



Land Development Ordinance

Chapter 23, City of Biloxi Code of Ordinances

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Amendments through July 6, 2005

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CHAPTER 23
LAND DEVELOPMENT ORDINANCE

ARTICLE 1. INTRODUCTORY PROVISIONS

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Sec. 23-1-1 Title

This Chapter shall be known as the Land Development Ordinance of the City of Biloxi, Mississippi.

Sec. 23-1-2 Purpose

(a) General

Whereas the Mayor and Council of Biloxi deem it necessary in order to lessen congestion in the streets, to secure safety from fire, flooding, panic and other dangers, to promote health and general welfare, to provide adequate light and air, to prevent the overcrowding of land, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, to preserve property values and to prevent the maintenance of nuisances, to make and promulgate district regulations with reasonable consideration, among other things, to the character of the district and its peculiar suitability for other uses, and to encourage the most appropriate use of land throughout Biloxi in accordance with a Comprehensive Plan, the Mayor and Council do ordain this Chapter.

(b) Specific Purposes

The regulations contained herein are necessary to:

- (1) Encourage the most appropriate uses of land according to the policies set forth in the *Vision 2020: The Biloxi Comprehensive Plan*, as it may be revised, updated and supplemented from time to time;
- (2) Maintain and stabilize the value of property;
- (3) Prevent injury to the public health and safety from fire, flooding, panic and other causes;
- (4) Provide adequate light and air;
- (5) Decrease traffic congestion and its accompanying hazards;

- (6) Prevent undue concentration of population;
- (7) Create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities;
- (8) Provide for the orderly platting of lands;
- (9) Establish minimum standards governing streets, utilities, sidewalks and other required improvements;
- (10) Ensure the proper coordination of future streets and their development with existing or planned streets;
- (11) Provide that the City may vary the regulations of this Chapter in certain cases or under certain conditions;
- (12) Address issues and provide review procedures related to a development project's required landscaping and the preservation of Biloxi's valued protected trees;
- (13) Address issues related to architectural control and historic preservation;
- (14) Regulate signs;
- (15) Provide procedures for the review of projects affecting Architectural/Historic Overlay Districts and/or historic landmarks; and
- (16) Fix penalties for the violation of the provisions of this Chapter.

Sec. 23-1-3 Jurisdiction

These regulations shall be in full force and effect within the corporate limits of the City of Biloxi, Mississippi. All land within Biloxi shall be classified as being in one of the zoning districts adopted in this Chapter. All new annexations of land to the City of Biloxi shall be in the "A" Agricultural District unless otherwise classified by the Mayor and City Council at the time of annexation.

Sec. 23-1-4 Authority

It is the intent of the City of Biloxi in adopting this Chapter to exercise all powers and authority available to it for the regulation of the use, development and subdivision of land, and for all related matters. The sources of authority for this Chapter include but are not limited to: the Charter of the City of Biloxi; provisions of the Mississippi Code, including but not necessarily limited to the following: Title 17, Chapter 1 Zoning and Subdivision; Title 21, Chapter 13 Ordinances; Title 21, Chapter 17 General Powers; Title 21, Chapter 19 Health and Safety; and Title 21, Chapter 37 Streets, Parks and Other Public Property. The provisions of this Chapter are supplemental to Chapter 5 Buildings; Chapter 8 Flood Damage Prevention; Chapter 22 Water and Sewers; and Chapter 12 Regulated Business Licensing of this Code of Ordinances.

Sec. 23-1-5 Compliance and Applicability**(a) Relationship to Chapter 5 Buildings; Chapter 8 Flood Damage Prevention; Chapter 22 Water and Sewers; and Chapter 12 Regulated Business Licensing**

Construction of buildings in Biloxi shall be subject to this Chapter and to Chapter 5 Buildings; Chapter 8 Flood Damage Prevention; Chapter 12 related to Regulated Businesses; and Chapter 22 Water and Sewers of this Code of Ordinances as well as to other applicable ordinances. In general, this Chapter and Chapter 5 shall be construed to give effect to each. Where the provisions of one chapter are more restrictive than the other, the more restrictive regulations shall apply. In case of other conflicts, the provisions of Chapter 5, 8 and 22 shall control as to any matter relating to the construction of a building or structure itself, and this Chapter shall control as to any matter related to the size, use or location of the building on a lot or parcel of land, and as to any matter related to the development of the land. In case of conflict between this Chapter and Chapter 12 Regulated Business Licensing, this Chapter shall control as to any matter relating to land use and development and Chapter 12 shall control as to any matter relating to licensing and Regulated Business activity monitoring.

(b) Applicability in general

- (1)** No building or land shall be used for any purpose whatsoever or put to any use whatsoever, except in accordance with the applicable provisions of this Chapter.
- (2)** No building or structure shall be demolished, moved, constructed, reconstructed or substantially repaired, except in accordance with the applicable provisions of this Chapter and all other provisions of the Code of Ordinances.
- (3)** No land shall be subdivided or developed, except in accordance with the applicable provisions of this Chapter.
- (4)** No use, building, structure or development shall be maintained or continued, except in accordance with this Chapter and all other provisions of the Code of Ordinances.

(c) Conformance with district regulations

Except as provided in this Chapter, no building, structure or land shall hereafter be used or occupied, and no building or structure shall be demolished, moved or reconstructed unless in conformity with the regulations specified in this Chapter for the zoning district in which it is located.

(d) Size and location of buildings or structures

Except as provided in this Chapter, no building or structure shall hereafter be constructed, moved or reconstructed to exceed the height; accommodate or house a greater number of families; occupy a greater percentage of lot area; or have narrower or smaller rear yards, front yards or side yards than specified in this Chapter for the zoning district in which such building or structure is located.

(e) Yard area

No part of a yard or other open space required for any building or structure for the purpose of complying with the provisions of this Chapter shall be included as a part of a yard or other open space similarly required for another building or structure.

(f) Buildings and Structures to be located on lot of record; number of buildings and structures on lot

Every building and structure hereafter constructed, reconstructed, converted, moved or structurally altered shall be located on a lot of record, and in no case shall there be more than one principal building or structure on one lot of record, unless otherwise provided in this Chapter.

(g) Uses not listed as permitted to be prohibited

For the purposes of this Chapter, Permitted Uses are listed for the various zoning districts. Uses not specifically listed are prohibited, unless the contrary is clear from the content of the lists or from other provisions of this Chapter.

(h) Regulation of areas under water and water surfaces

All areas within Biloxi that are under water and water surfaces shall be subject to all of the regulations of the zoning district adjacent to the water area.

(i) Incorporation of amendments

Whenever any reference is made to any City standards, specifications, maps or provisions of the Code of Ordinances, such reference shall be to the latest revisions, editions or amendments thereto.

(j) City Standards and Specifications Manual

Additional details, design specifications and policies are identified in the City's Standards and Specifications Manual also referred to as "the Manual."

(k) Enforcement and Penalties

The provisions regarding violations of this code, enforcement and penalties, set forth in Article 19, shall apply to the entire Code, as indicated therein.

Sec. 23-1-6 Establishment of Zoning District Map

(a) Districts

The boundaries of the zoning districts established in this Article are contained in an electronic database titled "Zoning District Map." This map, together with all notations, references and other information thereon, is made a part of this Chapter and has the same force and effect as if fully set forth or described in this Chapter. The Zoning District Map covers the entire jurisdictional area of Biloxi. The integrity of the data shall be insured through the process of saving the data bimonthly to two compact discs—one copy to be kept in the Planning Division and the second copy to be archived in a place of safekeeping designated by the Department of Community Development. A reproduction of the Zoning District Map shall be properly attested and placed on file in the Planning Division, and it shall be the duty of the Planning Division to maintain and keep the Zoning District Map up to date at all times.

(b) Architectural/Historic Overlay (AHO) District Map

As part of the Zoning District Map, or as a separate map using the same base, the Planning Division shall maintain a map showing the boundaries of Architectural/Historic Overlay (AHO) Districts as designated in accordance with this Chapter. That portion of the Zoning District Map or the separate map shall be referred to as the Architectural/Historic Overlay District Map and shall also be considered a portion of the Zoning District Map. The AHO District Map shall be maintained and

interpreted in the same way, and according to the same principals, as other portions of the Zoning District Map.

(c) Zoning District Map Certification

The archived copy of the Zoning District Map shall be identified by the signature of the Director of Community Development with the seal of the City of Biloxi affixed thereto, together with the effective date of this Chapter, and updated periodically by the Planning Division.

(d) Zoning District Map Changes

If changes are made in district boundaries or other matters portrayed on the Zoning District Map, the Planning Division shall enter such changes on the Zoning District Map.

(e) Unauthorized Changes

No changes in district boundaries shall be made on the Zoning District Map, except in conformance with the procedures set forth in this Chapter. Any unauthorized change shall be considered a violation of this Chapter.

(f) Location of Zoning District Map

Regardless of the existence of purported copies of the Zoning District Map that may from time to time be made or published, the Zoning District Map shall be located in the Planning Division, as described in Subsection (a) of this Section, and shall be the final authority as to the current zoning of property within the jurisdiction.

(g) Loss, Damage, Replacement

In the event that the Zoning District Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may, by ordinance, adopt a replacement Zoning District Map that shall supersede the prior Zoning District Map. Unless the prior Zoning District Map has been lost, or has been totally destroyed, the prior Zoning District Map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

(h) Copies

The Director of Community Development may provide copies of maps to the general public in accordance with the City's Public Records Ordinance and fee schedule. In case of any dispute regarding such maps, the original maps maintained in accordance with this Section shall be considered to be determinative.

Sec. 23-1-7 Severability

(a) Invalidation

Should a Court of competent jurisdiction of either the State of Mississippi or the United States hold any Section, sentence, clause, phrase, or word of this Chapter invalid or unconstitutional, such decision shall not affect, impair, or invalidate the remaining parts of this Chapter, which can be given effect without the invalid provision.

(b) Prejudicial Application

Should any Section, sentence, clause, phrase, or word of this Chapter be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

Sec. 23-1-8 Presumption of Validity

It is the intent of the City of Biloxi that this Chapter and all actions under it be granted the full benefit of the presumption of validity, to the maximum extent applicable to municipal actions in the State of Mississippi.

Sec. 23-1-9 Transitional Provisions

The following transitional provisions shall apply to various activities, actions and other matters pending or occurring on the original effective date of this Chapter and on the date of its applicability to any new territory by reason of annexation or other action:

(a) Violations Continue

Any violation of this Chapter shall continue to be a violation and shall be subject to prosecution or enforcement as such. Any such violation shall also be a violation subject to abatement, removal or other legal or equitable remedies hereunder, unless the use, development, construction or other activity is clearly consistent with the express, applicable terms of this Chapter.

(b) Violations Continue After Annexation

Any violation of a resolution or ordinance enacted by Harrison County prior to any annexation of land by the City shall continue to be a violation under this Chapter and shall be subject to prosecution or enforcement as such. Any such violation shall also be a violation subject to abatement, removal or other legal or equitable remedies hereunder, unless the use, development, construction or other activity is clearly consistent with the express, applicable terms of this Chapter.

(c) Nonconforming Situations under Prior Code or Regulations

Any legal nonconforming use, building, structure or lot under a prior ordinance or regulation of the City or County shall be a legal nonconforming use, building, structure or lot under this Chapter, subject to the provisions of Article 18.

(d) New Nonconforming Situations

Any use of land, building, structure or lot which complied with the Zoning Ordinance or resolution applicable to it prior to the effective date of this Chapter but not conforming with one or more of the requirements of this Chapter may continue as a legal nonconforming use, building, structure or lot, subject to the provisions of Article 18 of this Chapter.

(e) Existing Accessory Buildings

Lawfully placed or erected Accessory Buildings that exist in place on the effective date of this Ordinance, may remain in place in accordance with the provisions of this Subsection. Any lawfully placed or erected Accessory Building in place on the effective date of this Ordinance in an A, RE or RS zoning district may remain in place for the life of the building or structure. Existing Accessory Buildings or structures in all other zoning districts must be brought into conformance with this Chapter by the effective date of this Ordinance by amending the site plan, if necessary, obtaining any

applicable permits, and, if required, moving the buildings or structures to conform to the standards set forth in Sec. 23-11-19 for Accessory Buildings or structures. The owner of an Accessory Building or Structure lawfully erected on a permanent foundation, in accordance with a duly issued Building Permit, shall not be subject to the requirement to move the building but shall be required to amend the site plan to show the Accessory Building or Structure, and to ensure that all required parking and fire lanes are provided without regard to space occupied by the Accessory Building or Structure. The existence of an Accessory Building or Structure not on a permanent foundation shall not be considered a hardship or shall be considered a self-imposed hardship and thus shall not provide the basis for granting a Variance in accordance with Sec. 23-6-2, if such building or structure is not in conformance with the standards and other requirements of this Code.

(f) Continuing Construction

Any building or structure for which a Building Permit was issued prior to the effective date of this Chapter may be completed in conformance with the issued Building Permit and other applicable permits and conditions, including the plans submitted for the approval of the permits. If such building or structure does not fully conform to the provisions of this Chapter or if the use for which it was designed is not permitted under this Chapter, such building or structure may be occupied and used as a legal nonconforming building, structure or use, subject to the provisions of Article 18. If construction is not begun or completed, in accordance with applicable permit terms, the Board of Zoning Adjustments may, for good cause shown, grant one extension of not more than six months for such construction (Sec. 23-2-3). If the building or structure is not completed within the time allowed under the original permit or any extension granted, then the building or structure shall be constructed, completed or occupied only in strict compliance with the requirements of this Chapter.

(g) Continuing Development

Any subdivision for which a Preliminary Plat was approved, or any development for which a site plan was approved prior to the effective date of this Chapter, may be completed in accordance with the approved Plat or plan and other applicable permits and conditions. If such subdivision or development does not fully conform to the provisions of this Chapter, the subdivision or development (including any buildings for which plans were included in a development approval) may be completed and used and shall exist as a legal nonconforming lot or nonconforming building or structure, subject to the provisions of (c) of this Chapter. If the subdivision or development is not completed within the time requirements established by prior Code or resolution or within any schedule included in the approval of the plan or Plat, the Planning Commission may, for good cause shown, grant an extension of not more than one year for the completion of such development or plat. If the subdivision or development is not completed within the time permitted under the original approval or any extension that may be granted, then such development or plat may be completed and buildings or structures therein constructed and used only in strict compliance with the requirements of this Chapter.

(h) Zoning of Annexed and Other Land

Any land that becomes subject to the applicability of this Chapter by reason of annexation by the City, or by reason of a change in State law, disconnection from another municipality or another change in City boundaries, shall be zoned in accordance with the procedures required by State law and this Chapter. From the

effective date of the annexation until such time as the property is rezoned, the newly annexed territory shall temporarily and on an interim basis be given the zoning classification of "A" Agricultural District.

(i) Right-of-Way Vacated, Public Land Sold

When any public right-of-way is vacated or any public land sold, such right-of-way or land shall, without further action by the City, be deemed to be zoned as follows: if all of such land is surrounded by land classified in one zoning district, then it shall be deemed to be included in that district; if such land is surrounded by land classified in more than one zoning district, then the following rules shall apply:

(1) Apportioned by Ownership

If under applicable law the vacated right-of-way will go to two or more owners and the adjoining land of each owner is in a single zoning district, then the zoning of each part of the vacated land shall be the zoning of the adjoining land owned by the owner receiving that part, with the zoning boundary to follow the new property lines;

(2) Apportionment to Two Districts

If the rule of Subsection (1) does not apply and the property adjoining the vacated property is in two zoning districts, then the vacated property shall be apportioned to those two districts, with the new district boundary to be an equal distance at each point from the former respective district boundaries.

(3) Extension of District Lines

If neither the rule of Subsection (1) or (2) applies and it is possible through extension of existing zoning district boundaries and creation of a new boundary down the middle of all or a portion of the vacated property, to create an orderly and logical zoning pattern, consistent with the Comprehensive Plan, then the lines shall be so extended and created.

(4) Other

If it is otherwise unreasonably difficult, in the opinion of the Director of Community Development, to determine under this Subsection how each part of such land should be zoned, then the entire parcel of land or right-of-way shall be classified in the RER (Rural Estate Restricted) zoning classification until further action by the City.

(j) Uses in CRD District

(1) Purpose

One of the planning processes in Biloxi that has occurred simultaneously with the drafting, public discussion and public hearings on this Chapter is a plan for the revitalization of certain areas in the heart of old Biloxi, which areas are designated in the CRD zoning district. As this Chapter entered the final adoption process, the City's consultant had proposed draft design and development standards for development in the new CRD District along Caillavet Street, but there had not been any public workshops or serious public discussion of these standards. Further, there has been serious discussion of the expansion of the CRD District to include an area along Bayview Avenue. To allow time for separate discussion of the proposed CRD standards, the drafters have

intentionally omitted these standards from this Chapter, with the intent and the understanding that they will be added to it within several months after the adoption of this Chapter. The purpose of this sub-section (j) is to allow development in the CRD district to proceed as necessary while adoption of the standards is pending but to ensure that it receives careful review for compatibility with the new CRD District.

(2) CRD Uses Pending Adoption of New Standards

From the effective date of this Chapter until _____, or until the City Council shall amend this Chapter through the adoption of design and development standards for the CRD (as an amendment to Appendix B: Caillavet Street CRD Design Standards and a separate amendment to Appendix C, Bayview Street CRD Design Standards), whichever shall first occur, the following additional standards and conditions shall apply to the use and development of land and buildings in the CRD District:

- a. All uses existing on the effective date of this Ordinance may continue on the same premises;
- b. A new use, expansion of a use, or new construction requiring approval of a site plan or requiring a Building Permit shall be allowed if such use is shown as a "Permitted," "Accessory" or "Conditional" use in Use Table 23-11-13-A and Use Table 23-11-13-B, provided that such use (even if otherwise considered a Permitted or Accessory Use) shall, during this interim period, be allowed only as a Conditional Use, subject to such conditions as may reasonably be imposed by the Planning Commission, which conditions shall be based on:
 1. The adopted Comprehensive Plan and related policies for redevelopment of the area;
 2. The Caillavet Street redevelopment plan or Bayview redevelopment plan, whichever shall apply;
 3. Compatibility with the residential areas that will remain to the east of the CRD; and
 4. Other design and development standards applicable to the proposed use or development type under other provisions of this Ordinance.

Table 23-1-9-A New Base Districts

New district:	New District:	Former District*:
A	Agricultural	A-1
RE	Residential Estate	RE
RER	Residential Estate, Restricted	New
RS-10	Single-Family Residential Low Density	R-1A
RS-7.5	Single-Family Residential Medium Density	R-1
RS-5	Single-Family Residential High Density	R-2
RD	Duplex or Two-Family Residential	RD-1
RM-10	Multiple-Family Residential, Low Density	R-3A
RM-20	Multiple-Family Residential, Medium Density	R-3
RM-30	Multiple-Family Residential, High Density	Some R-4
RMH	Residential Manufactured/Mobile Home	Some R-4, Some New
RO	Residential Office	RO
B-1	Neighborhood Business	Some RO, C-2
B-2	Community Business	Some RO, C-2, C-3
B-3	Hospitality Business	Some C-1
B-4	General Business	C-3, C-4, CBD (I)
B-5	High Volume Business	C-3, C-4, CBD (I)
CBD	Central Business District	C-4, CBD (I-VIII)
CRD	Corridor Redevelopment District	New
SB	Sand Beach	SB
WF	Waterfront	WF-1, 2
I-1	Light Industrial	I-1
I-2	Heavy Industrial	I-2

*Note: Application of this table may require interpretation by the Director of Community Development and/or Planning Commission. Generally, this table reflects new base zoning districts in relationship to uses in former base zoning districts, upgrading and modifying classifications to accomplish goals and objectives of the Comprehensive Plan.

Sec. 23-1-10 Repealer

The following ordinances of the Code of Ordinances of the City of Biloxi, Mississippi, of 1992, as amended, are hereby repealed in order to be amended where necessary and incorporated herein: the Comprehensive Zoning Law of Biloxi, Mississippi, of 1973, Chapter 23 of the City Code; the Subdivision Ordinance, Chapter 18 of the City Code; the Tree Protection Ordinance, Article 3 of Chapter 17 in the City Code; the Landscaping Ordinance, Article 5 of Chapter 17 in the City Code; the provisions establishing the Planning Commission, contained in Chapter 2, Article 3, Sections 2-3-1 through 2-3-6 of the City Code; and the Architectural and Historical Review Ordinance, Article 8 of Chapter 2 of the City Code. No section of the current Code shall be deemed repealed until the replacement provision has become effective, in accordance with the terms of this Article. In case of any conflict during a transitional period, the terms of this Ordinance shall control.

Sec. 23-1-11 Effective Date

This Chapter shall be effective September __, 2003.

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ARTICLE 2. REVIEW AND DECISION-MAKING BODIES

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Sec. 23-2-1 City Council

The organization of the City Council is addressed in other parts of the Biloxi Code of Ordinances. The City Council shall have the additional authority, duties and responsibilities set forth in this Chapter.

Sec. 23-2-2 Planning Commission

(a) Established

A Planning Commission is hereby created and established, to consist of membership as set forth in this Article. The Planning Commission and Board of Zoning Adjustments are differentiated for clarity, ease of administration and delegation of duties; however, it is the intent of the City that all of the members of these two specific Boards are members of the "Planning Commission" of the City of Biloxi as the term is utilized in Chapter 1 of Title 17 of the Mississippi Code of 1972, as amended, and they should all be compensated accordingly. The term "Planning Commission," when used in this Chapter, shall be construed to mean the Biloxi Planning Commission.

(b) Purpose

The purpose of the Planning Commission is to prepare a Comprehensive Plan and other plans to guide the future growth of Biloxi in an orderly way, consistent with the public health, safety and general welfare; to exercise regulatory authority over subdivisions and such other matters as may be delegated to it from time to time by the City Council; and to advise the City Council on the adoption and amendment of the Land Development Ordinance, Zoning District Map, and related matters.

(c) Membership

(1) General

The Planning Commission shall consist of nine voting members, all of whom shall be resident citizens of Biloxi and qualified electors therein. The members will be appointed by the Mayor, subject to confirmation by the City Council. There shall be one member from each ward of the City and two members at-large, who may be from any ward. A representative of Keesler Air Force Base shall be an ex-officio member of the Planning Commission.

(2) Term of Office

The term of office for each member shall be four years; however, the initial nine commissioners appointed pursuant to this Section shall be appointed to staggered terms, with three members appointed to a one-year term, two members appointed to a two-year term, two members appointed to a three-year

term, and two members appointed to a four-year term. A member of the Planning Commission may be allowed to succeed himself.

