement on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, provided that:

- a. Should such nonconforming structure or nonconforming portions of a structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with the provisions of this ordinance.
- b. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

2.2.12.5 Regulations concerning nonconforming uses of land (or land with minor structures only). Where at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000), the use may be continued so long as it remains otherwise lawful, provided:

- a. A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- b. A nonconforming use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
- c. If any such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located; or
- d. An additional structure not conforming to the requirements of this ordinance shall not be erected in connection with such nonconforming use of land.

2.2.12.6 Regulations concerning nonconforming uses of major structures or of major structures and land in combination. If lawful use involving individual major structures (i.e., those with a replacement cost of one thousand dollars (\$1,000)

or more) or of such major structures and land in combination, exists prior to the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. An existing structure devoted to a use prohibited by this ordinance in the district in which it is located shall not be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but such use shall not be extended to occupy any land outside such building;
- c. If structural alterations are not made, any nonconforming use of a structure, or structure and land, may as a conditional use be changed to another nonconforming use provided that the mayor and board of aldermen, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the mayor and board of aldermen may require appropriate conditions and safeguards in accord with the provisions of this ordinance;
- d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
- e. When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for six (6) consecutive months the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and

2.2.12.7 Structures containing a nonconforming use. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

2.2.12.8 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.

2.2.13 Building Permit Requirements. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to store building materials or to erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until the Building

Codes Official of the City has issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this Code. With the following Specifications:

2.2.13.1 Applicability and filing procedure. All commercial, residential and mixed-use developments, any construction or alternation that are not exempt under current IBC, IRC, State and locally adopted codes are required to have a permit.

a. Residential

i. Permitting required:

- (1) Any addition or alteration in excess of one thousand dollars (\$1,000).
- (2) All dwelling units including accessory dwellings regardless of square footage.

ii. Exempt from permitting:

- (1) Re-roofing
- (2) Fences
- (3) Platforms, walks, decks, and driveways not exceeding thirty (30) inches above grade
- (4) Detached accessory structures not used for human habitation/dwellings up to one hundred and twenty (120) square feet.
- (5) Prefabricated above ground swimming pools, twenty-four (24) inches in depth and does not exceed five thousand (5,000) gallons.
- (6) Retaining walls four (4) foot or less in height
- (7) Direct window replacement with no structural changes.
- (8) Painting, papering, tiling, carpeting, installation of cabinets or counter tops, and similar finish work

b. Commercial.

- i.* For commercial and mixed-use developments any construction or alternation in excess of one thousand dollars (\$1,000).

2.2.13.2 Review and action by the Planning Department. The planning department shall review all application to verify compliance with the Unified Development Code. If anything is found to be out of compliance and/or requires additional approval from an advisory board or the Board of Aldermen, the planning department shall notify the applicant.

2.2.13.3 Building permit application requirements. All building and site plans shall be designed to meet the 2012 International Building Code, 2012 International

Residential Code, 2011 National Electrical Code, State Codes and Local Codes.

- a. Application.** An application for a building permit shall be made to the Building Department of the City on forms provided for that purpose, along with the required fees. If site plan approval is required by the Development Review Committee and building design approval is required by the Architecture Review Committee, a building permit cannot be issued until such approval is obtained. The application shall include the following:
- b. Site plan requirements.** Every application shall include a site plan drawn at a scale of one (1) inch to fifty (50) feet or larger. The site plan shall be illustrated on a sheet of eight and half (8.5) inch by eleven (11) inch or eleven (11) inch by seventeen (17) inch paper. Plans shall also be provided digitally as a Portable Document Format (PDF). The following shall be included, at the discretion of the Building Official if applicable:

 - i. The actual shape, portion, and dimensions and of the lot to be built upon or changed in its use, in whole or in part.
 - ii. The shape, size, and location of all existing and proposed buildings or other structures to be erected, altered or moved.
 - iii. Location of existing and/or proposed driveways and sidewalks if applicable.
 - iv. The height of all proposed buildings or structures.
 - v. Existing and intended use of all proposed buildings or structures.
 - vi. Existing street names
 - vii. Physical address/E-911 address in conjunction with proposed buildings.
 - viii. The setback and property line of the subject lot.
 - ix. Sidewalk layout, dimensions, and spot elevations if required per ordinance.
 - x. Erosion Control Plan (can be combined with site plan)
 - xi. Any fill placed on site will require a compaction test, in depths not to exceed testing capabilities
 - xii. Landscape plan if required per ordinance
 - xiii. A boundary line survey, if determined to be necessary by the Planning Department, prepared by a licensed surveyor may be required.
 - xiv. Additional information may be required as necessary to satisfy provisions

of this ordinance, state law, federal law and international Building Code.

- c. **Building plan requirements.** Every application for an addition, new construction, and/or remodeling shall be illustrated on an eighteen (18) inch by twenty-four (24) inch or larger. Plans shall also be provided digitally as a Portable Document Format (PDF). The following shall be included, at the discretion of the Building Official if applicable:
- i. Exterior elevations of structure (front, rear, left side & right side)
 - ii. Foundation plan designed by a registered design professional Engineer if the building area is four hundred (400) square feet or larger.
 - iii. Floor plans with the square footage of each building listed
 - iv. Electrical panel board and meter base location
 - v. Door and window schedule with dimensions
 - vi. Show locations of smoke detectors (one (1) in each bedroom, one (1) outside each bedroom area and one (1) on each floor
 - vii. Clear identification of new, remodeled & existing portions of building
 - viii. Interior and exterior details for ADA requirements
 - ix. Soils investigation/test if foundation drawing is required
 - x. Indicate fire stopping, rated assemblies, and penetrations
 - xi. Automatic fire sprinkler systems
 - xii. Fat, oil, and grease interceptor/separator per IPC 1003
 - xiii. Location of backflow preventer device per Mississippi Code Annotated §41-26-14

2.2.13.4 Approval, disapproval, and appeal procedure

- a. **Approval procedure.** If the proposed excavation, construction, moving or alterations as set forth in the application is in conformity with the provisions of this Code, the Building Official of the municipality shall issue a building permit. Issuance of a building permit shall in no case be construed as waiving any provisions of this Code.
- b. **Disapproval procedure.** If an application for a building permit is not approved, the Building Official of the municipality shall state in writing on the application the cause for such disapproval.

- c. **Appeal procedure.** A decision to deny a building permit by the Building Department for any reason that does not require a variance or conditional use, can be appealed to the Board of Adjustments and Appeals. The applicant shall have ten (10) business days to appeal that decision to the Board of Adjustment and Appeals. The appeal will be placed on the Board of Adjustment and Appeals agenda within forty-five (45) days.
- d. **Expiration.** Any building permit issued in accordance with this ordinance and the International Building Code shall become invalid unless the work authorized by it shall have been commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one year after the time the work commenced.
- e. **Extension.** A building permit may be extended one or more times for a period not exceeding ninety (90) days at the discretion of the building official.

2.2.14 Certificates of Occupancy Requirements

2.2.14.1 Certificate of occupancy requirements. No land, building, or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Official shall have issued a certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this Code. Within three (3) days after the owner or his agent has notified the Building Official that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Official to make a final inspection thereof, and to issue a certificate of occupancy if the building or premises or part thereof is found to conform with the provisions of this Code. If such certificate is refused, the Building Official shall state in writing the reasons for refusal to issue the certificate of occupancy.

2.2.14.2 Temporary certificate of occupancy requirements. The building permit department may allow a temporary certificate of occupancy valid for a period of 30 days with extensions not to exceed an accumulation of 90 days if all of the following conditions exist:

- a. Except for the completion of landscaping installation, occupancy would normally be allowed.
- b. Completion of the required landscaping before a permanent certificate of occupancy is issued would result in hardship to the applicant as applied to this case, if so determined by the Planning Department.
- c. At the time the conditional temporary certificate of occupancy is requested, the developer/owner shall make financial arrangements (by certificate of deposit, letter of credit, or bond) satisfactory to the city in the amount of \$3.00 per square foot of required landscaping not yet in place to ensure that it shall be installed.
- d. Any owner/developer wishing to make such financial arrangements must also

grant the city access to the land to install or complete the required landscaping in the event the landscaping installation has not been completed at the end of the required extension period. Such financial arrangements shall be released when the required landscaping is completed.

2.2.15 Enforcement & Penalties for Violations

2.2.15.1 Enforcing Officer. The provisions of this Code shall be administered by the City Planner 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.

2.2.15.2 Penalties generally. Any person violating any provision of the Code shall, upon conviction, be fined not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) plus court costs for each offense. and each day such violation continues shall constitute a separate offense.

2.2.15.3 Code enforcement action. The following shall be the general process for issuance of a violation:

- a. Discovery of alleged violation of the Code of Ordinances
- b. Verification of violation
- c. Issue a written Violation Notice to the owner of the property where the alleged violation occurred and the time frame to correct the violation
- d. Reinspect the code violation for compliance
- e. Upon reinspection, if violation has not come into compliance, a summons will be issued and turned over to Municipal Court for a hearing
- f. The Judge can issue a judgement against the violator which can result in fines, assessments, additional fees, and/or jail time

2.2.15.4 Penalties for violation of erosion control provisions

- a. Any entity violating any provision of this article shall be deemed guilty of a misdemeanor and fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars per day of violation and/or sixty (60) days in jail or both.
- b. Each twenty-four (24) hour period after notice is given by the City Engineer, Building Official, or other appropriate 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 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.

2.2.15.5 Remedies. In case any building or other structure is erected, constructed, reconstructed, altered, re- paired, converted or maintained, or any building, structure or land is used in violation of this Code, the Building Official, Code Enforcement Officer or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to correct or abate such violations, or to prevent occupancy of such buildings, structures or land.