(3) Vacancies

Vacancies shall be filled by the Mayor, subject to confirmation by the City Council; a person appointed to fill a vacancy shall fill out the term of office of the original appointee.

(4) Compensation

Each member of the Planning Commission is eligible to receive per diem compensation of \$60.00 for each regular meeting attended, not to exceed \$120.00 per member per month. Compensation shall be paid monthly. Any member may decline compensation by notifying the City Controller.

(5) Transitional

a. Context

Through the adoption of this Chapter and the repeal of the provisions that preceded it, the City Council has separated the functions of the Planning Commission and the Board of Zoning Adjustments, which functions have all been performed by the Planning Commission through 2001 and until the effective date of this Chapter in 2002. In addition, because of the annexation of substantial additional property in 1999 and the release of new census data in 2001, it has been necessary to change the ward boundary lines for the City of Biloxi. In that context, this Subsection provides for a transition from an 18-member Planning Commission to the two 9-member bodies authorized by this Article.

b. Voluntary Reorganization

The Planning Commission existing on August 1, 2003 may, but shall not be required to, propose a reorganization plan, through which some of its members would continue as members of the Planning Commission and other members would become members of the Board of Zoning Adjustments, with due regard for the residency and ward representation requirements. The plan shall include proposed staggered expiration dates for the terms of the members of each body, using insofar as practicable, the expiration dates of the terms of the individual members under their current appointments to the Planning Commission. If the Planning Commission, by a favorable vote of at least two-thirds of its then members, proposes such a plan of reorganization on or before October 1, 2003, the plan shall go forward to the Mayor, who may send it forward to the City Council with a favorable recommendation, send it forward with modifications and a favorable recommendation or refuse to send it forward. If the Mayor sends it forward to Council and the Council approves the plan by majority vote, it shall then go into effect. Any vacancies remaining after implementation of the plan shall be filled through the process for filling vacancies for each body.

c. If Plan Not Approved

If for any reason no plan as described in Subsection (b) is approved by the City Council by September 15, 2003, then the terms of all of the current

members of the Planning Commission shall end on February 1, 2004, and the Mayor shall appoint all members to the Planning Commission and the Board of Zoning Appeals, subject to the approval of the City Council. In making the appointments, the Mayor shall name these initial members to staggered terms, in accordance with Subsection (c) (1) of this Section and Sec. 23-2-3(c).

(d) Officers

The Planning Commission shall elect from among its members its own chairman and vice-chairman, who shall serve for one year from appointment. The Director of Community Development shall serve as secretary to the Planning Commission but shall not be a voting member.

(e) Rules of Procedure

(1) Quorum

A simple majority of the current membership of the Planning Commission shall constitute a quorum for the conduct of business.

(2) Other

The Planning Commission may adopt from time to time additional rules and regulations for its procedures, not inconsistent with this Chapter and other ordinances of the City.

(f) Reports to City Council

The Planning Commission shall make such reports to the City Council as may be deemed proper, or as may be required by the City Council.

(g) Staff

Staff for the Planning Commission shall be provided by the Community Development Department, as authorized by the City Council.

(h) Powers and Duties

The Planning Commission shall have the following powers and duties:

(1) Comprehensive Plan

To prepare a Comprehensive Plan for the future development of Biloxi, pertaining to the public health, safety, and general welfare of Biloxi and its residents, including matters related to physical development, both public and private. The plan may be adopted as a whole or in separate elements and may include, but need not be limited to, recommendations relative to the location, length, width and arrangement of the streets, alleys, bridges, viaducts, parks, parkways, playgrounds, boulevards or other public grounds or improvements; the platting of public property into lots, plots, streets or alleys; the location of railroad or streetcar lines; transportation or other channels for communication of any kind; the grouping of public buildings; and the design and placing of memorials, works of art, power or lighting plants, street lighting standards, telegraph and telephone poles, street name signs, billboards and projecting signs;

(2) Interpretation of Plan

To make recommendations in connection with the execution and detailed interpretation of the Comprehensive Plan and to make such changes and adjustments in the plan as may be deemed necessary or desirable from time to time;

(3) Zoning

To advise the City Council on the adoption and amendment of such regulations and the related map(s), and to act upon any matter assigned to it under this Chapter or referred to it by the City Council;

(4) Subdivision

To review and act on proposals for the subdivision of land, subject to appeal to the City Council and subject to the authority of the City Council to accept, or to refuse to accept, any offer of dedication included in such subdivision; and

(5) Photographic Inventory

To annually, on or before the 1st day of October, prepare an updated photographic inventory of all properties subject to Conditional Use Permits with the assistance of the Director of Community Development.

(6) Report on Conditional Use Modifications

To annually, on or before the 1st day of October, submit to the City Council and make available to the general public a report on all significant changes during the previous year to properties subject to Conditional Use Permits. To the extent that such changes are inconsistent with or not authorized by the Conditional Use Permits, the report should include a recommendation of enforcement or other actions necessary or appropriate to ensure compliance with the Conditional Use Permits.

(7) Legislation

To recommend to the City Council from time to time legislation or policies to implement or give effect to adopted plans.

(i) Records

The Planning Commission shall keep minutes of its proceedings and records of its examinations and other official actions. The minutes of the Planning Commission shall show the vote of each member upon each question, or, if failing to vote, shall indicate that fact. All minutes and records shall be filed with the Planning Division and shall be public records. The Director of Community Development shall communicate all Planning Commission actions to the Building Official and City Council.

Sec. 23-2-3 Board of Zoning Adjustments**(a) Established**

A Board of Zoning Adjustments is hereby created and established in accordance with the provisions of this Section. The term "BZA," when used in this Chapter shall be construed to mean the Board of Zoning Adjustments.

(b) Purpose

The purpose of the BZA shall be to consider Appeals of Administrative Decisions made pursuant to this Chapter; to grant minor relief in the form of Variances for hardships; to administer certain permitting procedures requiring a hearing; and, where specifically set forth, to provide interpretations of this Chapter.

(c) Membership**(1) General**

The BZA shall consist of nine voting members, all of whom shall be resident citizens of Biloxi and qualified electors therein. The members will be appointed by the Mayor, subject to confirmation by the City Council. There shall be one member from each ward of the City and two members at-large, who may be from any ward. Each member of the BZA shall serve a four-year term. In addition, a representative of Keesler Air Force Base shall be an ex-officio member of the BZA with full authority to participate in the meetings, but without a vote.

(2) Term of Office

The term of office for each member shall be four years; however, the initial nine board members appointed pursuant to this Section shall be appointed to staggered terms, with three members appointed to a one-year term, two members appointed to a two-year term, two members appointed to a three-year term, and two members appointed to a four-year term. A member of the Board of Zoning Adjustments may be allowed to succeed himself.

(3) Vacancies

Vacancies shall be filled by the Mayor, subject to confirmation by the City Council; a person appointed to fill a vacancy shall fill out the term of office of the original appointee.

(4) Compensation

Each member of the Board of Zoning Adjustments shall be eligible to receive per diem compensation of \$60.00 for each regular meeting attended, not to exceed \$120.00 per member per month. Compensation shall be paid monthly. Any member may decline compensation by notifying the City Controller.

(5) Transitional Provisions

The transitional provisions of Sec. 23-2-2(c)(5) apply to the Board of Zoning Adjustments as well as the Planning Commission.

(d) Officers

The BZA shall elect from among its members its own chairman and vice-chairman, who will serve for one year from appointment. The Director of Community Development shall serve as secretary to the BZA, but shall not be considered a voting member.

(e) Rules of Procedure**(1) General Rules**

The BZA shall adopt rules of procedure not in conflict with any State statute or City ordinance. Meetings of the BZA shall be held at a regularly scheduled date

and time and such other times as the BZA may determine, pursuant to notice. All BZA meetings shall be open to the public, subject to the Mississippi Open Meetings Law. All testimony presented at a public hearing shall be taken down by a reporter or recorded on a tape recorder. In exercising its powers and duties, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that extent (subject to the provisions of Sec. 23-1-5(a)) shall have all the powers of the Building Official under this Chapter. The concurring majority vote of a quorum of members of the BZA present at a meeting shall be necessary to reverse any order, requirement, decision or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any Variance to this Chapter.

(2) Quorum

A simple majority of the current membership of the BZA shall constitute a quorum for the conduct of business.

(3) Other

The BZA may adopt from time to time additional rules and regulations for its procedures, not inconsistent with this Chapter and other ordinances of the City.

(f) Reports to City Council

The Board of Zoning Adjustments shall make such reports to the City Council as may be deemed proper, or as may be required by the City Council.

(g) Staff

Staff for the Board of Zoning Adjustments shall be provided by the Community Development Department, as authorized by the City Council.

(h) Powers and Duties

(1) Specific Authority

The BZA shall have full authority to hold public hearings whenever such hearings are required by this Chapter or would facilitate its administration; to instruct the enforcement officer as to his duties; to make reports of its meetings; and shall also have the power to review and determine applications for:

- a. Appeals of administrative decisions;
- b. Variances; and
- c. Extension or Reactivation of Nonconforming Uses.

(2) Other matters

The BZA shall have no jurisdiction over matters related to construction or other matters that are under the exclusive jurisdiction of the Building Board of Adjustments and Appeals, as set forth in Chapter 5 of the Code of Ordinances.

(3) Advisory Review

The BZA may assist the Director of Community Development and Building Official and advise the Planning Commission in Zoning Text and Zoning District Map Amendments and Conditional Use Permits.

(i) Records

The BZA shall keep minutes of its proceedings and records of its examinations and other official actions. The minutes of the BZA shall show the vote of each member upon each question, or, if failing to vote, shall indicate that fact. All minutes and records shall be filed with the Planning Division and shall be public records. The Director of Community Development shall communicate all BZA decisions to the Building Official and Planning Commission.

Sec. 23-2-4 Architectural and Historical Review Commission (AHRC)**(a) Established**

An Architectural and Historical Review Commission is hereby created and established in compliance with Chapter 13, Title 39 of the Mississippi Code of 1972 as amended. The term "AHRC," when used in this Chapter shall be construed to mean the Architectural and Historical Review Commission.

(b) Purpose

The purpose of the AHRC is to prevent any harmful effects of development from being realized within certain more sensitive areas of Biloxi and thus promote the public convenience, protect property values, encourage the most appropriate use of land, increase the tax base and protect the general welfare. The intent of the AHRC is also to ensure the provision of a functional, safe, innovative and attractive site development compatible with the City's manmade and unique natural environment and to protect against developments within certain more sensitive areas of Biloxi which may degrade or depreciate the image, beauty and character of Biloxi; and recognizing that such adverse developments affect the livability and desirability of the community in general and the surrounding neighborhoods in particular, the result of which is to negatively impact potential development and redevelopment within the community, impair the stability in value of both improved and unimproved real property and undermine property values and the overall tax base of Biloxi, all of which represent a threat to the health, safety and general welfare of Biloxi.

(c) Membership

- (1)** The AHRC shall consist of not fewer than nine voting members, who shall be appointed by the Mayor and confirmed by the City Council. All AHRC members shall be resident citizens of Biloxi and qualified electors therein. The term of office of each such member shall be four years from the date of appointment. However, the initial nine members appointed subsequent to the effective date of this Chapter shall be appointed to staggered terms, with three members appointed to a one-year term, two members appointed to a two-year term, two members appointed to a three-year term, and two members appointed to a four-year term. When a vacancy occurs either by the expiration of term of office or otherwise, the vacancy shall be appointed by the Mayor, confirmed by the City Council, either to fill an unexpired term where a member shall die, resign or become disqualified during his/her term, or for a full term of four years where the

term of a member expires. In addition to the nine voting members, there shall be the following non-voting ex-officio members: the Director of Community Development; a designee of the City's Community Development Department; a designee of the City's Building Division and the City's Certified Local Government Coordinator/Historical Administrator; and a member appointed from the Biloxi Main Street organization, who shall exhibit a general expertise in historic preservation - each of whom shall serve during the term of his/her office or until the appointment and qualification of his/her successor.

- (2) All AHRC members shall have a demonstrated knowledge of or interest, competence, or expertise in urban planning or historic preservation. To the extent available in the community, members of the AHRC shall have a general working knowledge in one or more of the following subjects: urban planning, American studies, cultural geography, cultural anthropology, interior design, law, real estate, construction, architecture and related fields.
- (3) Because Biloxi may possess few residents with expertise in the individual fields of history, architecture, architectural history, archaeology, urban planning, law or real estate, and in order not to impair such residents from practicing their trade for hire, AHRC members are allowed to contract their services to an applicant, and, when doing so, must expressly disqualify themselves from the AHRC during all discussions for that application. If any AHRC member is disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall, in writing, request that the member resign his AHRC seat. Failing this resignation, the chairperson or vice-chairperson shall request that the City hold a public meeting. Likewise, any AHRC member who has an interest in the property in question or in property within 300 feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any manner 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 any manner in the consideration of any request involving such a property.

(d) Officers

The AHRC shall elect its own chairman, and vice chairman, who will serve for one year. The Director of Community Development shall serve as the secretary of the AHRC, but shall not be a voting member. It shall be the duty of the secretary to keep true and correct records of all proceedings of the AHRC.

(e) Records

The AHRC shall keep minutes of its proceedings and records of its examinations and other official actions. The minutes of the AHRC shall show the vote of each member upon each question, or, if failing to vote, shall indicate that fact. All minutes and records shall be filed with the Planning Division and shall be public records. The secretary of the AHRC shall communicate all AHRC decisions to the Building Official.

(f) Rules of Procedure

- (1) The AHRC shall adopt rules and regulations for conduct of its business.

- (2) A majority of AHRC members shall constitute a quorum for the purpose of conducting business. Official action may only be taken by the Commission upon a concurring vote of a majority of AHRC members, provided a quorum is present.
- (3) The AHRC shall meet in the Department of Community Development unless otherwise agreed upon by the AHRC. The AHRC shall meet on a regular basis. Meeting dates and times of meetings shall be determined by the AHRC. Special meetings may be called at the discretion of the chairman or by a majority of AHRC members. Records of all actions or findings shall be available to the public.

(g) Powers and Duties

(1) Photographic Inventory

To annually, on or before the 1st day of October, prepare an updated photographic inventory of all properties located in AHO Districts, all Landmarks and Landmark sites identified in Article 10.

(2) Report on Conditional Use Modifications

To annually, on or before the 1st day of October, submit to the Planning Commission and the City Council and make available to the general public a report on all significant changes during the previous year to properties located in AHO Districts, Landmarks and Landmark sites. To the extent that such changes are inconsistent with or not authorized by the Certificates of Appropriateness, the report should include a recommendation of actions to be taken or to be taken by the AHRC to address those changes.

- (3) The AHRC shall have the power and the duty to consider and act on any application for a Certificate of Appropriateness under Sec. 23-5-6;
- (4) The AHRC may, on the request of City Council or Planning Commission, or of its own initiative, advise the City Council and Planning Commission on matters involving historic landmarks, Architectural/Historic Overlay Districts, urban design or corridor design;
- (5) The AHRC may recommend any amendments to this Article, including the addition, deletion or revision of landmarks, landmark sites, and Architectural/Historic Overlay Districts, as may be called for;
- (6) The AHRC may consult with all interested persons, boards, commissions and civic and governmental bodies on matters concerning the AHRC and the City; and
- (7) The AHRC shall carry out all provisions of the City's Architectural/Historic Overlay Districts (Sec. 23-10-2), including making determinations regarding the issuance of Certificates of Appropriateness and reviewing plans affecting any landmark, landmark site or Architectural/Historical Overlay District.

Sec. 23-2-5 Development Review Committee**(a) Established**

A Development Review Committee is hereby created and established. The Term "DRC," when used in this Chapter, shall be construed to mean the Development Review Committee.

(b) Purpose

The purpose of the Development Review Committee is to provide technical review of applications submitted under this Chapter; to offer collective technical expertise on proposed projects and plans; to coordinate and expedite the review, processing, recommendation, and pre-hearing procedures; to take final action on certain applications as more fully set forth in this Chapter; and to issue Certificates of Development Compliance in accordance with Sec. 23-5-4.

(c) Membership, Chair

The DRC shall be chaired by the Director of Community Development and shall consist of a representative from each of the following City Departments or Divisions and organizations. Members who are designated as members only as to certain matters may attend all parts of all meetings of the DRC but shall participate in discussion and voting only on the designated matters.

- (1)** Engineering Division
- (2)** Fire Department
- (3)** Police Department
- (4)** Planning Division
- (5)** Building Division
- (6)** City Arborist
- (7)** Staff representative of the AHRC, who shall participate fully as a member of DRC on any proposal involving a designated landmark or involving land within or partially within a designated Architectural/Historic Overlay District or on any proposal involving land located within 500 feet of a designated AHO District or a designated landmark
- (8)** Designated representative of the Biloxi Council of Garden Clubs, who shall participate fully as a member of the DRC when it considers any matters regarding protected trees
- (9)** A representative of Keesler Air Force Base
- (10)** The City's designated Americans with Disabilities Act (ADA) representative shall participate fully as a member of the DRC when it reviews site plans or any other matters affecting accessibility or other matters addressed under the ADA
- (11)** A designated representative from any appropriate federal, state, or local agency having development review responsibility.

(d) Proceedings

A person designated by the Director of Community Development shall serve as secretary to the DRC. The DRC may accept information but shall not hold public hearings. All meetings shall, however, be open to the public in accordance with the Mississippi Open Meetings Law. The DRC shall meet at a regularly established meeting time or at the call of its chairman. Notice of scheduled DRC meetings shall be posted by the Director of Community Development in the Department of Community Development.

(e) Powers and Duties**(1) Specific Authority**

The DRC shall have the specific authority to:

- a. Review and approve site plans in accordance with Sec. 23-4-4;
- b. In the course of reviewing site plans, interpret applicable standards and apply them to specific projects;
- c. In the course of reviewing site plans, balance competing policies and resolve apparent conflicts between standards where the effect does not allow any use not permitted in the applicable zoning district, does not increase the intensity or quantity of use beyond that permitted in the applicable zoning district and does not vary or waive any applicable height limit or setback requirement abutting land that is not part of the site plan under review; and
- d. Review and issue Certificates of Development Compliance.

(2) Advisory Review

The DRC may assist the Building Official and Director of Community Development and advise the Planning Commission, BZA and AHRC in all of the following:

- a. Pre-application development layout review, provided sufficient data to permit a responsible evaluation is submitted;
- b. Zoning Text and Zoning District Map Amendments as they impact City services;
- c. Review and issue CDCs in accordance with Article 5; and
- d. Review petitions for Public Right-of-Way Vacations in accordance with Sec. 23-8-1.

(3) Other Recommendations

The DRC may, from time to time, at the request of the Mayor, City Council or Planning Commission, or on its own initiative, provide recommendations on any of the following:

- a. Legislation that may be desirable to further the purposes of City planning;

- b. Implementation of the statement of purpose, goals, objectives and Comprehensive Plan and continuous planning process as it relates to this Chapter or any other City code, ordinance and policy; and
- c. Other special cases and projects.

ARTICLE 3. GENERAL PROCEDURES

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Sec. 23-3-1 Overview

(a) Conformity with Land Development Ordinance

No permit, license, certificate or approval shall be issued for any regulated building activity, use, building, structure or lot of record that conflicts with any provision of this Chapter. Any permit, license, certificate, or approval issued in conflict with this Chapter shall be null and void.

Sec. 23-3-2 General Review Procedures

(a) Application Forms and Fees

The following regulations shall apply to all applications required under this Chapter.

(1) Forms

Applications required under this Chapter shall be submitted on forms and in such numbers as required by the City.

(2) Fees

- a. Filing fees shall be established from time to time by ordinance of the City Council to defray the actual cost of processing the application;
- b. All required fees shall be made payable to "The City of Biloxi"; and
- c. An applicant who has paid an appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to placement of a public hearing notice by the City shall be entitled to a refund of 50 percent of the total amount paid upon written request to the City. In cases where no public hearing is required, and no inspection has been conducted, an applicant shall be entitled to a refund of 75 percent of the total amount paid upon written request to the City.

(b) Application Deadline

To be considered at a particular meeting, an application must be complete and submitted to the Director of Community Development in accordance with the schedule shown in Table 23-3-2-A. Complete applications received after the submission

deadline shall be held for the next meeting. The schedule in Table 23-3-2-A does not apply to incomplete applications, which are to be returned to the applicant in accordance with Subsection (c) of this Section.

Table 23-3-2-A Application Submission Deadlines

Permit or Approval Subject to Review By:	Submission Deadline
Board of Zoning Adjustments	35 days prior to meeting
Planning Commission	35 days prior to meeting
Architectural and Historical Review Commission	7 days prior to meeting
Development Review Committee	4 days prior to meeting

(c) Complete Application Required

- (1) The Director of Community Development shall have five working days to review the application materials submitted and confirm that all the required items have been submitted, with the exception of DRC and Public Works permit applications.
- (2) DRC applications shall be reviewed by the Development Review Committee for completeness at the next DRC meeting occurring at least four days after submittal of the application.
- (3) The Director of Community Development shall forward Public Works permit applications to the Public Works Department upon receipt.
- (4) If the application is not complete, the Director of Community Development shall inform the applicant within the specified review period of specific application deficiencies.
- (5) The Director of Community Development shall not process an incomplete application.

Sec. 23-3-3 Pre-Application Conference

(a) Purpose

The purpose of the Pre-application Conference is to assure that the applicant is familiar with the City's overall land development regulatory process, to assist the applicant in determining those reviews and approvals required for his project, to develop an anticipated timeline for such review and approvals, to call the applicant's attention to applicable City standards as identified in the City's Standards and Specifications Manual, and to give the City an opportunity to explore and comment on the scope and impact of the project.

(b) Applicability or Activities Subject to Review

- (1) A Pre-application Conference with the Planning Division shall be required for any project for which an applicant intends to submit one or more of the following applications. Items (d) and (h) shall require the presence of the City Engineer at the Pre-application Conference and items (b) and (d) shall require the presence of the City Arborist at the Pre-application Conference.

- a. Sign permit for a freestanding sign;
 - b. Tree Permit involving more than five protected trees;
 - c. Site Plan Review;
 - d. Subdivision;
 - e. Map Amendment;
 - f. Conditional Use;
 - g. Variance; or
 - h. Other developments that will include public infrastructure improvements.
- (2) Prior to the submission of any other application required by this Chapter, an applicant may request an optional Pre-application Conference to discuss City procedures, standards, and/or regulations required by this Chapter.

(c) Prerequisites

There are no prerequisites for a Pre-application Conference.

(d) Request

The request for a Pre-application Conference shall be made by letter or other document outlining the nature of the development proposal, the site of the proposal and the type(s) of applications that the applicant believes will be necessary for the project.

(e) Meeting

- (1) Upon receipt of such request, the Director of Community Development, City Engineer, Executive Planner, City Arborist, Building Official or City staff member, as appropriate, shall afford an applicant an opportunity for a Pre-application Conference as soon as practicable.
- (2) A Pre-Application Conference for all subdivisions shall be held among the developer, the City Engineer, the Executive Planner and the City Arborist to determine if a Major or Minor Subdivision is proposed. The developer shall bring to the conference a plat or map showing the property that the developer proposes to divide as well as all contiguous property owned or controlled by the developer. The developer shall sketch on such plat or map or provide in a separate document a general plan for the subdivision. If the subdivision is determined to be a major subdivision, the City staff shall discuss with the developer the required improvements and City standards.

(f) Action by Staff

The anticipated result of the Pre-application Conference shall be a checklist of review and approval requirements that the Director of Community Development, Building Official and City Engineer determine applicable to the project, based on the information provided by the applicant. Also, an anticipated timeline for submissions and approvals will be established. The Director of Community Development, or others involved in the Pre-application Conference, may choose to offer additional comments or advice regarding the proposed project.

(g) Relationship to Other Approvals

The Required or Optional Pre-application Conference is the first step in the City's regulatory process of development projects. Upon completion, the applicant may apply for the applicable approvals required for the proposed project as provided herein.

Sec. 23-3-4 Inspection

The Building Official and/or other designated City Officials may examine, or cause to be examined, all buildings, structures, and sites for which an application has been filed for a permit in accordance with this Chapter, and any building, structure or site, or any complaint received from a citizen or public official concerning an activity occurring without a required permit or in violation of any permit or other applicable provision of this Chapter. The Building Official and/or other designated City officials shall have the authority to enter, at any reasonable hour, any building, structure, or site for the purpose of inspection under the provisions of this Chapter.

Sec. 23-3-5 Public Notice

- (a) Public notice shall be required for the following processes: Administrative Appeal; Conditional Use; Map Amendment; Planned Unit Development Review; Street Renaming; Subdivision (excluding certain lot-line rearrangements and large parcel waivers as regulated at Sec. 23-4-9); Text Amendment; Tree Removal; Vacation of Streets; and Variance.

- (b) Types of notice required for these processes are identified in Table 23-3-5-A.

Table 23-3-5-A Types of Notice Required

Procedure	Published	Posted	Mailed
Administrative Appeal	X	X	X
Conditional Use	X	X	X
Historic Designation	X		
Map Amendment (Rezoning)	X	X	X
PUD Review	X	X	X
Street Renaming	X	X	
Subdivision (excluding certain lot-line rearrangements & large parcel waivers)	X	X	
Text Amendment	X		
Tree Removal		X	
Vacation of Streets	X	X	X
Variance	X	X	X

(c) Public Notice Requirements**(1) Published Notice**

When required, the Director of Community Development shall place a public hearing notice in a local qualified newspaper of general circulation at least 15 calendar days prior to the meeting for the purpose of notifying the public of all public hearing agenda items that may be considered or reviewed.

(2) Posted Notice

When required, the Director of Community Development shall post "Notice of Application" signs at least 15 calendar days prior to the meeting at which the application shall be reviewed. The signs shall be posted on the subject property in a location clearly visible from each street adjacent to the property. The property owner or other applicant shall ensure that the signs remain in place until the meeting date indicated on the signs and shall notify the Director of Community Development if they are damaged or removed. The notice shall contain the following specific information: type of application; time, date and location of the public hearing; and the phone number to contact the City. If the subject of an Administrative Appeal does not pertain to a specific site then posting may not be required.

(3) Mailed Notice

- a. When required, a notice of public hearing shall be mailed by the Director of Community Development to owners of record of real property located within a radius of 200 feet of the property lines of the parcel under consideration or to a minimum of 15 owners of record in close proximity to the subject property, whichever is greater. Such notice shall be mailed not less than ten calendar days prior to the scheduled meeting at which the application is to be reviewed.
- b. In cases where the owners of record of real property within 200 feet of the property lines of the parcel under consideration are part of a condominium or timeshare development, notice of a public hearing shall be mailed by the Director of Community Development to the president/manager of the Homeowners' and/or Property Owners' Association in lieu of mailing a notice to each unit owner.
- c. When any proposed action impact properties located within 500 feet of a City boundary, notice of the proposal, together with the date, time and place of the public hearing thereof, if such hearing has been scheduled, may be mailed to the Planning Commission, or the governing body of the adjacent City or County, in order to give such City or County an opportunity to appear at the hearing or express an opinion on the effect of the proposed change.

(d) Content of Published and Mailed Notices

Published and mailed notices shall contain the following specific information:

- (1)** General location of land that is subject of application;
- (2)** Composite legal description for Map Amendments and street address of all lots of record that are the subject of the application;

- (3) Substance of application, including intensity of proposed development and current district;
- (4) Time, date and location of public hearing;
- (5) Phone number to contact the City; and
- (6) Statement that interested parties may appear at public hearing.

Sec. 23-3-6 Review Constitutes a Public Hearing

Where a public hearing is required by State law, the Planning Commission or BZA meeting at which the applicant formally presents his request shall constitute the required public hearing.

Sec. 23-3-7 Written Notice of Decision Required

Within ten calendar days after the Planning Commission, AHRC, BZA or DRC makes a decision under the requirements of this Chapter, a copy of the written decision shall be provided to the applicant or appellant by the secretary of the appropriate body.

Sec. 23-3-8 Reconsideration of Decisions

Reconsiderations of decisions may be initiated only by a member of a board or commission which made the decision. Any party aggrieved with a decision made pursuant to this Chapter may proceed with an appeal as identified in Sec. 23-3-9 requesting a reconsideration of the decision from which the appeal will be filed. At any time before an appeal of a decision has been filed, the Planning Commission, AHRC, BZA and DRC may reconsider an application on motion of a member, duly approved in accordance with the rules of that body.

Sec. 23-3-9 Appeals

(a) Party Aggrieved, Who May File

Any of the following shall be considered a "person aggrieved" who may file any appeal under this Section:

- (1) The applicant;
- (2) Any person who participated in any hearing in a decision-making process;
- (3) Any person enlisted to mailed or other direct notice of a hearing in a decision-making process; or
- (4) The Community Development Director.

(b) Jurisdiction of Appeals

- (1) Any party aggrieved with the suspension of a permit, certificate or approval may appeal to the Director of Community Development, pursuant to Sec. 23-19-5(d).
- (2) Any party aggrieved by a denial of or a condition imposed on a site plan application for a Building Permit or a Sign Permit by the Planning Commission or the Development Review Committee, may appeal to the Board of Zoning Adjustments.

- (3) Any party aggrieved by a decision of the Director of Community Development, DRC or Building Official regarding the administration of this Chapter, may appeal to the BZA.
- (4) Any party aggrieved by a decision regarding a Tree Permit decision, a Certificate of Appropriateness, or decision of the Planning Commission, may appeal to the City Council.
- (5) Any party aggrieved with a decision made by the City Council may appeal to the Circuit Court of Harrison County by a Bill of Exceptions in the time and manner provided by law.

(c) Notice of Appeal

Any appeal shall begin as follows:

- (1) For an appeal to the Director of Community Development, by filing a written Notice of Appeal with the Director of Community Development within ten days after the action from which the party appeals;
- (2) For an appeal to the BZA, by filing a written Notice of Appeal with the Director of Community Development within ten days after the action from which the party appeals;
- (3) For an appeal to the City Council, by filing a written Notice of Appeal with the Clerk of Council, sending a copy to the Director of Community Development, within ten days after the action from which the party appeals;
- (4) For an appeal to the Circuit Court, in accordance with the rules of the Circuit Court and the laws of the state.

(d) Procedure for Appeals to the Board of Zoning Adjustments (BZA)

(1) By Whom Taken

Appeals to the BZA may be taken by any aggrieved party, or by any officer, department, commission, board, bureau or other agency of the City affected by any decision of an administrative officer charged with any duties under this Chapter.

(2) When and How Taken

a. General

Such appeal shall be made within ten days of the action by the administrative officer from whose action the appeal is taken; the appeal shall be initiated by filing with the Director of Community Development a Notice of Appeal specifying the grounds of the appeal. The Director of Community Development shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

b. Consideration of Appeals by the Director of Community Development

The Director of Community Development shall, upon of a Notice of Appeal, schedule a hearing on such appeal at the next meeting of the Board of Zoning Appeals occurring at least 15 and not more than 45 days after the date on which the Notice of Appeal is received. The Director shall give

notice of the time, date and place of the hearing to: the appellant; to the original applicant in the matter, if such applicant is not the appellant; and to the individual or the chairman of the body from which the appeal is taken. The BZA shall hear the matter at the time and place indicated in the notice and shall take such evidence and argument as the Board deems necessary.

c. Revocation

1. If after the appeal hearing, it is determined that the certificate or permit was improperly issued, the certificate or permit shall be revoked.
2. If, after the appeal hearing, it is determined that there are violations of this Chapter or of applicable permits or of conditions imposed thereon, or of more than one of these, based on the nature and seriousness of the violation(s), one or all of the following may occur:
 - i. Revocation of the certificate(s) or permit(s);
 - ii. Cancellation of the suspension of the certificate(s) or permit(s) subject to immediate revocation in case of further violations;
 - iii. Partially cancel the suspension of the certificate(s) or permit(s) allowing only designated work to protect public health and safety or to eliminate the violations; and/or
 - iv. Cancel the suspension of the certificate(s) or permit(s) subject to such other conditions as the officer may reasonably find will ensure compliance with the requirements of this Chapter.
3. If after the appeal hearing a party is aggrieved of the decision of the BZA, the aggrieved party may appeal to the City Council, as provided below.

(3) Stays

An appeal stays all proceedings in furtherance of the action appealed from the date of the Notice of Appeal, except as follows:

- a. The Director of Community Development may void the automatic stay by certifying to the BZA, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the automatic stay shall be terminated at the next meeting of the BZA unless extended by the BZA for good cause shown.
- b. After such certification by the Director, proceedings shall not be stayed other than by a restraining order, which may be granted by the Mayor and Council or by a court of record on application, on notice to the Director of Community Development and on good cause shown.

(4) Time for Hearing

The BZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the interested parties, and decide the appeal within reasonable time, not to exceed 60 days. Any party may appear in person or by agent or by attorney at the hearing.

(e) Referral to Building Board of Adjustments and Appeals

Where, in an appeal to the BZA, the Board determines that the issues involved in the appeal involve deficiencies, or alleged deficiencies, in construction, the BZA shall refer the appeal to the Building Board of Adjustments and Appeals, in accordance with the procedures under the City Code. An appeal filed in accordance with this Section shall be considered timely and perfected regardless of the fact that it may be referred to a board different from the board to which the original appeal was taken.

(f) Procedure for Appeals to the City Council

- (1)** Upon receipt of an appeal, the Clerk of Council shall place the item on the agenda of a City Council meeting occurring at least 15 days, but not more than 30 days after the filing of the appeal. The Clerk shall give notice of the agenda date to the person filing the appeal and to the Secretary of the Commission from which the appeal is taken. The Secretary of said Commission shall, upon receipt of such notice, transmit to the Clerk of Council the record of the hearing before the Commission. The cost of preparing a transcript of the hearing and meetings on the matter shall be charged to the appellant, unless the City Council shall, after hearing the matter, determine otherwise.
- (2)** Any appeal made to the City Council will cause a public hearing to be held.
- (3)** The City Council shall consider the matter on the date on which it is scheduled, or on such other date to which the Council may reasonably continue it. The Council shall consider the record before the Commission and any other evidence that it may choose to consider. The criteria for the appeal shall be the criteria applicable to the original decision, as set forth in this Article, or, where pertinent, in state law.
- (4)** The City Council shall act on the matter no later than the second meeting following the date on which it hears the appeal. The City Council may, in such action, affirm the decision of the body or person from which the appeal is taken, reverse the decision, or remand the decision for further consideration. In an appeal involving a waiver or Variance, the City Council may affirm the decision with modifications to the terms of the proposed Variance or waiver.

(g) Final Action of the City upon Grant of Waiver or Variance for Purposes of Appeal by Bill of Exceptions

- (1)** Any action of the DRC to grant a waiver as provided in Sec. 23-4-9, shall be initially placed upon the consent agenda of the City Council for its consideration for confirmation; such action by the City Council shall constitute the final action of the City for purposes of appeal therefrom by Bill of Exceptions as provided by law.
- (2)** Any action of the BZA to grant a Variance as provided in Sec. 23-6-2 or to grant an exception pursuant to Sec. 23-18-7 shall be initially placed upon the consent agenda of the City Council for its consideration and confirmation; such action by the City Council shall constitute the final action of the City for purposes of appeal therefrom by Bill of Exceptions as provided by law.

(h) Additional Procedural Requirement Prior to Filing of Bill of Exceptions

Any party aggrieved of a decision made by any City official or board in the administration or application of this Chapter who desires to and has a right to perfect an appeal to the Circuit Court by Bill of Exceptions as provided by law must first exhaust all administrative remedies, including an appeal to the City Council, prior to filing such Bill of Exceptions; such party who was not specifically granted such right of appeal may file such an appeal by following the procedure set out in (c) of this Section and must exhaust that administrative remedy prior to filing such Bill of Exceptions.

Sec. 23-3-10 Limitation on Resubmission of Application**(a) Resubmittal of Denied or Disapproved Applications Subject to Public Hearings**

- (1)** Zoning District Map Amendments may only be submitted in compliance with Sec. 23-7-1(b).
- (2)** Building permit applications subject to review only by the DRC (except Tree Permit applications) may be resubmitted at any time, subject to payment of the application fees and other general application requirements.
- (3)** If an application for a Tree Permit or any application requiring a public hearing is denied or disapproved, then such application may not be resubmitted except as follows:
 - a. If resubmission of an amended application is allowed by the terms of the motion or other action denying or disapproving the application and if the resubmitted application is consistent with that condition;
 - b. The Director of Community Development, upon petition by the applicant, may permit a refiling of an application after six months from the original public hearing date upon a determination that significant physical, character or land use changes have taken place on the subject tract or within the immediate vicinity, or that a community need has been established; or
 - c. Any such application may be resubmitted one year after the date of the public hearing or, in case of an application for a Tree Permit, six months year after the date of the meeting at which the DRC considered the application.

(b) Resubmittal of Tree Permit Applications for Same Lot

No Tree Permit shall be issued for removal of a tree within six months of approval for of an application for removal of a tree from the same lot of record, unless, as a condition of such approval, the DRC specifically authorized submission of one or more additional applications for removal of trees on that lot.

(c) Resubmittal of Applications Not Acted Upon

- (1)** Whenever an application is filed with the City, but withdrawn after any publication of notice is made as required in this Chapter, such application cannot be resubmitted for a period of six months from the date of filing.
- (2)** An applicant may withdraw the application before placement of the required public hearing notice without being subjected to the resubmittal time period.

Sec. 23-3-11 Expiration of Approvals

- (a) All permits and approvals shall expire in accordance with the following provisions without further action of the Director of Community Development, Building Official, City Engineer, BZA, AHRC, DRC, Planning Commission or City Council, as applicable, unless:

- (1) A six-month period during which the permit or approval shall remain valid is expressly set forth in the permit or approval;
- (2) A six-month period during which a specific action that must be undertaken by the holder of the permit or approval is expressly set forth in the permit or approval; or
- (3) The holder of the permit or approval either submits a complete application for the appropriate subsequent permit or approval; or, if no subsequent permit or approval is required, completes the work described in the permit or approval within the time frames established.

(b) Expiration of Site Plan Approval by the DRC

An approved site plan shall expire 18 months from the date of approval by the DRC or on such earlier date as may be established by the DRC as a condition of approval, unless substantial construction has occurred in accordance with approved plans for the proposed development or the applicant demonstrates good cause to the Development Review Committee that some longer period should be allowed. Any variance granted for a building or other improvement shown on the site plan shall expire upon the expiration of the site plan approval.

(c) Expiration of Site Plan Approval by Staff

An approved site plan shall expire 12 months from the date of approval by the staff or on such earlier date as may be established by the staff as a written condition of approval, unless substantial construction has occurred in accordance with approved plans for the proposed development or the applicant demonstrates good cause to the staff that some longer period should be allowed. Any variance granted for a building or other improvement shown on the site plan shall expire upon the expiration of the site plan approval.

(d) Expiration of Building Permit

- (1) If the work described in any Building Permit has not substantially commenced within six months from the date of issuance thereof, the permit shall expire, shall be cancelled by the Building Official, and written notice thereof shall be given to the persons affected.
- (2) If, after substantial commencement of construction, work is discontinued or no substantial work has occurred for a period of six months or more, the Building Permit shall expire and be of no further effect. In such cases, no further work shall occur until a new Building Permit or an extension has been obtained.

(e) Expiration of Preliminary Plat

Approval of the Preliminary Plat shall be effective and binding upon the City for 18 months, and thereafter as long as work is actively progressing on installation of required improvements. Any variance granted for a building or other improvement

related to a proposed preliminary plat shall expire upon the expiration of the preliminary plat approval.

(f) Expiration of PUD Approval

A Development Plan for a PUD shall expire for any unbuilt section or phase of an approved PUD if a period of five years lapses without the attainment of a Building Permit for that section or phase. Any variance granted for a building or other improvement proposed for the PUD shall expire upon the expiration of the PUD approval.

(g) Expiration of Sign Permit

Any Sign Permit issued for the erection of a sign shall expire unless the work authorized by it shall have been substantially commenced within six months after its issuance.

(h) Expiration of Public Works Permit

Every Public Works Permit issued by the Building Official and City Engineer under the provisions of this Code shall expire by limitation and become null and void, if the work authorized by such permit is not substantially commenced within 90 days from the date of permit issuance, unless a different date is stipulated on the permit by the City Engineer.

(i) Expiration of Certificate of Appropriateness

Every Certificate of Appropriateness issued by the AHRC under the provisions of this Code shall expire by limitation and become null and void, if the work authorized by such permit is not substantially commenced within 12 months from the date of permit issuance.

Table 23-3-11-A Expiration of Approvals

Permit or Approval	Expiration if Work is Discontinued or Does not Commence
Site Plan (DRC)	12 months after approval if no permit has been issued
Site Plan (Staff)	12 months after approval
Building Permit	6 months after issuance or start of construction
Preliminary Plat	18 months after approval if construction has not begun
Planned Unit Development	5 years after approval if no Public Works Permit is obtained
Sign Permit	6 months after issuance
Public Works Permit	90 days after issuance, unless shown otherwise on permit

Sec. 23-3-12 Relationship to Other Approvals

(a) Subdivision and Subdivision Lot Review

The Development Review Committee will review all proposed Major Subdivisions through the subdivision review process identified in Article 4. Site Plan Review of

proposed construction or other activities on each lot shall be required in accordance with this Article and the application for such review shall not be accepted for individual lots until a Final Plat is obtained for the subdivision. If a Guarantee of Improvements is posted in accordance with this Article, no Certificate of Occupancy or Certificate of Development Compliance shall be issued for individual lots until such time as the subdivision infrastructure has been completed and the Guarantee of Improvements has been released by the City.

(b) Tree Review

Tree review, as required by Sec. 23-4-16, shall be part of the Site Plan Review process.

(c) Certificate of Appropriateness

Where a Certificate of Appropriateness is required under Sec. 23-5-6, the application for Certificate of Appropriateness shall include the complete site plan application required by this Article and shall be submitted first to the Development Review Committee. Approval by the Development Review Committee, if granted, shall be subject to further review by the AHRC, which shall make the final determination on a site plan also involving a Certificate of Appropriateness. If the AHRC makes or requires one or more material changes in the site plan, the site plan shall be resubmitted to the Development Review Committee to ensure compliance with all other codes.

(d) Amendments to Approved Site Plans

The procedure for obtaining approval of an amendment to a site plan shall be the same procedure as that required for the approval of the original site plan. Amendments to previously approved DRC site plans must be submitted to and approved by the DRC prior to initiating any activity that deviates from the original site plan. The initiation of any activities not approved on the site plan shall result in the revocation of all permits associated with the project.

(e) Planned Unit Development Approval

Planned Unit Development approval does not constitute subdivision approval. The applicant must complete the subdivision process and receive Preliminary and Final Plat approvals.

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ARTICLE 4. PRE-DEVELOPMENT REVIEW

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Sec. 23-4-1 Overview

This Article outlines the procedures and protocol involved in the review and authorization of land development projects submitted for approval by the City. The size, scope, and nature of a project will determine if the proposed development will require review by the Development Review Committee (DRC) or staff prior to being submitted for Building or Public Works Permit consideration.

Sec. 23-4-2 Site Plan Review Process Overview

- (a) A site plan shall be submitted to the Planning Division for review for all developments unless site plan review is specifically exempted by this Chapter for specific types of developments or renovations. Site plans shall be reviewed utilizing one or more of the following procedures as determined by the Planning Division, Building Division, or the Engineering Division depending on the type of development:
- (1) Staff Site Plan Review, in accordance with Sec. 23-4-3;
 - (2) Site Plan Review by the Development Review Committee (DRC), in accordance with Sec. 23-4-4;
 - (3) Site Plan Review for a Tree Permit, in accordance with Sec. 23-4-16;
 - (4) Site Plan Review for a Public Works Permit, in accordance with Sec. 23-4-17; and
 - (5) Site Plan Review for a Sign Permit, in accordance with Sec. 23-4-18.
- (b) A Subdivision Site Plan is a part of the application for Subdivision approval and is reviewed in accordance with the review procedures for Subdivisions, under Sec. 23-4-6, Sec. 23-4-7, Sec. 23-4-8, and Sec. 23-4-9.

Sec. 23-4-3 Staff Site Plan Review

(a) Purpose

The purpose of Staff Site Plan Review is to insure that types of developments identified in Sec. 23-4-3(b) comply with the provisions of this Chapter.