2.2.15.6 Penalties for historic districts. 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 demolition of a historic resource occurs without a certificate of appropriateness, then any permits on 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 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 demolition of a 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 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.

draft 1/31/18

Sec. K. - C-1 business (local shopping) zoning district regulations.

8. All building facades that are visible from public right-of-way or adjacent property zoned residential shall meet these requirements. All developments that require site plan approval of the Development Review Committee shall also require architectural approval of the Architectural Review Committee.

a) The following materials are allowed for use on a building façade: brick, wood, fiber cement siding, stucco, natural stone, and split faced concrete masonry units that are tinted and textured. EIFS is not allowed on the first floor(s) that are directly adjacent to pedestrian and/or vehicle use areas. The use of EIFS as a faced material shall be subject to the review and approval of the Architectural Review Board. Architectural metal panels may be used as long as the panels make up less than 40 percent of an individual façade.

b) The following materials are not allowed for use on a building facade: smooth faced concrete masonry units, vinyl siding, tilt-up concrete panels, and non-architectural steel panels. (R-Panels)-

c) The primary facade colors shall be low reflectance, subtle, neutral or earth tones. The use of high intensity, metallic flake, or fluorescent colors is prohibited.

Sec. L. - C-2 business (general business) zoning district regulations.

8. All building facades that are visible from public right-of-way or adjacent property zoned residential shall meet these requirements. All developments that require site plan approval of the Development Review Committee shall also require architectural approval of the Architectural Review Committee.

a) The following materials are allowed for use on a building façade: brick, wood, fiber cement siding, stucco, natural stone, and split faced concrete masonry units that are tinted and textured. EIFS is not allowed on the first floor(s) that are directly adjacent to pedestrian and/or vehicle use areas. The use of EIFS as a faced material shall be subject to the review and approval of the Architectural Review Board. Architectural metal panels may be used as long as the panels make up less than 40 percent of an individual façade.

b) The following materials are not allowed for use on a building facade: smooth faced concrete masonry units, vinyl siding, tilt-up concrete panels, and non-architectural steel panels. (R-Panels)-

c) The primary facade colors shall be low reflectance, subtle, neutral or earth tones. The use of high intensity, metallic flake, or fluorescent colors is prohibited.

Sec. J. - B-1 buffer district regulations.

8. All building facades that are visible from public right-of-way or adjacent property zoned residential shall meet these requirements. All developments that require site plan approval of the Development Review Committee shall also require architectural approval of the Architectural Review Committee.

a) The following materials are allowed for use on a building façade: brick, wood, fiber cement siding, stucco, natural stone, and split faced concrete masonry units that are tinted and textured. EIFS is not allowed on the first floor(s) that are directly adjacent to pedestrian and/or vehicle use areas. The use of EIFS as a faced material shall be subject to the review and approval of the Architectural Review Board. Architectural metal panels may be used as long as the panels make up less than 40 percent of an individual façade.

b) The following materials are not allowed for use on a building facade: smooth faced concrete masonry units, vinyl siding, tilt-up concrete panels, and non-architectural steel panels. (R-Panels)-

c) The primary facade colors shall be low reflectance, subtle, neutral or earth tones. The use of high intensity, metallic flake, or fluorescent colors is prohibited.

Sec. G. - R-5 residential zoning regulations.

8. All building facades that are visible from public right-of-way or adjacent property zoned residential shall meet these requirements. All developments that require site plan approval of the Development Review Committee shall also require architectural approval of the Architectural Review Committee.

a) The following materials are allowed for use on a building façade: brick, wood, fiber cement siding, stucco, natural stone, and split faced concrete masonry units that are tinted and textured. EIFS is not allowed on the first floor(s) that are directly adjacent to pedestrian and/or vehicle use areas. The use of EIFS as a faced material shall be subject to the review and approval of the Architectural Review Board. Architectural metal panels may be used as long as the panels make up less than 40 percent of an individual façade.

b) The following materials are not allowed for use on a building facade: smooth faced concrete masonry units, vinyl siding, tilt-up concrete panels, and non-architectural steel panels. (R-Panels)-

c) The primary facade colors shall be low reflectance, subtle, neutral or earth tones. The use of high intensity, metallic flake, or fluorescent colors is prohibited.

Sec. T. 1 – Intent and Process. 1.4 Administrative Review. 1.8 Architectural Review.

- a) All developments that require site plan approval of the Development Review Committee shall also require architectural approval of the Architectural Review Committee.

Section T. 7 – Definitions

Façade: the exterior wall of any building ~~oriented toward or set along a Frontage Line.~~ The following materials are allowed for use on a building façade: brick, wood, fiber cement siding, stucco and natural stone. (see Elevation) EIFS is not allowed on the first floor(s) that are directly adjacent to pedestrian and/or vehicle use areas. The use of EIFS as a faced material shall be subject to the review and approval of the Architectural Review Board.