(b) Applicability or Activities Subject to Review

Site plans for the following activities or uses shall be reviewed by the Planning Division. In addition, the City Engineer shall review any of these activities that involve site grading, drainage facilities, potable water facilities, or sanitary sewage facilities. The Director of Community Development may refer any site plan to the DRC for review. No permit, certificate, or license shall be issued for any of the following types of developments until the site plan is approved by the Planning Division and/or the Engineering Division in accordance with this Section:

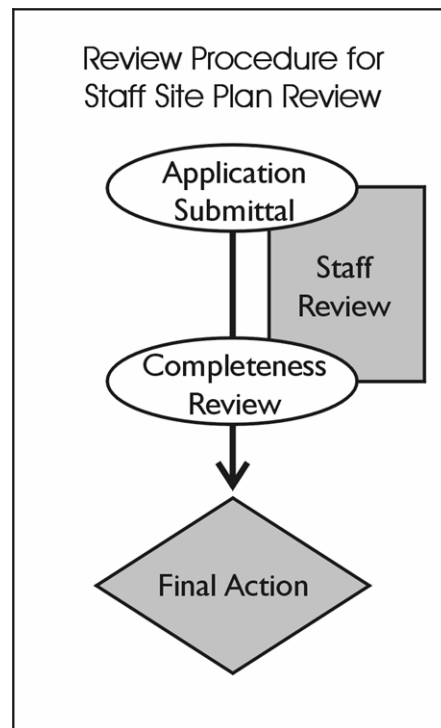
- (1) Any single-family or duplex dwelling, including manufactured or mobile homes, on an individual lot of record;
- (2) Any new use or change in use or occupancy of an existing nonresidential building even though a Building Permit may not be required;
- (3) Construction of any sign;
- (4) Addition to a residence or construction of an Accessory Building on a residential lot of record;
- (5) Erection or placement of Accessory Buildings or Accessory Structures incidental to single-family residential structures (e.g. detached garage, swimming pool, tool shed);
- (6) Temporary Uses permitted under this Chapter not involving permanent construction; or
- (7) Any other development that requires a Building Permit, Certificate, or License that involves the expansion of the floor area of a footprint or area under roof of a principal structure and does not undergo DRC review.

(c) Prerequisites

No prerequisites are required for this activity.

(d) Application Requirements

- (1) An application for Site Plan Review by the staff shall include the following submittals:



- a. An application for a permit, certificate, or license on the form provided by Community Development;
 - b. Site Plan(s). The number of copies required shall be in accordance with the Manual;
 - c. Any applicable letters of agreement or easements with adjacent property owners for uses such as utilities, detention areas, or access;
 - d. Computations, if required shall be shown on the site plan or on attachments for the following:
 1. Parking;
 2. Landscaping;
 3. Permitted signage;
 4. Floor area ratio and project density; and
 5. Impervious surface coverage.
 - e. A copy of approvals, certifications, pending applications for permits and recommendations required by all appropriate City, county, state, and federal regulations for the proposed development, and documentation of compliance with such, as applicable, shall be submitted by the applicant to the Planning Division. Failure of the staff to request verification of an approval or certification required does not relieve the applicant of responsibility for compliance. Staff approval shall not be granted until all required supporting documentation is received. Proof of permit applications with other agencies may be submitted with the application; however, Site Plan approval shall not be granted until a copy of each permit is received.
 - f. The staff may require submission of additional information relative to the proposed development where, owing to the nature, size, and location of the proposed development, particular elements affecting the health, safety, and welfare of the community should be addressed. Such elements may include but are not limited to, studies relating to traffic, hurricane evacuation, emergency preparedness, environmental preservation, historic preservation, shoreline erosion, public access, community linkages, and public education.
- (2) These submittals, at a minimum, shall contain the information specified in the City of Biloxi's Standards and Specification Manual, hereafter referred to as the Manual. Incomplete applications shall not be reviewed.

(e) Criteria

The staff shall review and act upon a site plan in accordance with the following criteria:

- (1) The proposed use of land shall be consistent with the use standards of the applicable zoning district(s);
- (2) For a residential project, the site plan shall include proposed use restrictions consistent with the proposed site plan and proposed parking;

- (3) The proposed buildings shown on the site plan conform to the setback, yard, height, floor area ratio, density, and other dimensional standards of the applicable district(s), except as otherwise determined in accordance with this Section. Where applicable, the building height and setback relationships shall conform to Article 12;
 - (4) Impervious surface coverage complies with Table 23-12-1-A;
 - (5) The proposed project complies with all conditions imposed by means of prior Zoning District Map Amendments, Conditional Use approvals, subdivision approvals, or other land-use actions currently affecting the property;
 - (6) There is no expansion of the nonconforming aspect of a use or structure;
 - (7) The proposed project contains all required parking and loading areas;
 - (8) The proposed site plan depicts all required landscaping and buffers;
 - (9) The proposed project provides for the preservation of all protected trees;
 - (10) The number, location and dimensions of proposed signs conform to applicable provisions of Article 17;
 - (11) The proposed project has adequate utility access and easements to serve all buildings, structures, and other facilities on the site;
 - (12) The proposed project has adequately addressed water, sewer, and drainage requirements of the Code of Ordinances, and the Manual; and
 - (13) The proposed project adequately addresses all other applicable provisions of this Chapter.
- (f) **Review and Action by Staff**
- The Planning Division shall review and act upon a site plan application within three days after the submission of a complete application. The Planning Division may approve an application as submitted, approve the application subject to conditions, or disapprove the application.
- (g) **Relationship to Other Approvals**
- The staff's approval of a site plan is a prerequisite to the issuance of a Building Permit for activities subject to review under this Section.

Sec. 23-4-4 Site Plan Review by the Development Review Committee (DRC)

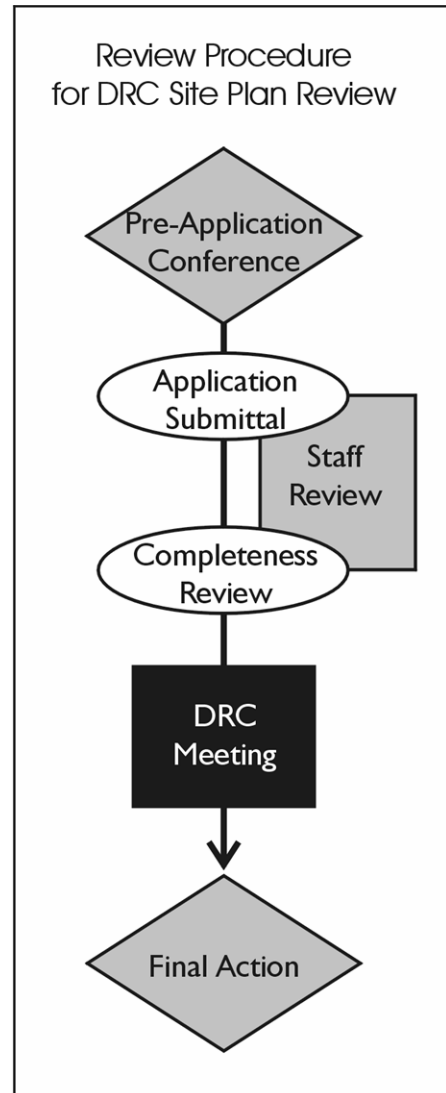
(a) **Purpose**

The purpose of site plan review by the DRC is to provide a multidisciplinary examination of projects prior to their introduction into the City's regulatory process for land development.

(b) Applicability or Activities Subject to Review

No permit shall be issued for any of the following projects except in accordance with a site plan approved by the DRC in accordance with this Section:

- (1) Any construction of a triplex or multi-family residential structure;
- (2) Any addition to a multi-family residential structure that increases the number of dwelling units or that increases the floor area by more than 500 square feet;
- (3) Any construction of a principal nonresidential structure;
- (4) Any addition to a nonresidential structure or construction of an Accessory Building on a nonresidential lot where the addition or Accessory Building has a floor area of 500 or more square feet;
- (5) Any grading or site development work except work undertaken pursuant to a Public Works Permit;
- (6) Any new development or use within any Industrial District;
- (7) Any new nonresidential use involving outdoor storage, production or sales, or any expansion of outdoor storage, production or sales areas appurtenant to an existing use;
- (8) Any Manufactured Home Park, Mobile Home Park, or Recreational Vehicle (RV) Park;
- (9) Any residential, business or industrial development located within the flood plain or subject to the requirements of Chapter 8 Drainage and Flood Damage Prevention;
- (10) Any new nonresidential use (including a change in use from another nonresidential use) if any part of the property is located within an AHO District, within 500 feet of property in an AHO District or within 500 feet of a designated landmark; and
- (11) Any change or expansion in a nonresidential use that results in the need for additional parking, additional provisions for waste disposal, or creates a potential threat to life safety as determined by the Fire Marshall, City Engineer, or Building Official; and
- (12) Any matter referred to the DRC by the Mayor, City Council, Planning Commission, or Director of Community Development for Site Plan Review.



(c) Prerequisites

The following must be completed or issued prior to filing an application for DRC Site Plan Review:

- (1) Pre-application Conference;
- (2) Certificate of Zoning Compliance in accordance with Sec. 23-5-3;

(d) Application

An application for Site Plan Review by the DRC shall include the following submittals:

- (1) A complete application on the form provided by the Planning Division;
- (2) Site Plan(s). The number of copies required shall be in accordance with the Manual;
- (3) Copy of deed to the lot of record that constitutes the proposed development site or subdivision;
- (4) A survey of the property;
- (5) All applicable letters of agreement or easements with adjacent property owners for uses such as utilities, detention areas, or access;
- (6) A Master Property Development Plan shall be submitted for property development where a developer proposes to develop only a portion of contiguous lands owned or controlled by the developer;
- (7) A written narrative detailing:
 - a. The nature and details of the proposed development;
 - b. Any phasing of a previously approved multiphase plan or PUD Master Plan, and a description of how such phase relates to such plan;
 - c. The contemplated form of ownership of the development as determined by State law (e.g., fee simple, condominium, timeshare ownership, etc.) and detailed provisions for maintenance responsibility for all improvements, including, but not limited to, streets, parking areas, bikeways, pedestrian ways, storm drainage facilities, water and sewer systems, and open space areas;
 - d. Any proposed dedication of improvements to the City, specifying such improvements; and
 - e. Any other information deemed necessary by the applicant to further clarify the proposed development.
- (8) Computations shall be shown on the site plan or on attachments for the following:
 - a. Required parking;
 - b. Required landscaping;
 - c. Permitted signage;

- d. Floor area ratio and project density;
 - e. Impervious surface coverage; and
 - f. Any other information required by the DRC.
- (9)** Calculations/Studies/Reports shall be submitted for the items listed below as required by the DRC:
- a. Drainage calculations;
 - b. Sanitary sewer analysis, including availability and demand;
 - c. Potable/fire protections water flow analysis, including availability and demand; and
 - d. Traffic study and report.
- (10)** A copy of approvals, certifications, pending applications for permits and recommendations required by all appropriate City, county, state, and federal regulations for the proposed development, and documentation of compliance with such, as applicable, shall be submitted by the applicant to the DRC. In addition to the City, the entities include, but are not limited to:
- a. Harrison County Health Department and the Harrison County Solid Waste Management and Wastewater District approval to construct water and sewer infrastructure, where applicable;
 - b. Harrison County Health Department approval of septic system or temporary sanitary waste disposal system;
 - c. Mississippi Department of Environmental Quality;
 - d. U.S. Army Corps of Engineers permits related to dredging, filling, wetlands, or other elements of the development;
 - e. Mississippi Department of Marine Resources;
 - f. Mississippi Department of Transportation approval, if necessary for proposed or required work;
 - g. Written documentation of the Federal Aviation Administration's review of the proposed development to verify compliance with applicable federal regulations;
 - h. Keesler Air Force Base, where applicable; and
 - i. Railroad authority, where applicable.

Failure of the DRC to request verification of an approval or certification required does not relieve the applicant of responsibility for compliance. DRC approval shall not be granted until all required supporting documentation is received. Proof of permit applications with other agencies may be submitted with the DRC application, but DRC approval shall not be granted until a copy of each permit is received.

All submittals, at a minimum, shall contain the information specified in the City of Biloxi's Standards and Specification Manual, hereafter referred to as the Manual. Incomplete applications shall not be reviewed.

(e) Criteria

The Development Review Committee shall review and act upon a site plan in accordance with the following criteria:

- (1)** All required submittals have been received; and
- (2)** The proposed development meets all the requirements of the Code of Ordinances, the Manual, and all applicable regulations of other governing agencies.

(f) Adjustments Related to Interpretation of Standards

(1) Purpose

The City Council recognizes that site planning is rarely a predictable process and that it is even less so in the complex topography of the Mississippi Gulf. In this Code, the City Council has provided standards to address all of the issues likely to arise in the course of land development. The Council recognizes that, in the context of planning particular sites, there will inevitably be situations that it and its advisers could not have contemplated in drafting this Code. The Development Review Committee has the responsibility to refer to the City Council for resolution of conflicts among standards and inconsistencies between the goals of this Code and the City's adopted plans and specific standards within the parameters set forth in sub-section (2), immediately following.

(2) Scope of Delegated Authority

a. Modifications as Conditions-Purposes

The DRC may condition its approval of a site plan on modifications to the site plan to preserve one or more additional protected trees; increase the amount of landscaped area; increase the buffer or otherwise improve the protection of an adjoining residential area from the proposed development; encourage sharing of driveways and reduction of access points along primary arterials; buffer or protect an adjoining or nearby designated landmark, landmark site or Architectural/Historic Overlay District.

b. Adjustments Allowed by DRC

To accomplish one of these purposes, the DRC may allow internal site plan adjustments within these guidelines:

- 1.** A reduction in the number of parking places of up to two percent of required parking, except that there shall be no reduction in the number of parking places for persons with physical disabilities;
- 2.** A reduction of rear and/or side yard setback requirements of up to 10 percent, except that there shall be no reduction of setbacks from adjoining property in an RS or RD District;
- 3.** Adjustments to landscaping requirements, as permitted under Sec. 23-16-14; and

4. Increased fence height above that is allowed under (i) where the property involves a corner lot or other lot with frontage on more than one street and where the increased fence height will not interfere with the clear visibility triangle protected under Sec. 23-12-6.
- c. Adjustments Allowed by Planning Commission
To accomplish one of these purposes, the Planning Commission, upon recommendation of the DRC, may allow internal site plan adjustments within these guidelines:
 1. A reduction in the number of parking places of up to five percent of required parking, except that there shall be no reduction in the number of parking places for persons with physical disabilities;
 2. A reduction of rear and/or side yard setback requirements of up to 20 percent, except that there shall be no reduction of setbacks from adjoining property in an RS or RD District;
- d. Findings Required
Any conditions imposed on site plan approval and any related modifications to requirements listed above shall be supported in the record by specific findings stating the express purpose of the conditions and the modification and the facts found by the DRC and/or Planning Commission in support of such condition(s) and/or modification(s).

(g) Review and Action by DRC

(1) Schedule

The Development Review Committee shall begin its review of a site plan application at the next DRC meeting occurring at least four working days after submission of a complete application.

(2) Action, General

The Development Review Committee may approve a site plan as submitted, approve a site plan subject to conditions, or disapprove a site plan. Approval of the site plan shall constitute approval of any adjustments requested which are within the scope of authority of the DRC.

(3) Approval Including Adjustments Beyond the Authority of DRC

a. Action

If the DRC reviews a site plan requiring waivers or other approvals that are beyond its scope to approve, the DRC may disapprove the proposed site plan, approve it without the waivers that are beyond its scope, or approve it with the waivers. If the DRC approves a site plan requiring waivers or other approvals that are beyond its scope to approve, its action shall be deemed a recommendation to the City Council for further action.

b. Council Consideration, Action

Where the DRC recommends approval of a site plan requiring waivers or other approvals that are beyond its ability to approve, the Council shall consider the proposed site plan at a meeting occurring at least 10 but not

more than 24 days after the recommendation of the DRC. The Clerk of Council shall provide notice of such consideration to the applicant. The City Council may approve the proposed site plan, approve it subject to conditions or deny approval. The action of the City Council shall be final.

c. **Resubmission**

If the City Council denied approval of the proposed site plan, the applicant may resubmit the site plan to the DRC without the provision requiring the waiver or other action that is beyond the authority of the DRC to approve.

d. **Where Variance Required**

Upon the request of the applicant, where the application requires a Variance that is within the jurisdiction of the BZA, the DRC may, but shall not be required to, table the site plan application while the applicant considers modifications to it or submits a separate application to the BZA for a Variance .

(h) Relationship to Other Approvals

The Development Review Committee's approval of a site plan is a prerequisite to the issuance of a Building Permit for projects subject to review under this Section.

Sec. 23-4-5 Dockside Gaming Establishment Review Procedure

(a) Purpose

The purpose of the Dockside Gaming Establishment Review Procedure is to provide a comprehensive examination to promote development that is compatible with surrounding uses, to preserve public waterfront views, and to encourage best management land use practices. This review must be performed in conjunction and simultaneously with the Conditional Use application review.

(b) Prerequisites

The following must be accomplished prior to filing a Conditional Use application for a Dockside Gaming Establishment:

(1) State Gaming Commission Approval Required

Before any applications for Dockside Gaming Establishments or ancillary structures will be accepted for processing by the Planning or Building Division, the applicant shall present either a completed application for the intention of obtaining a license or a copy of a valid license from the Mississippi State Gaming Commission. Completion of the City's review procedure may be suspended, pending the outcome of the State Gaming Commission's investigation or adverse disposition with respect to state license issuance.

(2) Pre-Application Conference

- a. If the Pre-Application conference raises any issues regarding conformity to the zoning, the application for Site Plan Review must be accompanied by an application for a Certificate of Zoning Compliance, in accordance with Sec. 23-5-3.
- b. If the Pre-Application conference identifies any other permits, licenses or certificates required to undertake the project proposed, the application for

Site Plan Review must be accompanied by a list of such permits, licenses or certificates, and a schedule indicating the sequence in which the applicant intends to apply for such permit(s), license(s), and/or certificate(s).

(c) Application Requirements for Master Plan

In addition to the standard requirements for a Conditional Use permit, applicants of Dockside Gaming Establishments shall provide the following information to the Director of Community Development in the form of a Master Plan:

- (1)** A completed application on the form provided by the Planning Division;
- (2)** Photographs, artist renderings or other visual documents that will assist the City in establishing the compatibility of the proposed development with its surroundings;
- (3)** Information detailing the number, length, and width of boats, barges or vessels; the total number of employees anticipated to be hired and maximum number of employees anticipated to work during peak shifts; the number of projected visitors, identified as a daily, monthly, and annual total; peak traffic times and days; hours of operation;
- (4)** Analysis of traffic flow from the development and traffic congestion considerations, in compliance with the City's Standards and Specifications Manual;
- (5)** Identification of on-site and off-site parking, including designation of employee and visitor parking areas. If off-site parking lots will be employed, leases or contracts committing specific parking spaces to the project, coupled with an acceptable shuttle bus or other appropriate plan to transport guests and employees to and from the Dockside Gaming Establishment, must be included. Bona fide contracts attesting to all parking and shuttle arrangements shall be provided to the City by applicants for the duration of the establishment's existence;
- (6)** Determination of the potential impact of the proposed operations on the City's infrastructure including, but not limited to, roads, water, drainage, and sanitary sewerage collection and disposal;
- (7)** Determination of the development's potential impact on the community that may result in an increased need for municipal or public services such as police and fire protection; and
- (8)** Construction phase information, including a staging plan for equipment and materials and a construction phase parking plan, provided at a level of detail satisfactory to the Director of Community Development.

(d) DRC Review

Upon receipt of a completed application for Conditional Use for a Dockside Gaming Establishment and all accompanying documents, the Director of Community Development shall immediately forward a copy of the application to the DRC for review and recommendation.

(e) Public Hearing by the Planning Commission

Upon completion of DRC review, the Director of Community Development shall forward notice of public hearing to a qualified newspaper having a general circulation within Biloxi. This notice of public hearing shall be published once and shall advise the public that a completed application has been received by the City for the location of the proposed Dockside Gaming Establishment and any ancillary structures and that a public hearing will be held before the Planning Commission to allow the public to express any views or opinions on the application's conformance with the prerequisites of this Section. A copy of the application and supporting documents shall remain on file for public review with the Director of Community Development during this period. The Director of Community Development shall collect a fee from the applicant in order to defray the publication costs for this notice. The notice of public hearing shall also be forwarded to the Clerk of Council for placement on the Council's agenda.

(f) Action by City Council

After the public hearing, the Planning Commission shall submit a report and recommendations on the subject application to the City Council. The City Council shall not take official action upon the Dockside Gaming Establishment Conditional Use application until the report of the Planning Commission has been received; provided, however, that if the report has not been filed within 45 days following the closing date of the public hearing, the City Council may then take official action on the application without the report from the Planning Commission. The City Council shall act to approve, approve with modifications, or deny the application within 90 days from receipt of a recommendation from the Planning Commission. If required by the City Council after recommendation by the Planning Commission, a Guarantee of Improvements shall be filed or deposited in escrow with the City for a sum sufficient to ensure completion of requirements as may be imposed by the City Council in accordance with this Chapter.

Sec. 23-4-6 Subdivision Review Procedures -- General**(a) Purpose**

The purpose of this and the following Sections is to provide a uniform process for the division of certain tracts, which may consist of a single lot of record or aggregated lots of record, into lots of record for development and to ensure the availability of supporting infrastructure through either Minor Subdivision Review or Major Subdivision Review. A following Section also provides for a Subdivision Review waiver under certain limited circumstances.

(b) Minor Subdivision and Major Subdivision Distinguished

A minor subdivision is a division of land that meets all of the following conditions:

- (1)** It creates no more than four residential lots or two nonresidential lots; and
- (2)** It does not require construction, expansion or improvement of any public infrastructure other than sidewalks; and
- (3)** It does not require dedication to the City of any public infrastructure, right-of-way or land; and

- (4) All lots or parcels resulting from the subdivision are adjacent to a publicly maintained street which is in existence at the time of the proposed subdivision of the parcel; and
- (5) All lots or parcels resulting from the subdivision have access to public water and sewer facilities, if provided to the area by the City, including taps for water and sewer service. If public water and sewer facilities are not yet provided to the area by the City, then every resulting lot must have the potential (by means of size and geological characteristics, or by access to existing facilities) for resolving all water access and sewerage disposal issues (if appropriate for its zoning classification and proposed use).

All other divisions shall be considered major subdivisions.

(c) Applicability: Minor Subdivision Review, Major Subdivision Review, Subdivision Review Waiver

- (1) Subdivision approval or waiver shall be required before any of the following activities can occur, regardless of the purpose of the activity:
 - a. The division of a lot of record into two or more parcels;
 - b. Development which is not on a legal lot of record; or
 - c. Development outside of the City right-of-way that involves the construction of any infrastructure improvements that are to be dedicated to the City, or, in the opinion of the City Engineer, has the potential for being dedicated to the City at any future date.
- (2) Unless exempt by waiver or by qualifying as a Minor Subdivision as provided in the following sections, it shall be unlawful to offer and cause to be recorded any plan, plat or replat of land within the City with the Chancery Clerk of Harrison County unless the same bears the endorsement and approval of the Mayor, the President of the City Council, the City Clerk, and the Director of Community Development.
- (3) It shall also be unlawful to offer and cause to be recorded a deed creating a division of land within the City with the Chancery Clerk of Harrison County unless the deed reflects a lot of record on a plat approved in accordance with this Section or is certified by the Director of Community Development as exempt from subdivision control as evidenced by a subdivision waiver or qualification as a Minor Subdivision.

(d) Reserved

(e) Subdivision Recording Requirements

All Final Plats for Major Subdivisions shall be recorded in the Harrison County land records. The following information shall be shown on the plat:

- (1) The name of the owner/developer and the name and registration number of the registered professional engineer or the licensed land surveyor responsible for the plat, as required by law;
 - (2) The name of the proposed subdivision, the names of streets, which shall conform with existing street names when possible and shall not be duplicates of or similar to names of existing streets, numbered lots in an orderly system;
 - (3) True north point, date, and scale;
 - (4) All plats shall be on sheets measuring 18 inches by 24 inches;
 - (5) One corner of the subdivision shall be designated as the point of beginning, in accordance with specific standards set forth in the Manual;
 - (6) An accurate boundary survey of the property, meeting the standards set forth in the Manual;
 - (7) Location of lots, streets, alleys, easements, and parks;
 - (8) All necessary dimensions, as detailed and meeting the specifications set forth in the Manual; and
 - (9) A certificate of dedication of all streets, alleys, easements, parks, and other land intended for public use, signed by the owners, where applicable.
- (f) Supplemental Application Materials**
- (1) **Master Property Development Plan**
Where required (as a supplement to an application to subdivide less than all the contiguous property owned or controlled by an application), an application for approval of a plat shall include a Master Property Development Plan, in accordance with (g)(3) below.
- (g) Development Plan for All Contiguous Lands**
- (1) **Purpose**
Subdivision regulations deals with circulations (roads), drainage, public utilities and other matters that do not stop at the property line or at the edge of a particular subdivision. It is therefore essential to the City that it be able to consider the coordination of plans for such facilities as they cross multiple properties and through multiple subdivisions. To the extent that an applicant for subdivision approval owns property contiguous to the property contiguous to the property for which the subdivision is proposed, it is beneficial to both the applicant and the City to require consideration of the ultimate coordination of the provision of such facilities to all lands owned by the applicant.
 - (2) **General Rule – All Lands to be Included**
Any application for subdivision approval shall include all contiguous lands owned or controlled by the applicant, and all such lands shall be considered in determining whether the application may be reviewed as a minor subdivision or subdivision waiver.

(3) Master Property Development Plan**a. When Required**

Where the applicant does not intend to subdivide all of the contiguous lands owned or controlled by the applicant at one time, the applicant shall proceed with a Master Property Development Plan, in accordance with this Subsection.

b. Contents

Where required, the Master Property Development Plan shall:

1. Show all contiguous property owned or controlled by the developer;
2. Indicate the current zoning of the property and any contemplated applications for zoning change;
3. Indicate general future land uses for all of the property, consistent with current zoning or contemplated applications for zoning change;
4. Show a general plan for traffic circulation for all of the property, consistent both with Biloxi's adopted Major Thoroughfare Plan and with the Preliminary Plat for subdivision of the initial portion of the property;
5. Show a general plan for utility connections for all of the property;
6. Show a general storm water management plan for all of the property;
7. Where applicable, show plans for protection or other special treatment of areas containing protected trees, historic sites or historic buildings.

c. All subsequent subdivision subject to a Master Property Development Plan shall be in accordance with said plan unless said plan is amended.**d. Amendment**

An approved Master Property Development Plan may be amended through incorporation of the proposed amendment Plan in any subsequent application for approval of a Preliminary Plat or through separate application to the Planning Commission, which may follow the procedures for Minor Subdivision Review (Sec. 23-4-7) for consideration of such proposal.

Sec. 23-4-7 Procedures for Review of Minor Subdivision**(a) Prerequisites**

The following steps must be accomplished before, or, as indicated below, simultaneously with the filing of the application:

(1) Pre-application Conference

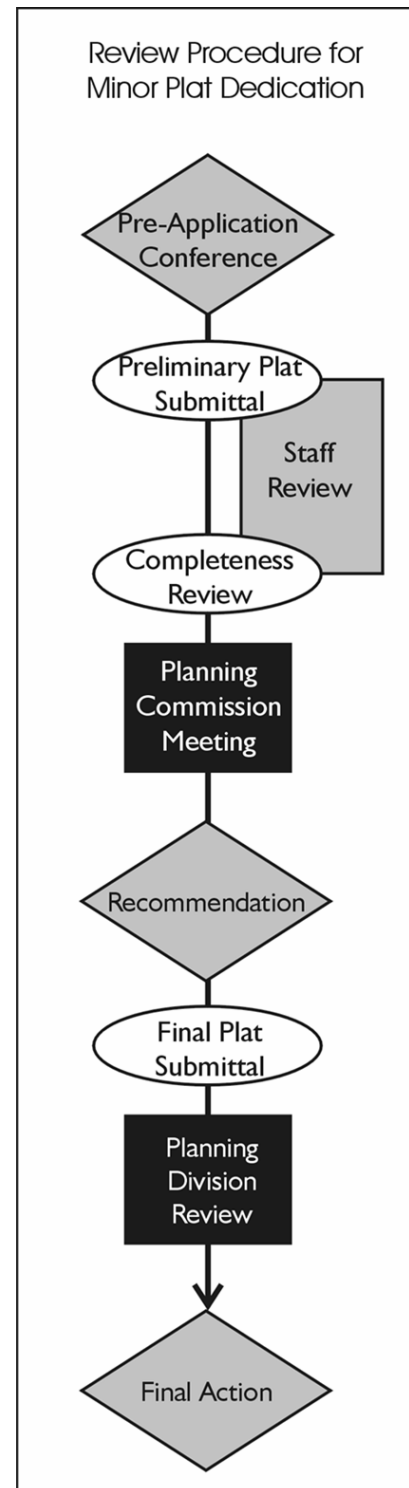
Prior to filing an application for a minor subdivision the developer shall meet with the Planning Division to determine whether the intended subdivision will be considered a minor subdivision or a major subdivision. If determined to be a major subdivision, the developer shall follow the procedures for a major subdivision in accordance with Section 23-4-8.

- a. If the Pre-Application Conference raises any issues regarding conformity to the zoning, the application for Minor Subdivision Review must be accompanied by an application for a Certificate of Zoning Compliance, in accordance with Sec. 23-5-3.
- b. If the Pre-Application Conference identifies any other permits, licenses or certificates required to undertake the project proposed, the application for Minor Subdivision Review must be accompanied by a list of such permits, licenses or certificates and a schedule indicating the sequence in which the applicant intends to apply for such permit(s), license(s), and/or certificate(s).

(b) Criteria

Minor Subdivision Review shall be made in accordance with the following standards:

- (1) The resulting lots will conform to and comply with all applicable requirements of the zoning classification in which they are located, including minimum lot size;
- (2) Proposed improvements will conform to the City of Biloxi Standards and Specifications Manual, as well as all applicable zoning ordinances and Fire, Building, trade and other municipal codes, and must not create public or private off site drainage problems;
- (3) The proposed division is consistent with any approved or proposed Master Property Development Plan, which must be provided, if applicable;
- (4) The result of this division and any prior divisions resulting from waivers granted or minor subdivisions created during the previous five years will not create a total of more than five parcels from the same lot of record existing as of the effective date of this Chapter; and,
- (5) The proposed division meets all criteria and standards set out in Section 23-4-6(b).



(c) Review of Proposed Minor Subdivision Plat**(1) Application for Review of Proposed Minor Subdivision Plat**

An application for Minor Subdivision Plat review shall include the following submittals:

- a. A complete application on the form provided by the Planning Division;
- b. A proposed Minor Subdivision Plat, which may consist of a survey certified by a Registered Land Surveyor or Engineer;
- c. Copy of the deed(s) to the property that will be subdivided;
- d. Owner's or owners' consent to the proposed subdivision;
- e. Certified abstract of title, or title opinion from a licensed Attorney at Law, of the land proposed for subdivision;
- f. Separate detailed narratives explaining Storm Water Drainage, Potable/Fire Protection Water, Sanitary Sewage, and Traffic Impact;
- g. Any applicable permits;
- h. Any applicable easements with adjacent property owners;
- i. When a developer proposes a subdivision of land that does not initially subdivide all properties adjacent or contiguously owned or controlled by the developer, a Master Property Development Plan shall be submitted;
- j. For a nonresidential subdivision for which the developer is uncertain of the ultimate arrangement of lot lines within the subdivision, the developer may provide for the future rearrangement of lot lines under Sec. 23-4-9(b)(2);
- k. Any other information as required; and
- l. All submittals shall, at a minimum, contain the information specified in the City of Biloxi's Standards and Specifications Manual, hereafter referred to as the Manual. Incomplete applications shall not be reviewed.
- m. It shall not be necessary for the minor subdivision applicant to make improvements to existing adjacent publicly maintained streets as required of major subdivisions, except to the extent that may be required to install water and sewer taps for the resulting parcels.

(2) Planning Division Review and Recommendation

- a. Upon determination of a complete application, the Planning Division shall review the application for completeness and write a recommendation for submittal to the Planning Commission. Additional information may be required. The proposed plat, narratives, and any other affected submittal shall be revised if additional information is required by the Planning Division, or if the existing submittals do not comply with the regulations and policies of the City.

- b. When review is complete, the Planning Division shall write a recommendation to the DRC.

(3) DRC Review and Recommendation

- a. Upon receipt of an application for approval of a Plat for a Minor Subdivision, the Director of Community Development shall forward same to the DRC to allow review of the proposed Plat as to conformity with Biloxi's Comprehensive Plan, Major Thoroughfare Plan, and the standards and specifications set forth or referred to in this Chapter. The DRC shall make a recommendation regarding action on the proposed subdivision.
- b. If the application is incomplete or fails to conform with the Manual or the standards of this Chapter, the DRC may, in its discretion deny the application or table it, with a request that the applicant furnish additional information. If the applicant objects to having the application tabled, the DRC shall, upon the written request of the applicant, deny the application at its next meeting, thus allowing the applicant to pursue an appeal.

(d) Final Plat Review

(1) Staff Review

After approval, or approval with conditions, of a Minor Subdivision Plat by the DRC, the developer of the subdivision shall have prepared for recording a subdivision plat, which may consist of a certified survey prepared by a registered land surveyor or engineer. The Planning Division shall review the plat for incorporation of the DRC recommendations and comments and to insure that the plat is in the required format. The DRC approval, combined with the Planning Division's approval as to form, shall constitute municipal approval.

(2) Approval Signature Process

Once the Planning Commission's recommendations and comments are reviewed, incorporated, and accepted by the Director of Community Development, the Final Plat shall be signed by the Executive Planner, the Mayor, and the City Clerk.

(3) Courthouse Filing

The deed of conveyance creating the minor subdivision shall be recorded at the Harrison County Chancery Clerk's Office, and a copy of the minor subdivision plat or survey shall be recorded with the deed.

Sec. 23-4-8 Procedures for Review of Major Subdivision

(a) General

(1) Pre-Application Conference

Prior to filing an application for Preliminary Plat Review the developer shall participate in the following Pre-application Conferences to determine the proper procedure for subdivision review and all applicable subdivision requirements:

a. Meeting with Planning Division

The developer shall meet with the Planning Division to determine whether the intended subdivision will be considered a minor subdivision or a major subdivision. If determined to be a minor subdivision, application for Preliminary Plat shall be made in compliance with Sec. 23-4-7.

b. Meeting with the Engineering Division

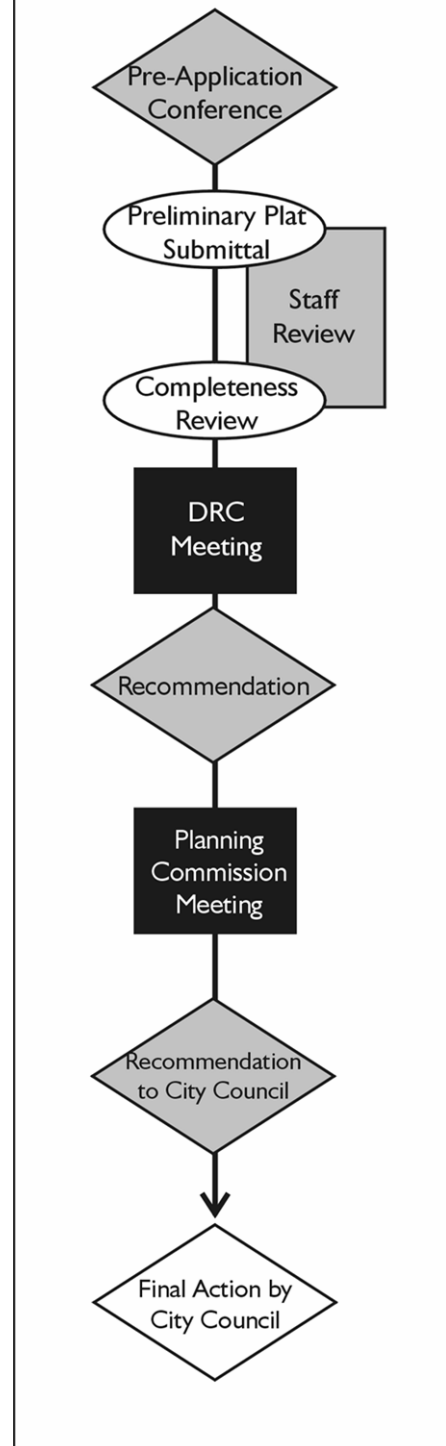
If determined by the Planning Division to be a major subdivision, the developer shall meet with the Engineering Division to obtain a better understanding of the City of Biloxi's requirements for subdivisions. After meeting with the Engineering Division, application for Preliminary Plat may be made with the Director of Community Development.

(2) Criteria

Major Subdivision Review shall be made in accordance the following criteria:

- a. The proposed division will conform to the standards set forth in Article 14 and Article 15;
- b. The proposed division is consistent with any approved or proposed Master Property Development Plan; and
- c. The resulting lots will conform to the applicable minimum lot sizes set forth in Article 12; and
- d. Proposed improvements will conform to the City of Biloxi Standard Details and Specifications.

Review Procedure for Preliminary Plat of Major Subdivision



(b) Preliminary Plat Review**(1) Application for Preliminary Plat**

An application for Subdivision Preliminary Plat review shall include the following submittals:

- a. A complete application on the form provided by the Planning Division;
- b. A Preliminary Plat;
- c. Copy of the deed(s) to the property that will be subdivided;
- d. Owner's or owners' consent to the proposed subdivision;
- e. Certified abstract of title of the land proposed for subdivision;
- f. Subdivision Site Plan;
- g. Separate detailed narratives explaining Storm Water Drainage, Potable/Fire Protection Water, Sanitary Sewage, Traffic Impact, and Open Space, as applicable;
- h. Any applicable permits or applications for permits where permits have not yet been approved, such as DEQ, Corp of Engineers, DMR, CSX, or MDOT;
- i. Any applicable letters of agreement or easements with adjacent property owners for uses such as utilities, detention areas, or access;
- j. Where a developer proposes to subdivide only a portion of contiguous lands owned or controlled by the developer, the developer shall submit, together with the initial Preliminary Plat application, a Master Property Development Plan, in accordance with Sec. 23-4-6(g)(3).
- k. For a nonresidential subdivision for which the developer is uncertain of the ultimate arrangement of lot lines within the subdivision, the developer must show proposed lot lines on the Preliminary Plat but may provide for the future rearrangement of lot lines under Sec. 23-4-9(b)(2) by incorporating on the face of the plat or attaching as an exhibit to the plat a narrative or drawing, or combination thereof, showing the maximum number of building sites to be included, the minimum number of building sites to be included, the minimum size of any building site, the general locations of such building sites and access provisions for such building sites.
- l. Any other information as required. All submittals shall, at a minimum contain the information specified in the City of Biloxi's Standards and Specification Manual, hereafter referred to as the Manual; incomplete applications shall not be reviewed.

(2) DRC Review and Recommendation

Upon receipt of an application for approval of a Preliminary Plat for a Major Subdivision, the Director of Community Development shall forward same to the DRC to allow review of the Preliminary Plat as to its conformity with Biloxi's Comprehensive Plan, Major Thoroughfare Plan, and the standards and specifications set forth or referred to in this Chapter. The DRC shall make

specific findings regarding the consistency of the proposed subdivision with adopted plans and regulations and shall make a recommendation regarding action on the subdivision. The DRC shall initiate its review of a proposed Preliminary Plat application at its next meeting, occurring at least four working days after submission of a complete application.

- (3) If the application is incomplete or fails to conform with the Manual or the standards of this Chapter, the DRC may, in its discretion, deny the application or table it, with a request that the applicant furnish additional information. If the applicant objects to having the application tabled, the DRC shall, upon the written request of the applicant, deny the application at its next meeting, thus allowing the applicant to pursue an appeal.

(4) Planning Commission Review and Recommendation

a. Schedule

The Planning Commission shall act on the Preliminary Plat for a major subdivision within 60 days from recommendation by DRC.

b. No Public Hearing Required

Unless the applicant requests an exception to standard provisions of this Chapter, no public hearing shall be conducted by the Planning Commission. The Commission may, in its discretion, elect to hear from one or more persons in attendance at a meeting at which the matter is heard or may schedule a formal public hearing for a later date.

c. Action

If a proposed Major Subdivision is determined by the Planning Commission to be in conformance with all applicable provisions of this Chapter, the Planning Commission shall recommend approval of the Preliminary Plat of the Major Subdivision to the City Council. A determination by the Planning Commission that all applicable provisions have not been satisfied shall result in a recommendation of disapproval of the Preliminary Plat. In case of minor deviations from the requirements of this Chapter, the Planning Commission may recommend approval of the Preliminary Plat subject to conditions. The recommendation of the Commission shall be recorded in the minutes of the Planning Commission meeting, and the applicant shall be duly notified.

(5) Review by City Council

Either the Commission or the subdivider may request that the Preliminary Plat be considered by the City Council to obtain its comments on the proposed dedications. Review by the City Council of the Preliminary Plat shall be advisory and shall not require the City Council to accept the dedications as proposed.

(6) Appeal

- a. The action of the Planning Commission may be appealed to the City Council by any of the following:
1. The applicant;
 2. Any member of the DRC;

3. The Community Development Director;
 4. Any owner of property adjoining the subdivision;
 5. Any owner of property downstream from the subdivision and affected by the drainage plans for the proposed subdivision; or
 6. Any owner of property within one-quarter mile of the proposed subdivision where access to such property is directly affected by the proposed subdivision.
- b. The applicant or any member of the DRC may appeal the action of the Planning Commission to the City Council.
 - c. The appeal shall be made in writing, which may be by letter or on a form provided by the Executive Planner;
 - d. The appeal must be delivered to the Executive Planner within ten days following the action of the Planning Commission;
 - e. The City Council shall hear the appeal within 30 days of its filing;
 - f. The parties to the appeal before the City Council shall be only those who were parties before the Planning Commission.

(7) Effect of Approval

Approval of the Preliminary Plat by the Planning Commission shall have the following effects:

- a. Approval of a Preliminary Plat is only tentative pending submission of the Final Plat.
- b. Approval of the Preliminary Plat does not constitute approval of sewer, water or utility plans. The developer shall be responsible for obtaining approval of these systems from the appropriate agencies as follows:
 1. Streets and drainage: Engineering Division.
 2. Sanitary sewer, water lines and fire hydrants: Engineering Division, Fire Department, State Department of Environmental Quality, the Harrison County Solid Waste and Wastewater Management District and State Health Department.
 3. Private utilities: utility companies. In addition, written approval of the appropriate agencies must be obtained and furnished to the Planning Division by the developer.
- c. Approval of the Preliminary Plat shall be effective and binding upon the City for 18 months, and thereafter as long as work is actively progressing on installation of required improvements.
- d. Receipt by the developer of the executed Approval of Preliminary Plat is authorization to proceed with:

1. The preparation of detailed construction plans and specifications and the installation of any improvements required, subject to the approval of agencies having authority as listed in Subsection (2) of this Section.
2. The preparation of the Final Plat or part thereof as specified in Subsection (d) of this Section.

(c) Review of Improvements

Once Preliminary Plat Approval has been granted by City Council, the developer shall have construction drawings prepared and have improvements installed in accordance with the following:

(1) Submittal and Review of Construction Drawings and Specifications

- a. The design engineer shall submit construction drawings and specifications to the City Engineer for review. The City Engineer shall review the drawings and specifications and have written comments or marked-up drawings within ten (10) working days of the date of submittal.
- b. The design engineer shall incorporate all comments of the City Engineer into a new set of drawings and specifications and resubmit the drawings and specifications (along with any City Engineer mark-ups from the previous review) for review. The submittal and review process shall continue for as long as it takes for the City Engineer to be confident that the construction drawings meet the intent of the City guidelines and the Preliminary Plat Approval. Construction drawings shall be in accordance with the Manual and shall contain any additional information required by the City Engineer.

(2) Public Works Permit

Once the construction drawings are complete and approved by the City Engineer, the developer or contractor shall obtain a Public Works Permit for the construction of the subdivision improvements.

(3) Preconstruction Meeting

Prior to construction, the developer's contractor shall attend a preconstruction meeting with the City Engineer to discuss the process for the construction phase of the project.

(4) Construction of Improvements

The developer shall install all improvements in accordance with the approved construction drawings, the Manual and this Chapter of the Ordinance.

(5) Certificate of Development Compliance (CDC)

Upon completion of the subdivision improvement as approved by the City Engineer, the developer shall apply to the Building Division for a CDC.

(d) Final Plat Review

(1) Application for Final Plat

An application for Subdivision Final Plat review shall be filed with the Planning Division and shall include the following submittals:

- a. A complete application on the form provided by the Planning Division;
- b. A Preliminary Plat;
- c. Certificate of Development Compliance (CDC); and
- d. Posting of Guarantee of Improvements for performance if required.

All submittals shall as a minimum contain the information specified in the Manual.

(2) Submitting Final Plat in Sections or Phases

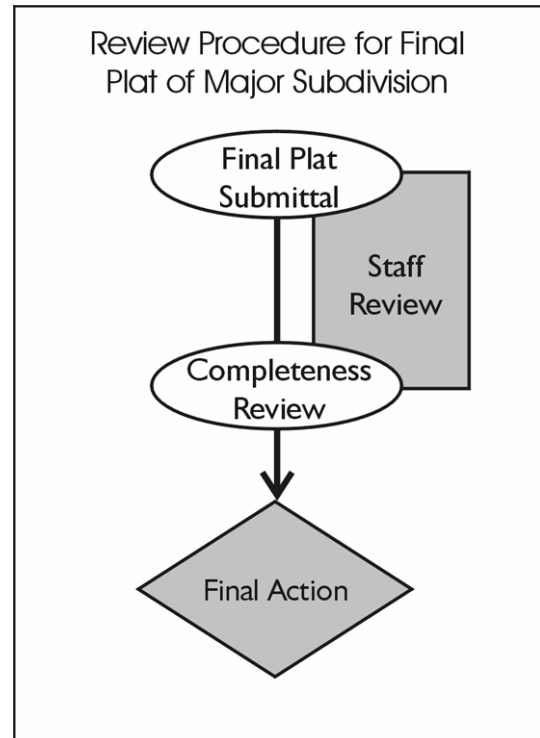
A developer, at the developer's option, may obtain Final Plat approval of a portion or a section of a subdivision provided he meets all the requirements of this Chapter with reference to such portion or Section in the same manner as is required for a complete subdivision. If a subdivision and the Final Plat thereof are approved in sections by the City, each Final Plat of each section shall carry the name of the entire subdivision, but shall bear a distinguishing letter, number or subtitle. Lot numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in sections. The Final Plat application shall include only that portion of the approved Preliminary Plat that the subdivider proposes to record and develop at the time of submission.

(3) Staff Review

The Engineering Division and Planning Division will review the proposed Final Plat for conformance with the Preliminary Plat, construction drawing as-builts, and other City requirements. Once the layout and information contained on the plat is satisfactory to the Planning Division and the Engineering Division, the developer shall submit the Final Plat in the number and type of media specified in the Manual.

(4) Final Plat -- Form

The Final Plat shall be in substantial conformance with the Preliminary Plat. The Final Plat shall be in the form of a record plat, which shall be submitted to the Planning Office for review and transmission to the City Council. Two original mylar reproducible film positives and two linen copies of the Final Plat, in proper form, shall be submitted to the Director of Community Development at least 21 days prior to the meeting of the City Council at which approval is requested. This Final Plat shall be consistent with the requirements of Sec. 23-4-6 and the Manual.



(5) Posting of Guarantee of Improvements

Unless the developer has completed all required public improvements prior to City Council approval, the developer shall post a Guarantee of Improvements for the warranty in accordance with this Chapter and the Manual.

- a. If a Guarantee of Improvements for performance has been posted, the Guarantee shall not be released until all requirements have been met and an approved Guarantee of Improvements has been posted.
- b. The Guarantee of Improvements shall be in effect for twenty-four months from the anticipated date of Final Plat approval by City Council or the Guarantee of Improvements for performance is released, whichever is later.

(6) Planning Commission Review

- a. Consistency
 1. If the City Engineer and the Community Development Director certify in writing to the City Council that the proposed Final Plat is entirely consistent with the Preliminary Plat approval by the Planning Commission, so that the proposed Final Plat constitutes the same subdivision (or part thereof) previously approved by the Planning Commission, then no further consideration by the Planning Commission shall be required and the Final Plat shall go directly to the City Council.
 2. If the City Engineer and/or the Community Development Director find that the proposed Final Plat deviates in any significant way from the approval granted to the Preliminary Plat by the Planning Commission, including the terms of any conditions imposed on such approval, then the Community Development Director shall submit the Final Plat to the Planning Commission for review.
- b. Schedule

If a Final Plat is submitted to the Planning Division for review, the Planning Division shall act on the Final Plat for a major subdivision within 60 days from referral to it.
- c. No Public Hearing Required

Unless the applicant requests an exception to standard provisions of this Chapter, no public hearing shall be conducted by the Planning Commission. The Commission may, in its discretion, elect to hear from one or more persons in attendance at a meeting at which the matter is heard or may schedule a formal public hearing for a later date.
- d. Action

If a proposed Major Subdivision is determined by the Planning Commission to be in conformance with all applicable provisions of this Chapter, the Planning Commission shall recommend approval of the Final Plat of the Major Subdivision to the City Council. A determination by the Planning Commission that all applicable provisions have not been satisfied shall result in a recommendation of disapproval of the Final Plat. In case of minor

deviations from the requirements of this Chapter, the Planning Commission may recommend approval of the Final Plat subject to conditions. The recommendation of the Commission shall be recorded in the minutes of the Planning Commission meeting, and the applicant shall be duly notified.

(7) City Council Review

a. Initiation

Whenever the provisions of this Chapter have been complied with and while the certificate of Preliminary Plat approval is in effect, the developer may submit to the staff an application for review and approval of the Final Plat, which shall consist of:

1. A letter formally requesting review and final approval of the Final Plat.
2. The Final Plat and other documents as specified this Section.
3. A certification from the City Engineer that all required subdivision improvements have been completed, or a Guarantee of Improvements which shall:
 - i. Be for the benefit of the City.
 - ii. Be in an amount determined by the City Engineer to be sufficient to complete the improvements and installations for the subdivision in compliance with this Chapter.
 - iii. Be with surety by a company entered and licensed to do business in the state.
 - iv. Specify the time for the completion of the improvements and installations.
 - v. A receipt from the Building Division acknowledging payment of a filing fee.

b. Prior to Final Plat Approval

Prior to Final Plat approval, the subdivider shall provide to the Engineering Division, record drawings (as-built) in a digital and hard copy format. The digital format shall conform to the City's latest format. All surveys and Final Plats shall be referenced to NAD 83 (Mississippi State Plane Coordinate).

c. City Council Review

1. Whenever a Final Plat has been submitted in proper form to the DRC for issuance of Certificate of Development Compliance, which Final Plat conforms, in general, to an approved Preliminary Plat and the provisions of this Section, the staff shall submit the plat to the City Council within 14 days of receipt.
2. The City Council shall act to approve, disapprove or conditionally approve any Final Plat submitted in proper form.
3. The basis for disapproval of the Final Plat shall include:

- i. A determination that acceptance of any lands or facilities proposed for dedication is not in the best interest of the City, as determined by the City Council in its sole discretion;
 - ii. A determination that any proposed waiver recommended by the Planning Commission is not in the best interest of the City or is not consistent with adopted plans and policies of the City;
 - iii. Failure of the applicant to install improvements according to detailed plans and specifications as previously approved by the City Engineer or to provide the required Guarantee of Improvements for such improvements; or
 - iv. Failure to comply with any written agreement or conditions of approval.
- 4. If the Final Plat is disapproved, the applicant shall be so notified, in writing, and the reasons therefor shall be enumerated.
- d. Effect of Approval
Approval of the Final Plat shall be subject to the installation of the improvements designated in Article 14 or certified evidence from the City that said improvements shall be installed in accordance with these regulations.

(8) Approval Signature Process

Once a Final Plat is approved by the City Council, the Final Plat shall be signed by the Executive Planner, the Mayor, the City Clerk, and the City Council President.

(9) Court House Filing

Once all signatures have been obtained, the developer, accompanied by a member of the Planning Division, shall record the plat at the Harrison County Chancery Clerk's Office.

(10) Transfer of Responsibility for Power Usage

Once the Final Plat has been recorded and the Engineering Division has received its copies, the developer may submit a request to the City to transfer power usage responsibility in accordance with the Manual.

(e) Post Warranty Review

Prior to expiration of Guarantee of Improvements, the Engineering Division shall inspect the Subdivision Improvements to verify compliance of the terms of the Guarantee prior to its release in compliance with the Manual.

(f) Submission of As-Built Drawings

- (1) Upon completion of the subdivision, the developer shall provide to the Engineering Division record drawings (as-built) in a digital and hard format. All surveys and Final Plats shall be referenced to NAD 83 (Mississippi State Plane Coordinate). Upon completion of the subdivision infrastructure, the developer shall apply to the DRC for a Certificate of Development Compliance (CDC).

- (2) After issuance of a CDC, the developer of a Major Subdivision shall have prepared for recording a Final Plat. The Final Plat shall be in substantial conformance with the Preliminary and shall at least contain the following information:

 - a. The name of the owner/developer and the name and registration number of the registered professional engineer or the licensed land surveyor responsible for the plat, as required by law;
 - b. The name of the proposed subdivision, the names of streets which shall conform with existing street names when possible and shall not be duplicates of or similar to names of existing streets, and numbered lots in an orderly system;
 - c. True north point, date and scale;
 - d. All plats shall be on sheets measuring 18 inches by 24 inches;
 - e. One corner of the subdivision shall be designated as the point of beginning and said point of beginning shall be related by distance and bearing to an established section, township, and range corner which is no smaller than one quarter of one quarter ($\frac{1}{4}$ of $\frac{1}{4}$) section;
 - f. An accurate boundary survey of the property, with bearings and distances referenced to survey lines, in accordance with standards established in the manual;
 - g. Location of lots, streets, alleys, easements, parks, and building setback lines;
 - h. All necessary dimensions, as specified in the Manual; and.
 - i. A certificate of dedication of all streets, alleys, easements, parks, and other land intended for public use, signed by the owners.
- (3) One digital and two linen copies of the Final Plat shall be submitted to the Planning Division, for approval as to form. After approval as to form, the Community Development Director shall present the Final Plat to the City Council for Final Plat Approval.
- (4) The City Council approval shall constitute municipal approval.

 - a. After signing by all required parties the Final Plat shall then be recorded in the Harrison County Land Records by means of a linen copy in the Harrison County Land Records. After recording, the developer shall furnish one Mylar original and one digital copy, each, to the Planning and Engineering Divisions.

Sec. 23-4-9 Subdivision Waivers, Lot-line Rearrangements**(a) Subdivision Waivers****(1) Prerequisites**

The following steps must be accomplished before, or, as indicated below, simultaneously with the filing of the application:

- a. Pre-Application conference;
- b. If the Pre-Application conference raises any issues regarding conformity to the zoning, the application for Minor Subdivision Review must be accompanied by an application for a Certificate of Zoning Compliance, in accordance with Sec. 23-5-3.
- c. If the Pre-Application conference identifies any other permits, licenses or certificates required to undertake the project proposed, the application for Minor Subdivision Review must be accompanied by a list of such permits, licenses or certificates and a schedule indicating the sequence in which the applicant intends to apply for such permit(s), license(s), and/or certificate(s).

(2) Application

Application for a waiver shall be made by filing a completed application on the form provided by the Planning Division, and shall be reviewed by and subject to approval by the DRC.

(3) Criteria

- a. Large Parcel with Private Access Waiver
 1. The proposed division of land will create no more than three lots of record, each of which shall be at least one acre in size and will have access to a publicly maintained street by one of the following means: i) frontage on a publicly maintained street; or, ii) a recorded instrument granting private easement for ingress, egress, and utilities in favor of the owners of the subdivided parcels and an irrevocable offer of dedication of the easement for public street purposes and utilities in favor of the City of Biloxi, provided the easement is dedicated by recorded conveyance to the City and contains the provisions set out in the following subsection.
 2. Should the applicant elect to provide access by means of a recorded instrument as provided above, the applicant must provide a certified survey from a registered land survey or engineer, which is legible on eight and one half inch by fourteen inch paper and contains sufficient detail for the Engineering Department to resolve issues of location of the future street and potential drainage problems. In addition, the recorded easement must contain the following provisions or characteristics: i) the easement must have a width of at least 50 feet; ii) when combined with similar right of way dedications to the City the easement must provide a continuous route of access to a public street, and must extend through the entire lot which is being divided; iii) the

location, the contents of the survey, and the instrument to be recorded must be approved by the City Engineer and the City Planner to ensure its viability as a future public street; iv) the instrument must acknowledge that the City is under no obligation to improve or maintain the easement and will contain provisions for the private maintenance of the easement; v) the instrument must provide for the maintenance of the easement by the parties benefitting from it, or provision for same must be made by separate agreement; vi) the instrument must grant authority to the City to take possession and control of the easement and accept the easement area at any time in the future as a dedicated public street if the City determines, in its sole discretion, that the right of way has been improved and maintained by private owners according to city standards, and services a sufficient number of lots to be accepted by the City as a public street; and vii) the instrument must grant authority to the City to take possession and control of the easement area in the future as a public street if the City determines, in its sole discretion, that the requirement to be improved and maintained according to city standards should be waived and that public need necessitates its conversion to a public street in its "as is" condition. Should the City accept the easement in its "as is" condition it may utilize the provisions of Chapter 41 of Title 21, Mississippi Code of 1972, as amended, as a method of financing improvements.

3. Should parcels created by this division have access to a public street by means of abutting frontage and if water and/or sewer service is provided to the area, then the applicant must provide taps to the available service for each resulting parcel.
4. The result of this division and any prior divisions resulting from waivers granted during the previous five years will not create a total of more than three parcels from the same lot of record existing as of the effective date of this Chapter.
5. The resulting lots will conform to and comply with all applicable requirements of the zoning classification in which it is located; provided that any lot which does not abut a public street shall have frontage on the easement used for applicable calculations in lieu of street frontage. Regardless of the foregoing, nothing in this zoning ordinance shall be construed to require any public or emergency vehicle or service to treat or utilize a private easement as a public street, nor exempt a lot or structure from compliance with all applicable Fire, Building, trade, and other municipal codes; and for all purposes of providing emergency or public services or utilities, street numbers, emergency identification, or for any other public or municipal service or reason, the subdivided lots shall be considered to have street frontage at the point where the private easement connects to the existing public street.
6. Proposed improvements will conform to the City of Biloxi Standards and Specifications Manual, as well as all zoning ordinances and Fire, Building, trade and other municipal codes, and must not create public or private off site drainage problems. Further, every resulting lot must have the potential (by means of size and geological characteristics, or

by access to existing facilities) for resolving all water access and sewerage disposal issues (if appropriate for its zoning classification and proposed use).

7. Prior to the issuance of any Building Permit(s) for any improvement on any lot served by private easement pursuant to this ordinance, the private easement will be improved by the Subdividing Grantors and/or Subdividing Grantees to the standards and to the extent required by the Fire Code and Building Code in force and in effect at that time.
8. Until such time as the easement is converted into a public street and accepted by the City as a public street this ordinance shall not be construed as giving any adjacent property owner any right of way, right of entry, or right to use the easement unless that right is granted by the owner of the servient estate. Any such adjacent lot shall not be considered to have frontage on a public street by virtue of its frontage on the easement contemplated by this waiver provision and must qualify for any waiver on its own merit.
9. All lots which qualify for this waiver shall not be exempt from the requirements of Sec. 23-14-3(c) unless by determination of the DRC the application of the subsection would defeat or negate the purpose of this waiver provision.
10. If granted a waiver according to this Section, the resulting lots of record shall be considered conforming and shall qualify as a "lot" rather than as a "nonconforming lot" or "illegal lot".

b. Lot Line Rearrangement

1. All record owners of any interest in the affected lots of record, as shown by an opinion letter from an attorney licensed to practice in Mississippi, shall sign the application;
2. The rearrangement of lot lines will create no new lots of record;
3. The rearrangement of lot lines will not reduce the size or frontage of any lot below the minimum required in the applicable zoning district;
4. The rearrangement of lot lines will not create any nonconformity as to setback of an existing building or structure;
5. To the extent applicable, the proposed division will conform to the standards set forth in Article 14 and Article 15
6. The resulting lots will conform to the applicable minimum lot sizes set forth in Article 12;
7. Proposed improvements will conform to the City of Biloxi Standards and Specifications Manual; and
8. The rearrangement of lot lines will not adversely affect the purpose of any easement.

(4) Procedure after Approval

If the subdivision review waiver is approved, the Director of Community Development shall provide certification of the waiver on a form and the property owner shall be authorized and required to record said waiver together with deeds creating the proposed division. Site Plan Review, in accordance with Sec. 23-4-3 or Sec. 23-4-4, shall be required before the construction of a building or other improvements on any lot in the subdivision.

(b) Rearrangement of Lot Lines Commercial and Industrial Subdivision

An industrial or commercial subdivision shall be processed for an approval in the same manner as provided for a residential subdivision, except where the developer proposes to rearrange lot lines, but not add to the total number of lots, in which case the provisions of this Section shall apply:

(1) Prerequisites

The following steps shall be accomplished prior to the submission of an application for lot line rearrangement in a nonresidential subdivision:

- a. Approval of a Preliminary Plat consistent with the requirements of this Section;
- b. Issuance of CDCs for any developed portions of the subdivision;
- c. A Pre-application Conference.

(2) Application

A developer proposing a lot-line rearrangement of a nonresidential subdivision shall submit to the DRC a Preliminary Plat for the arrangement of lot lines; the application shall specify the maximum number of building sites to be included, the minimum number of building sites to be included, the minimum size of any building site, the general locations of such building sites and access provisions for such building sites.

(3) Procedures, Criteria

- a. A developer, or successor owner, of land included within a nonresidential subdivision providing for the rearrangement of lot lines may submit a Final Plat application for the entire subdivision or a phase thereof proposing lot lines different from those shown on the Preliminary Plat, provided that the Final Plat is consistent with the provisions of the Preliminary Plat for the rearrangement of lot lines. The Final Plat must contain the signatures of all owners of property shown on the Final Plat, which may be only a phase of the original Preliminary Plat. The Final Plat shall be accompanied by a narrative explaining the relationship of the proposed Final Plat to the Preliminary Plat. The proposed Final Plat shall be reviewed as a Minor Subdivision and shall be approved if it is found to be consistent with the approved Final Plat as well as other applicable requirements of this Chapter. Where the proposed Final Plat includes a proposed dedication of additional lands, or where the Planning Commission recommends that its approval should be subject to the dedication of additional lands for roads, utility easements or other purposes, the Final Plat shall be subject to review and final approval by the City Council.

- b. Other than as set forth in this Section, the review procedures and criteria for a Final Plat involving the rearrangement of lot lines in a nonresidential subdivision shall be the same as the procedures and criteria for any other Final Plat, in accordance with . The following applicable criteria are of particular note:
 - 1. To the extent applicable, the proposed division will conform to the standards set forth in Article 14 and Article 15.
 - 2. The resulting lots will conform to the applicable minimum lot sizes set forth in Article 12; and
 - 3. Proposed improvements will conform to the City of Biloxi Standards and Specifications Manual.
- c. Site Plan Review in accordance with Sec. 23-4-3 or Sec. 23-4-4 shall be required before the construction of a building or other improvements on any lot in the subdivision. The applicant may, but shall not be required to, submit an application for Site Plan Review for one or more of the lots resulting from the lot-line rearrangement simultaneously with submission of the application for lot-line rearrangement.

(c) Replatting

A replat or resubdivision of a Major Subdivision, which meets the criteria of this Section, shall be processed as a Minor Subdivision, provided that a CDC previously has been issued. All other replats or resubdivisions shall be processed as Major Subdivisions, except as provided in Subsection (b) of this Section for nonresidential subdivisions.

Sec. 23-4-10 Planned Unit Development (PUD) and Development Plan Review

See Article 13 for PUD use and dimensional standards.

(a) Planned Unit Development (PUD) Review

(1) Applicability or Activities Subject to Review

The requirements of this Section shall apply to all proposed PUDs.

(2) Prerequisites

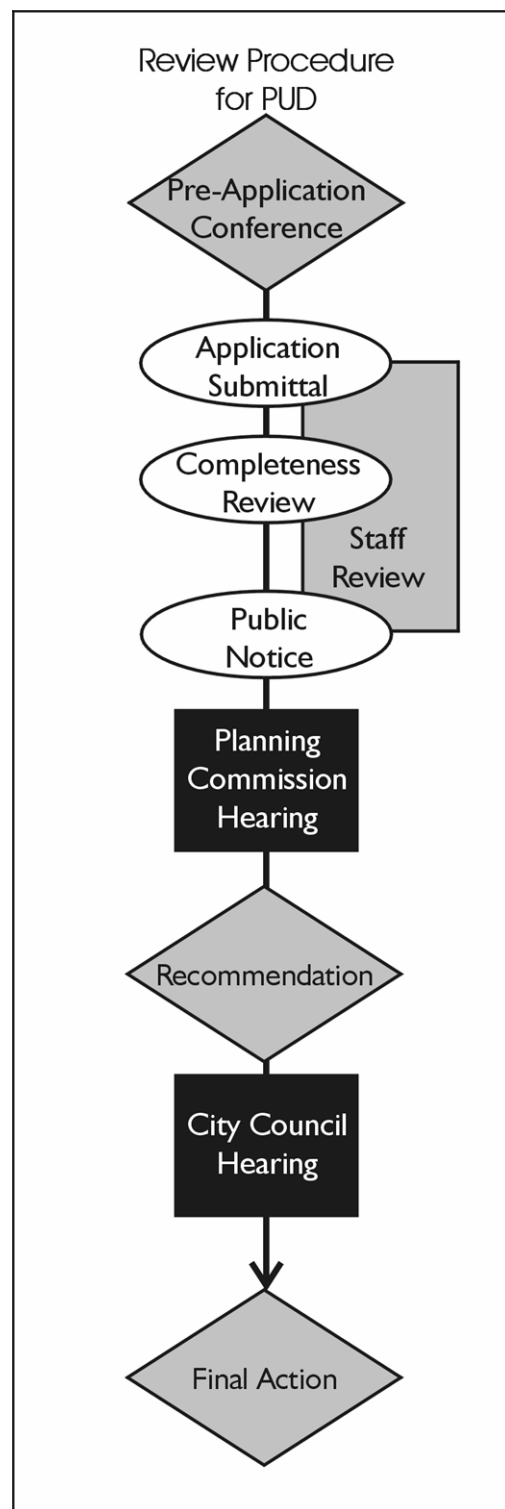
The following must be accomplished prior to filing an application for PUD Review:

- a. Pre-application Conference
- b. If the Pre-Application conference identifies any other permits, licenses or certificates required for the proposed development, the application for PUD approval shall contain a list of said permits, licenses, and certificates and a proposed schedule of applications for them.

(3) Application Requirements

A property owner or his agent may initiate an application for PUD designation by submitting an application for Site Plan Review, in accordance with Sec. 23-4-6, and Sec. 23-4-15, together with an application for appropriate Planning Commission approvals, in accordance with Sec. 23-7-1. An application shall be filed with the Director of Community Development and shall include the following information:

- a. A general circulation plan for the entire parcel, showing major pedestrian/bicycle and automobile circulation routes and connections to the public street and sidewalk system;
- b. A general drainage plan for the entire parcel, showing in general—but without detailed calculations—how storm water will be handled and how the system will interconnect with the City's storm water system;
- c. A proposed site plan, showing the locations and intensities of all proposed land-uses, supported by calculations showing the effective density;
- d. A proposed land use map, clearly indicating the location of all proposed open space and indicating each part of the open space as to whether it is proposed to be publicly or privately owned;
- e. Access roads, service drives, parking lots, open spaces and other infrastructure intended solely for the property owners of the PUD will not be maintained or improved by the City. At a minimum, such facilities shall be constructed in compliance with the City's Standards and Specifications Manual unless provisions are specifically waived, conditioned or otherwise adjusted by the appropriate City entity in writing;



- f. Documents establishing the proposed property owners' association and covenants. Where the property owners' association will be responsible for taxes on any privately-owned, required open space, and/or maintenance of any required open space, streets, storm water facilities or sewer and water lines, the documents shall include a fiscal feasibility analysis showing how the operations of the property owners' association will be financed, including provisions for a sinking fund for eventual replacement of facilities;
- g. In the event a proposed PUD is located within an Architectural/Historic Overlay District or includes a landmark or landmark site, then an application for a Certificate of Appropriateness, in accordance with Sec. 23-5-6, shall also be required; and
- h. The application for PUD and Site Plan Approval shall include all contiguous property under the ownership or control of the applicant.

(4) Criteria

In making recommendations regarding PUDs, the Planning Commission shall consider and make findings on the following matters regarding the proposed amendment:

- a. Consistency (or lack thereof) with the Comprehensive Plan;
- b. The standards set forth in Article 13;
- c. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
- d. Suitability of the property affected by the amendment for uses permitted by the zoning district that would be made applicable by the proposed PUD;
- e. Suitability of the property affected by the PUD for uses permitted by the district applicable to the property at the time of the proposed PUD;
- f. Utilities and infrastructure sufficient to address the needs of the proposed use; and
- g. Substantive conditions regarding the layout, density, circulation, and performance of the proposed development, which may include, but is not limited to, deed restrictions.

(5) Public Hearing

Any request pertaining to the establishment of a PUD shall be considered an amendment to the Zoning District Map shall be administered and processed in accordance with the regulations set forth in Sec. 23-3-5. Following published notice in accordance with Sec. 23-3-5, the Planning Commission shall hold a public hearing and then review the proposed PUD taking into account all factors which it may deem relevant including, but not limited to, the consistency of the proposed amendment with the Comprehensive Plan and whether the proposed amendment serves to carry out the purposes of this Chapter. At the close of the public hearing, the Planning Commission shall recommend approval, modified approval, or denial of the PUD application. The Director of Community

Development shall forward the Planning Commission's report and recommendations to the City Council.

(6) Action by City Council

- a. The City Council may act or may hold an additional public hearing on the application; notice of the time and place of any additional hearings, as specified in this Chapter, shall be published in compliance with Sec. 23-3-5.
- b. The City Council shall consider the recommendation of the Planning Commission in making a decision.
- c. The City Council shall act to approve, approve with modifications, or deny the proposed PUD, in concert with its consideration of the Subdivision Plat for the subject property.
- d. Any phasing of a Planned Unit Development shall be approved during the Planned Unit Development and subdivision review process and shall be sufficient in terms of size and scope in order for the phase to exist as a "stand alone" project, in the event the applicant does not implement subsequent phases of the Planned Unit Development as proposed and approved.
- e. The effect of the approval of the site plan and PUD proposal shall be to amend the Zoning District Map by creating an overlay subject to the express conditions set forth in the site plan and any other conditions included in the action by the City Council.

(7) Approved Concept Plan

- a. The approved plan, with all conditions, and with any Master Property Development Plan incorporated, shall be the "PUD Concept Plan," for the [named] PUD.
- b. Following City Council approval, the applicant shall, within thirty (30) days, submit a Final PUD Concept Plan document, incorporating any changes or conditions resulting from the City Council action;
- c. The Final PUD Concept Plan shall be reviewed by the DRC at the first meeting occurring at least four days after receipt of the document from the applicant. If the DRC finds that the Final PUD Concept Plan is consistent with the earlier application, as modified by any actions, changes or conditions occurring in the City Council approval, it shall authorize the Community Development Director to sign and date the plan, indicating its status as the approved, Final PUD Concept Plan. If the DRC finds that the Final PUD Concept Plan as submitted is in any way inconsistent with the original application, as modified by any actions, changes or conditions occurring in the City Council approval, it shall advise the applicant in writing of the inconsistencies. The applicant may resubmit the application, correcting the inconsistencies, or may appeal the action of the DRC to the City Council, in accordance with Sec. 23-3-9.

(8) Relationship to Other Approvals

- a. An Approved Final PUD Concept Plan gives the property owner or his agent the right to apply for Development Plan Approval within two years after the action by the City Council in approving the site plan and PUD proposal. If no application is filed for approval of a Development Plan for any part of an approved PUD within said two-year period, the site plan approval shall lapse and the overlay shall be null and void.
- b. The review and approval of PUDs shall be coordinated with the review and approval of any Subdivision Plat and/or site plan required. An application for PUD Development Plan approval and any required application for Preliminary Subdivision Plat and/or site plan approval shall be filed simultaneously and coordinated.

(9) Expiration

- a. The City Council approval of a PUD Concept Plan shall expire if the applicant (or a successor) shall fail to submit a proposed Final PUD Concept Plan for DRC review within 60 days following the meeting at which City Council approval occurred or shall fail to obtain DRC or City Council approval of an Approved Final PUD Concept Plan within 180 days of such meeting.
- b. An Approved Final PUD Concept Plan shall expire unless a complete application for approval of an Official Development Plan shall have been submitted by the following date:
 1. For a Final PUD Concept Plan not including a phasing schedule, 18 months after the date shown on the Approved Final PUD Concept Plan;
 2. For a Final PUD Concept Plan including a phasing schedule, 6 months after the date shown on the phasing schedule for submission of the first Official Development Plan application.

(b) PUD Development Plan Approval**(1) Purpose**

An application for PUD Development Plan Approval must address the complete development of an approved phase, phases, or the entire Planned Unit Development.

(2) Applicability or Activities Subject to Review

The requirements of this Subsection shall apply to all proposed PUDs.

(3) Prerequisite Approvals

PUD Approval must be accomplished prior to filing an application for Development Plan Review.

(4) Application Requirements

The application for PUD Development Plan Approval shall include at least the following:

- a. All of the materials required for review of a Preliminary Plat;
- b. All of the materials required for review of a site plan;
- c. A detailed proposed land-use map, showing the exact locations and boundaries of all proposed land-uses in the area included under the proposed Development Plan, supported by calculations showing the effective density;
- d. On the land-use map or a supplement thereto, detailed provisions governing building heights, setbacks, yards, and any conditions imposed on particular uses. Such provisions may refer to the regulations applicable to particular districts under this Chapter or may, subject to Article 13, establish different standards;
- e. On the proposed land-use map, the exact location of all proposed open space and an indication for each part of the open space as to whether it will be publicly or privately owned;
- f. Preliminary documents establishing the property owners' association. Where the property owners' association will be responsible for taxes on any required open space and/or maintenance of any required open space or for any streets, storm water facilities or sewer and water lines, the documents shall include a fiscal feasibility analysis showing how the operations of the property owners' association will be financed, including provisions for a sinking fund for eventual replacement of facilities; and
- g. In the event a proposed PUD is located within an Architectural/Historic Overlay District or includes a landmark or landmark site, then an application for a Certificate of Appropriateness, in accordance with Sec. 23-5-6 shall also be required.

(5) Criteria

The Planning Commission shall review the PUD Development Plan's consistency with the approved PUD. Unless appealed, the review process shall end with the Planning Commission.

(6) Hearing/Meeting

No hearing shall be required unless the PUD Development Plan is appealed to the City Council, in which case the hearing shall comply with the appeal provisions of Sec. 23-3-9.

(7) Action by City Council

- a. The review process for the proposed PUD Development Plan shall be the same as the review process for the initial Site Plan and PUD approval. The effect of the approval of the PUD Development Plan shall constitute the following:
 1. Approval of the Preliminary Plat incorporated within the Development Plan;

2. Approval of development in accordance with the land-use map and other standards included in the approved Site Plan, as shown on the land-use map and supplemental documents.
- b. The applicant shall provide to the Director of Community Development within three months following approval of the proposed Development Plan one digital and two linen copies of the approved land-use map and any documents containing conditions related to yards, setbacks, building heights, use conditions or other zoning-type provisions. The City will not approve any other permits for the project until the documents have been recorded.
- c. Before approval of a PUD Development Plan, the City Council may require a contract satisfactory to the City with safeguards, guaranteeing completion of the site plan in a period to be specified by the City Council, but which period shall not exceed five years unless extended by the City Council for good cause shown. Such guarantee shall be in the form of a Guarantee of Improvements, as set forth in Sec. 23-4-8(d)(5).
- d. A Final Plat for a PUD or for any phase of a PUD subject to an approved PUD Development Plan shall be processed in accordance with Sec. 23-4-6.

(8) Action After Approval

- a. Approval of a PUD Development Plan shall expire for any unbuilt section or phase of an approved PUD if a period of five years lapses without the attainment of a Building Permit for that section or phase.
- b. Minor amendments to PUD Development Plans may be acted upon by the Director of Community Development and are limited to modifications of ten percent or less of any numeric standard set forth within this Chapter. Any amendment which increases the number of dwelling units or the number of square feet of nonresidential use or which reduces the amount of open space shall be considered a major amendment, which shall require approval in accordance with the provisions of (b).
- c. All further developments shall conform to the standards adopted for the appropriate district in which it is located regardless of any changes in ownership. Any major amendment to an approved Design Plan shall be treated as amendments to the Zoning District Map and must be considered in accordance with procedures set forth in Sec. 23-7-1.

(9) Relationship to Other Approvals

Initial PUD approval is required prior to, or concurrent with, a request for PUD Development Plan Approval.

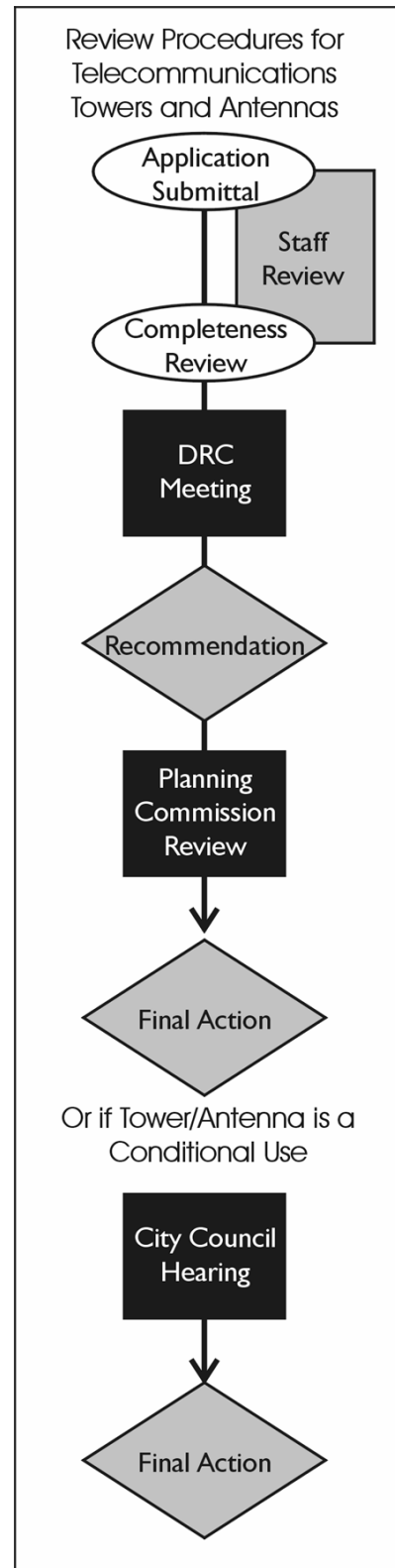
Sec. 23-4-11 Telecommunications Towers and Antennas Review Procedure

(a) Purpose

The purpose of this Section is to facilitate the expansion of wireless telecommunications facilities through the use of reasonable and nondiscriminatory policies designed to encourage growth and competition for the benefit of the citizens of Biloxi and to protect the public against any adverse impact upon the City's aesthetic resources, to avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements, to maximize the use of existing and approved towers and buildings through co-location and to protect the public health, safety and welfare.

(b) Applicability

- (1) It shall be unlawful for any person to erect, construct, place, replace or repair any tower, antenna, equipment, Accessory Building or accompanying fence within the boundaries of the City without first making application to the Director of Community Development for a Conditional Use and securing a permit therefore. Unless specifically excepted or exempted, all towers or antennas located within the City shall be subject to this Section and to all other applicable provisions of the Biloxi Code.
- (2) Permits are not required for the adjustment or replacement of the elements of an antenna array provided that said action does not cause unsafe conditions to occur or exist.
- (3) Upon the submission of evidence that the tower or antenna is in compliance with FCC and FAA regulations, a Temporary Permit (Certificate of Occupancy) may be issued by the Building Official to an applicant for up to 14 days without meeting the requirements of this Chapter for:
 - a. Erection of a tower or antenna temporarily for test purposes, emergency communication or broadcast remote pick-up operations; or
 - b. Erection of an antenna that is attached to a mobile unit for Temporary Use.
- (4) **Mobile Units**
 - a. All mobile units shall be equipped with an operating proximity-warning device;



- b. Antennas shall not be activated while situated on, or attached to, any nonpermanent or mobile unit without a permit issued pursuant to Sec. 23-6-1;
- c. Antennas shall not be activated while situated on, or attached to, any nonpermanent or mobile unit that is not completely at rest.

(c) Exceptions/Exemptions

(1) Height Limitations

Height limitations applicable to buildings and structures in Article 12 shall not apply to towers or antennas, but provisions in Sec. 23-11-18 and Article 20 restricting heights of towers and antennas shall apply.

(2) Amateur Radio and Receive Only Antenna

This Chapter shall not govern any tower or antenna that is:

- a. Less than 70 feet in height;
- b. Located in the rear yard of a residentially zoned parcel;
- c. Owned and operated by a federally licensed amateur radio operator; and
- d. Towers under this Subsection and covered by this Article shall not be available for co-location.

(3) Grandfathered Towers and Antennas

- a. Subject to the provisions of Sec. 23-18-4, any tower or antenna already existing on the effective date of this Chapter shall not be required to comply with this Article.
- b. Towers or antennas in existence on the effective date of this Chapter, which do not conform to or comply with this Article:
 - 1. May continue for the purpose now used and as now existing;
 - 2. May not be replaced or structurally altered without complying in all respects with this Article.
- c. The addition of one or more antenna to a grandfathered tower is a Permitted Use and shall not be construed as a prohibited expansion of the pre-existing non-conforming use so long as said tower is located in one of the following Districts: RM-10; RM-20; RM-25; RMH; R-O; A; B-1; B-2; B-3; B-4; B-5; I-1; I-2; or WF.

(4) Application to Satellite Dishes

This Article shall apply to all satellite dishes larger than two meters in diameter and all antennas except those located on a single-family dwelling and extending not more than six feet above the height of the dwelling. Satellite dishes of less than two meters in diameter are subject to the provisions of Sec. 23-11-15(b)(2)b.

(d) Uses**(1) Permitted Use**

- a. Unless specifically exempted, a Permitted Use shall comply with all provisions of the Biloxi Code and all relevant FCC and FAA Regulations. A tower that is a Permitted Use shall require only the issuance of a Building Permit under Sec. 23-4-19.
- b. In addition to complying with the standards identified in Article 11, an applicant shall submit the additional information as required in this Article.

(2) Conditional Use Permits

- a. If the tower or antenna is not a Permitted Use, then a Conditional Use Permit shall be required for the placement or erection of a tower or antenna pursuant to Sec. 23-6-1.
- b. In addition to the requirements of Sec. 23-3-2, an applicant must also submit the additional information required in this Article.
- c. In addition to the standards and conditions listed in Sec. 23-6-1, the City Council shall consider the following factors in determining whether or not to issue a Conditional Use Permit:
- d. Height of proposed tower or antenna;
 1. Proximity of tower or antenna to residential structures and residential district boundaries;
 2. Technical or engineering requirements limiting placement of the tower or antenna in other areas in order to provide coverage;
 3. Nature of uses on adjacent and nearby properties;
 4. Surrounding topography, tree coverage and foliage;
 5. Design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness and making the proposed tower or antenna a stealth facility;
 6. Availability of suitable existing towers or other structures for placement of proposed antenna;
 7. The site is designed and constructed so as to achieve maximum utilization of space for placement of antennas.

(3) Variance

- a. If the applicant cannot meet the requirements of this Article, he may seek a Variance pursuant to Sec. 23-6-2.
- b. In addition to the application requirements for a Variance, an applicant seeking a Variance for a tower shall also submit additional information as required in this Section.

(4) Co-Location on Existing Towers

This Subsection addresses the placement of an antenna on an already-existing tower.

- a. In order to utilize this Subsection, an application must be submitted in accordance with the applicable provisions of this Section.
- b. Installation of an antenna on any existing operating commercial tower of any height in any of the following Districts is a Permitted Use: A; RMH; RM-10; RM-20; RM-25; RO; B-1; B-2; B-3; B-4; B-5; WF; I-1; and I-2.
- c. Installation of an antenna on any existing operating commercial tower of any height is a Conditional Use in the following Districts: RS-10; RS-7.5, RS-5; or RD;.
- d. In addition to the requirements of this Section, co-location of antennas and their associated attachments shall be subject to the following minimum standards:
 1. No commercial advertising shall be allowed on a tower or antenna. Towers may have safety or warning signs in appropriate places.
 2. No signals, lights or other illumination shall be permitted on a tower or antenna, unless required by the FAA. Lighting required by state or federal law shall be placed on the tower and designed in such a way as to minimize glare on adjacent residential properties.

(5) Attachment to existing structure or existing tower on structure

This Subsection addresses the installation of a tower or antenna on an existing structure (other than a tower) and includes, but is not limited to:

- a. A building;
- b. A light pole;
- c. A water tower;
- d. A commercial sign;
- e. A church steeple; and
- f. Any other freestanding structure.

(e) Fees

Fees shall be in accordance with a fee schedule adopted by City Council by ordinance and updated from time to time.

(f) Prerequisites

Pre-Application Conference

(g) Application Requirements

Each application shall contain the following information:

- (1)** Certificate of Zoning Compliance;

- (2) For a tower or antenna permitted as an Accessory Use and requiring only an amendment to an approved site plan, the application shall include the appropriate material to amend the site plan; if the application involves an accessory antenna that will not change any features or details shown on the approved site plan, this requirement may be satisfied with a letter signed by a person qualified to prepare site plans in the City indicating that the proposed installation will have no effect on the approved site plan, identifying that site plan by date and file number. For a tower permitted as a Principal Use or proposed as a Conditional Use, the application shall include a complete site plan application, in accordance with Sec. 23-4-4;
- (3) An area map that shall contain a scaled elevation view and other supporting drawings and design data showing the proposed location of the tower or antenna as well as the location of all other towers or antennas that are currently erected within a one mile radius of the proposed site and all other towers or antennas that the applicant currently has in operation, or plans to have in operation, within the City, within the six months following the date of the submission of the application;
- (4) A statement as to whether the application is for co-location, attachment to an existing structure or a new freestanding tower;
- (5) Evidence of the applicant's fee title to the property site or a license or lease from the fee titleholder of the property site;
- (6) A statement as to the height of the proposed tower or antenna from the ground and the height of the proposed tower or antenna from mean sea level;
- (7) A certified report from a qualified professional structural or electrical engineer that is licensed to practice in the State of Mississippi, that:
 - a. Equipment governed by the FCC which is within the proposed facility meets all FCC rules and regulations;
 - b. Any antenna erected meets state and federal regulations pertaining to non-ionizing radiation and other relevant health hazards. If new or more restrictive standards are adopted by a relevant government agency, all then-existing antennas shall be made to comply with the new regulations within 180 days;
 - c. If a tower or antenna is not brought into compliance with the new regulations within 180 days, its continued operation shall be considered a violation of this Article;
 - d. The construction of the tower or antenna, including reception and transmission functions, will not interfere with the radio, television, and public safety communications devices, commercial communication antennas or other services enjoyed by adjacent residential and nonresidential properties and persons. In the event only a preliminary statement is submitted with the application, a final certified statement of non-interference must be provided and approved prior to issuance of a permit;
 - e. The tower or antenna is in compliance with the current edition of the National Electrical Safety Code (NESC), prudent electric utility practices and the Electric Code edition of the City;

- f. The tower or antenna conforms to the latest structural standards and wind loading requirements of the Southern Building Code Congress International (SBCCI); and
 - g. The tower or structure is able to safely support the proposed antenna and associated attachments.
- (8) Certification from the applicant that the construction and placement of the tower or antenna:
 - a. Is in compliance with applicable FAA regulations; and
 - b. Is in compliance with current radio frequency emissions standards of the FCC.
- (9) Proof of insurance and a statement of indemnification as provided for in Sec. 23-11-18(d); and
- (10) Any additional information required by the provisions of this Chapter or requested by the Director of Community Development.

(h) Decision Authority

- (1) For an antenna permitted as an Accessory Use, whether the antenna is to be attached to an existing tower or to another existing structure, the application shall be treated as an amendment to a site plan to be reviewed by the Planning Division, in accordance with Sec. 23-4-3.
- (2) For a tower permitted as an Accessory Use on a site on which there is already a Principal Use, the application shall be treated as an amendment to a site plan to be reviewed by the DRC, in accordance with Sec. 23-4-4.
- (3) For a tower permitted as a Principal Use, the application shall be treated as application for site plan to be reviewed by the DRC, in accordance with Sec. 23-4-4.
- (4) For a tower permitted as a Conditional Use, the application shall go to the Planning Commission for decision in accordance with Subsection (i) of this Section.

(i) Review Procedure

(1) Development Review Committee

The application shall be scheduled for review by the DRC at the first meeting of the DRC occurring at least seven days after the receipt of a complete application. The DRC shall act on the application or make a recommendation on the application, in accordance with the "Decision Authority" provisions of Subsection (h) of this Section, within three weeks after that initial meeting.

(2) Planning Commission

- a. On applications reviewed by the Planning Commission in accordance with Subsection (h) of this Section, the application shall be scheduled for the first Planning Commission meeting occurring at least five weeks after the receipt of a complete application. Before that meeting, the Director of Community

Development shall transmit the complete application and the recommendation of the DRC to the Planning Commission. On an application for site plan approval for a tower as a permitted use, the Planning Commission shall take action at the meeting at which the matter is heard or within two weeks thereafter. On an application for Conditional Use, the Planning Commission shall act within six weeks of the item first appearing on its agenda, following the additional procedures for approval of a Conditional Use as set forth in Sec. 23-6-1. The Planning Commission may extend the time period for the approval or denial of a permit beyond the allowed time in increments not to exceed 30 days if it finds that additional time is required due to the nature and scope of the application. If such extension occurs, the reasons for the additional time needed shall be provided to the applicant in writing.

- b. If the request for a permit is denied, the denial shall be in writing setting forth each specific reason for the denial. The reasons for the denial shall be entered in the records of the Planning Commission.

Sec. 23-4-12 Bed and Breakfast Review Procedure

(a) Procedure

The review procedure for approval of a Bed and Breakfast as a Conditional Use shall be the Conditional Use review procedures set forth in Sec. 23-6-1.

(b) Application

The application shall consist of at least the following materials:

- (1) Complete site plan application, in accordance with Sec. 23-11-14;
- (2) Parking plan, showing parking for overnight guests;
- (3) Exterior lighting plan;
- (4) Floor plan;
- (5) Landscaping plan;
- (6) Drainage plan;
- (7) Signage plan;
- (8) Location map identifying current owners and occupants of all property within 500 feet of the subject property, and all thoroughfares, rights-of-way, easements, and utilities.

(c) Criteria

The criteria for approval of a Bed and Breakfast as a Conditional Use shall be the criteria applicable to the approval of any Conditional Use, as well as the specific criteria set forth in Sec. 23-11-16.

Sec. 23-4-13 Hospitality Business Master Plan**(a) Purpose**

Within the hospitality industry, there is at times a desire by the Developer to aggregate complementary uses at a single project site. A variety of issues related to land use may arise with this arrangement. The City of Biloxi, in order to accommodate this desire, may permit a Master Plan to include incorporate multiple uses not normally allowed within a single location and allow heights up to 175 feet, if certain prescribed conditions and stipulations are met.

(b) Pre-Application Conference

- (1)** If the Pre-Application conference raises any issues regarding conformity to the zoning, the application for Site Plan Review must be accompanied by an application for a Certificate of Zoning Compliance, in accordance with Sec. 23-5-3.
- (2)** If the Pre-Application conference identifies any other permits, licenses or certificates required to undertake the project proposed, the application for Site Plan Review must be accompanied by a list of such permits, licenses or certificates, and a schedule indicating the sequence in which the applicant intends to apply for such permit(s), license(s), and/or certificate(s).

(c) Application

In addition to the standard requirements for a Conditional Use permit, applicants of a B-3 Master Planned Project shall provide the following information to the Director of Community Development:

- (1)** A completed application on the form provided by the Planning Division;
- (2)** Photographs, artist renderings or other visual documents that will assist the City in establishing the compatibility of the proposed development with its surroundings;
- (3)** Information detailing the total number of employees anticipated to be hired and maximum number of employees anticipated to work during peak shifts; the number of projected visitors, identified as a daily, monthly, and annual total; peak traffic times and days; hours of operation;
- (4)** Analysis of traffic flow from the development and traffic congestion considerations, in compliance with the City's Standards and Specifications Manual;
- (5)** Identification of on-site and off-site parking, including designation of employee and visitor parking areas. If off-site parking lots will be employed, leases or contracts committing specific parking spaces to the project, coupled with an acceptable shuttle bus or other appropriate plan to transport guests and employees to and from the Hospitality Business Planned Project, must be included. Bona fide contracts attesting to all parking and shuttle arrangements shall be provided to the City by applicants for the duration of the establishment's existence;

- (6) Determination of the potential impact of the proposed operations on the City's infrastructure including, but not limited to, roads, water, drainage, and sanitary sewerage collection and disposal;
 - (7) Determination of the development's potential impact on the community that may result in an increased need for municipal or public services such as police and fire protection; and
 - (8) Construction phase information, including a staging plan for equipment and materials and a construction phase parking plan, provided at a level of detail satisfactory to the Director of Community Development.
- (d) **DRC Review Public Hearing by the Planning Commission**
- Upon receipt of a completed application for Conditional Use for Hospitality Business Planned Project and all accompanying documents, the Director of Community Development shall immediately forward a copy of the application to the DRC.
- (e) **Public Hearing by the Planning Commission**
- Upon completion of DRC review, the Director of Community Development shall forward notice of public hearing to a qualified newspaper having a general circulation within Biloxi. This notice of public hearing shall be published once and shall advise the public that a completed application has been received by the City for the location of the proposed Hospitality Business Planned Project and any ancillary structures and that a public hearing will be held before the Planning Commission to allow the public to express any views or opinions on the application's conformance with the prerequisites of this Section. A copy of the application and supporting documents shall remain on file for public review with the Director of Community Development during this period. The Director of Community Development shall collect a fee from the applicant in order to defray the publication costs for this notice. The notice of public hearing shall also be forwarded to the Clerk of Council for placement on the Council's agenda.
- (f) **Action by City Council**
- After the public hearing, the Planning Commission shall submit a report and recommendations on the subject application to the City Council. The City Council shall not take official action upon the Hospitality Business Planned Project Conditional Use application until the report of the Planning Commission has been received; provided, however, that if the report has not been filed within 45 days following the closing date of the public hearing, the City Council may then take official action on the application without the report from the Planning Commission. The City Council shall act to approve, approve with modifications, or deny the application within 90 days from receipt of a recommendation from the Planning Commission. If required by the City Council after recommendation by the Planning Commission, a Guarantee of Improvements shall be filed or deposited in escrow with the City for a sum sufficient to ensure completion of requirements as may be imposed by the City Council in accordance with this Chapter.
- (g) **Hospitality Business Planned Project**
- (1) **Review Criteria**
- In reviewing a Master Plan application for a Hospitality Business Master Planned Project, the Planning Commission and the City Council shall consider:

- a. The compatibility of the proposed on-site and off-site development with its surroundings;
- b. Adequacy of provision for traffic flow onto and off the site, to and from remote parking areas, and around and on the site;
- c. Adequacy of the storm water management plans to handle storm water from the site with no net increase in the storm water impact on the City storm water system;
- d. Adequacy of the public water system, including any auxiliary pumps or storage facilities to be included in the project, to provide for the domestic water and fire protection needs of the proposed project;
- e. Adequacy of emergency access to the project;
- f. Adequacy of the public wastewater system to handle the net increase in wastewater generation from the project;
- g. Provision of adequate buffers to protect residentially-zoned areas and historic properties adjoining or across the street from the site from significant impacts from the lighting and signage from the property;
- h. Adequacy of the setback of the proposed buildings to maintain appropriate scale and proportion to adjoining residential areas; and
- i. Design that ensures that Accessory Uses have access primarily from interior spaces and corridors and do not serve as alternative Principal Uses.

(h) Master Plan Review Required

Approval of a Hospitality Business Master Planned Project shall be subject to the subsequent approval of a detailed site plan in accordance with Sec. 23-4-4, based on the standards contained in this Section, modified as follows:

- (1)** The site plan shall be subject to final review and approval by City Council;
- (2)** In addition to other materials required as part of the site plan submission, the site plan shall include:
 - a. The location of boats, barges, vessels, piers, buildings, parking lots, landscaping, etc.;
 - b. Photographs, artists renderings, or other visual documents that will assist the City in establishing compatibility;
 - c. Information relative to the number, length, and width of boats, barges or vessels; the total number of employees contemplated; the number of visitors expected daily, monthly, yearly; peak traffic times and days;
 - d. If off-site parking lots will be employed, leases or contracts committing specific parking spaces to the Hospitality Business Master Planned Project coupled with an acceptable shuttle bus or other appropriate plan to transport guests and employees to and from the Hospitality Business Master Planned Project must be included. Bona fide contracts attesting to all parking and

shuttle arrangements must be provided for the duration of the Hospitality Business Planned Project's existence.

- (3) The procedure for obtaining approval of an amendment to the site plan shall be the same procedure as that required for the approval of the original site plan, except that certain minor amendments may be approved by the Director of Community Development.

Sec. 23-4-14 Industrial Production and/or Manufacturing Review Procedure

In addition to complying with general use regulations set forth in Sec. 23-11-6 and the standards set forth in Sec. 23-11-16(c)(1), the following items shall be submitted and approved in connection with the Conditional Use application review for any resource extraction, hazardous materials processing and other industrial production and/or manufacturing land use that may have a significant impact upon a site or its surrounding area, as determined by the Director of Community Development:

- (a) A complete application for site plan in accordance with Sec. 23-4-3(d) showing at least the following:
 - (1) An outline of the area to be impacted and/or developed;
 - (2) The proposed locations of sorting, grading, crushing, and similar equipment necessary to the operation and distribution of products;
 - (3) The proposed locations of any buildings, equipment and material storage areas, and equipment repair sheds or areas;
 - (4) A drainage plan showing the restoration of the site and detailing a schedule of rehabilitation measures upon completion of the proposed land use;
 - (5) A lighting plan showing all lighting oriented and arranged to minimize spillover of light and off-site glare or nightglow on surrounding properties and roads; and
 - (6) Information, in reasonable detail satisfactory to the Director of Community Development, that identifies how the proposed land use will impact the surrounding properties in terms of air quality and odor, noise, vibration, and any and all other impacts relevant to the proposed land use, as determined by the Director of Community Development.

Sec. 23-4-15 Street and Development Names and Property Numbering

(a) General

- (1) The City Council shall have the authority to approve or deny the proposed name of any street or subdivision, consistent with the criteria set forth below. Initial street and subdivision names shall be approved as part of the approval of the subdivision creating the street(s).
- (2) The Director of Community Development shall have the authority to approve or deny the assignment of a street number to a particular address. Addressing systems within developments shall be approved or approved with conditions as part of the site plan or subdivision review by the DRC. Development names for

developments other than subdivisions shall be approved as part of the approval of the site plan for that development.

- (3) The Director of Community Development shall maintain an index of all existing street names and development project names for public reference.

(b) Street Identification and Property Numbering Map

- (1) It is the intent of this Section that the City shall adopt from time to time and maintain an official "Street Identification and Property Number Map." Any street name amendments made thereto shall be adopted by the City Council by ordinance, and all property numbers shall be assigned by the Director of Community Development in accordance with the guidelines set forth in this Article. No other street names or property numbers shall be used or displayed in the City except as indicated on the Street Identification and Property Numbering Map. The Street Identification and Property Numbering Map shall be properly attested and placed on file in the City, and it shall be the duty of the Director of Community Development to maintain and keep the Street Identification and Property Numbering Map up to date according to the additions, deletions and revisions to the street names ordered by the City Council, and according to the additions, deletions and revisions to the street names ordered by the City Council, and according to the additions, deletions and revisions to the property numbering designations made by the Director of Community Development as authorized by this Article.

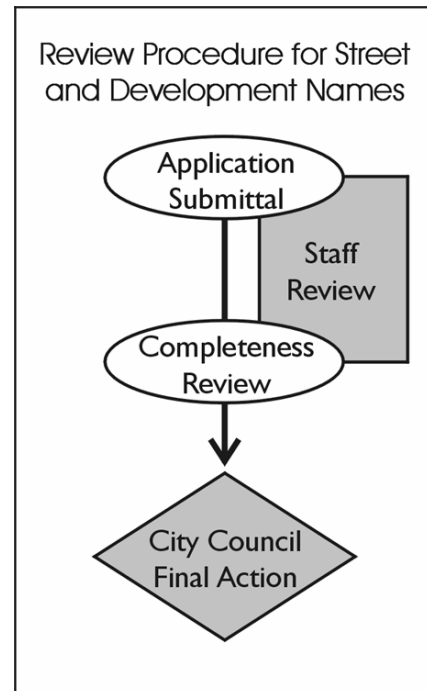
- (2) The Director of Community Development is hereby authorized to revise the Street Identification and Property Numbering Map without additional directive from the City Council in accordance with and upon the adoption of a resolution accepting dedication without a plat or approving the Final Plat of a subdivision wherein streets are identified, named and dedicated, and the adoption of any such resolution shall automatically amend the map accordingly without specific reference thereto.

(c) Application

Any person proposing to name a street or development, or change the name of a street or development, shall submit a completed application on the form provided by the City and as detailed in the Manual, as well as a list of proposed names in priority order to the Director of Community Development for determination of their suitability consistent with the criteria set forth below.

(d) New or Modified Development Name

- (1) If the Director of Community Development determines that the proposed name is suitable following consultation with the emergency dispatch office, the Director of



Community Development shall approve the proposed name and shall so notify the emergency dispatch office and the U.S. Postal Service.

- (2) If the emergency dispatch office determines that the proposed name is not suitable, the Director of Community Development shall deny the request and state the reasons for denial in writing to the party proposing the name.

(e) New or Modified Street Name

- (1) After a public hearing, the City Council shall determine if the name is suitable.
- (2) If the City Council approves the name change, it shall so certify in writing and forward such certification to the emergency dispatch office, the U.S. Postal Service and any other agencies in interest including all property owners of record on the affected street by certified mail.
- (3) If the City Council disapproves the name change, it shall so state in writing, including all reasons therefore, and shall forward such notice to the party proposing the change.

(f) Criteria for New Names and Name Changes

- (1) No new street name, or proposed renaming of an existing street shall duplicate, be phonetically similar to, or create confusion with an existing street name, unless the street to be so named is a logical connection of the other street bearing that name. The use of prefixes, suffixes or other minor changes shall not be sufficient to allow re-use of a street name.
- (2) No new development name, or proposed renaming of an existing development, shall duplicate, be phonetically similar to, or create confusion with an existing development name, unless the development to be so named is an additional phase of the original development bearing that name and includes direct internal street connections to that development. The use of prefixes, suffixes or other minor changes shall not be sufficient to allow re-use of a development name.
- (3) It is desirable to use names which are simple, logical, easy to read and pronounce, and which are clear and brief. Use of frivolous or complicated words, or unconventional spellings shall not be approved.
- (4) In all cases, names that might reasonably be perceived as offensive shall not be permitted.
- (5) The use of numbers (such as First Street), alphabetical letters or proper names is discouraged.
- (6) It is desirable to use names that have some association with the City and specifically with the immediate location of the road or place, such as reference to local history or physiographic features.
- (7) Use of a common theme is recommended for names of streets that are associated with one another, such as those within a residential development.
- (8) Care should be exercised in changing any street name in order to preserve local history and to minimize disruption and cost.

- (9) Any existing or proposed street following the corridor shown for a street shown on an adopted Major Street Plan of the City shall bear the name indicated on the Major Street Plan.
- (10) Intersecting streets shall not have the same or similar name.
- (11) Proposed streets obviously in alignment with existing streets shall bear the name of the existing street to the extent practicable, regardless of whether the two will be immediately connected.
- (12) Street sections planned to be or likely to be connected in a straight line shall bear the same name, regardless of whether the two will be immediately connected.
- (13) Street sections not planned to be or unlikely to be connected shall not bear the same name.
- (14) Streets that continue through an intersection should generally bear the same name.
- (15) A street making an approximate right-angle turn where there is no possibility of extending the street in either direction shall be considered to be continuous and be so named. Where there is a possibility of extending either section in the future, such configuration shall be considered to be an intersection and different names assigned.
- (16) Where there is a change in the direction of a street of greater than 60 degrees for a distance equal to or exceeding 1,000 feet in length, each segment of the street shall bear a different name.
- (17) The proposed name of the development should in all respects emphasize the project's distinctive name rather than the name of the company or corporation that owns the development. This will reduce confusion on the location of separate developments owned by the same company or corporation.
- (18) A street or development name that otherwise meets the criteria but in the judgment of the City Council or the Director of Community Development may be misleading to residents or visitors or otherwise be inappropriate shall be disapproved.
- (19) If there are conflicts in applying the criteria set forth in this Subsection (f), a specific criterion shall apply over a general one; in the case of conflicts between two general criteria or two specific criteria, the criterion bearing the lower number in this list shall control.

(g) Assignment of street address numbers

- (1) On the Street Identification and Property Numbering Map adopted in this Chapter, the easternmost shoreline of the City is hereby designated as the north-south axis and U.S. Highway 90 is hereby designated as the east-west axis. All rights-of-way running generally north and south shall be numbered from the east-west axis consecutively to the extremity of such right-of-way. Rights-of-way running generally east and west shall be numbered from the north-south axis in the same manner.

- (2) The following methods shall be employed as a guide in the identification and designation of street address numbers:
- a. Even and odd numbers. Even numbers shall be assigned to the north and east sides of streets. Odd numbers shall be assigned to the south and west sides of streets.
 - b. Address to correspond with principal entrance. Street address numbers shall be assigned based on the point where the address interval most closely corresponds to the principal entrance of the structure.
 - c. Use of fractions. Numerical fractions shall not be utilized as part of the designation of any address. If sufficient numbered intervals are not available for designation of addresses, then letters or sub numbers shall be utilized.
 - d. Curvilinear streets. Where there is a change in the direction of a street of greater than 60 degrees for a distance equal to or exceeding 1,000 feet in length, then each section of the street shall be numbered according to the corresponding axis.
 - e. Diagonal streets. Streets that are less than a perfect diagonal shall be numbered according to the nearest axis. Perfect diagonal streets shall be numbered according to the north-south axis.
 - f. Circle and horseshoe streets. Addresses on circle and horseshoe streets shall be assigned on a consecutive basis beginning at the point of origin of the circle or horseshoe as determined by the corresponding grid.
 - g. Private drives. Addresses on private drives shall be assigned using the interval number closest to the point where the private drive intersects the public street. Where more than one structure requiring an address is located on a private drive, sub numbers or letters shall be utilized to designate the structures.
 - h. Corner lots. Corner lots shall be assigned a number on the street frontage opposing the principal entrance of the structure. Where two principal frontages exist, the number shall be assigned to the principal frontage with the lesser street frontage. Where street frontages are identical, the principal frontage having the best visibility shall be selected.
 - i. Apartments, condominiums, and Manufactured and Mobile Home Parks. To ensure uniformity of street addresses on opposing sides of a street, apartments, condominiums, and Manufactured and Mobile Home Parks shall be designated with sub numbers or letters.
 - j. Duplex, triplex, and fourplex buildings. Individual units of duplex, triplex, and fourplex buildings shall be assigned a number which corresponds to the nearest numerical interval, or with an alphanumeric mix as approved by the Director of Community Development.

(h) Posting of address numbers—Generally

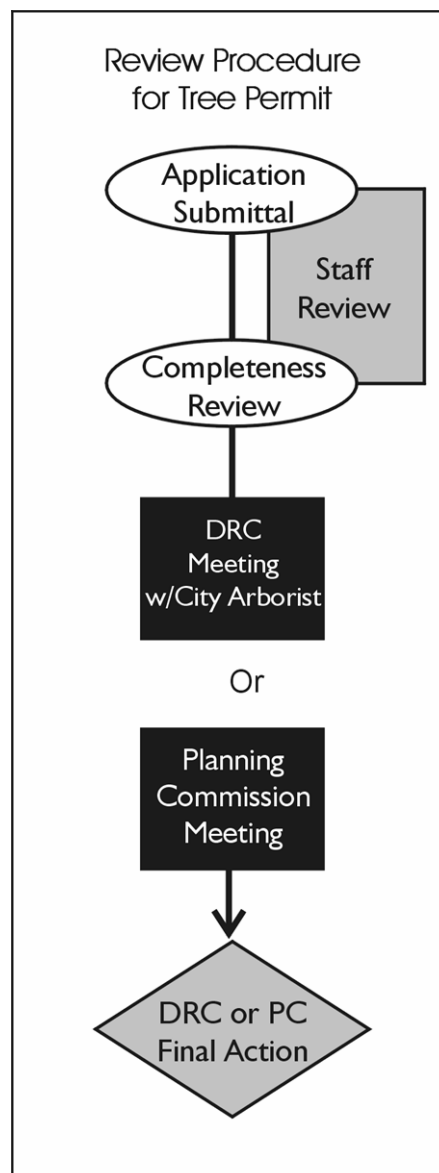
- (1) The owner or occupant of any house or building to which a number has been assigned pursuant to this Article will be notified by the Director of Community Development of the number assigned upon request.
- (2) Within 60 days after the receipt of such notification, the owner or occupant of a building to which a number has been assigned shall affix the number in a conspicuous place.
- (3) It shall be the duty of such owner or occupant, upon affixing the new number, to remove any different number that might be mistaken for, or confused with, the number assigned to the structure.
- (4) Approved numbers shall be assigned for all new and existing structures and property owners shall be responsible for insuring that assigned numbers are plainly visible and legible from the street or roadway. Numbers shall be a minimum of four inches high, placed on a contrasting background. When a structure is setback off the street or roadway and the address identification number is not clearly visible, the number shall be posted at the street or roadway entrance as well as on the structure. For multi-family residential units and other applicable residential and commercial groupings, as identified by the Director of Community Development, suite numbers and/or letters shall be posted above doors in the same manner as address identification numbers. All address identification numbers shall comply with maximum size limits and other signage restrictions identified in Article 17.

(i) Prerequisite for Building Permit or Certificate of Occupancy

No Building Permit or Certificate of Occupancy may be issued for any structure or premises that does not display an appropriate address identification number in accordance with the terms and conditions of this Article.

Sec. 23-4-16 Tree Permit**(a) Purpose**

The purpose of the Tree Permit process is to insure compliance with all regulations regarding the protection of trees in the City of Biloxi, especially protected trees, in order to preserve and enhance the unique environment and ecology Biloxi, to safeguard and promote property values, to enhance the beautification of Biloxi, to preserve



the economic base attracted to Biloxi by such factors, and to aid in stabilizing the environment's ecological balance by maintaining the processes of air purification, oxygen regeneration, ground water recharge and storm water runoff retardation.

(b) Applicability or Activities Subject to Review

Removal, relocation or substantial alteration of any of the following trees shall require a Tree Permit:

- (1) An oak, magnolia or bald cypress tree that is located on private property and that has a single trunk which has reached a diameter of five inches or a circumference of 16 inches, when measured 54 inches above the ground;
- (2) Any other woody perennial that is located on private property in any multi-family, commercial, office, business or industrial zone and that has a single trunk which has reached a diameter of eight inches or a circumference of 25 inches, when measured four and one-half feet or 54 inches above the ground; or
- (3) Any tree in or upon the streets, sidewalks or other publicly owned property of the City.

All members of the pinus (Pines) family, as well as the *Sapium sebiferum*, commonly known as the Chinese Tallow or Popcorn tree, are specifically excluded from the effect of this Section.

(c) Prerequisites

None.

(d) Authority

- (1) The review and approval authority for a Tree Permit shall rest with the Planning Commission for any permit:
 - a. Related to four or more healthy trees; or
 - b. Incident to or related to a Site Plan or other permit requiring Planning Commission approval.
- (2) The review and approval authority for a Tree Permit related to three or fewer healthy trees and not related to an application otherwise requiring Planning Commission approval shall rest with the Development Review Committee.

(e) Application Requirements

(1) Coordination with Site Plan

Where the application for a Tree Permit relates to a development proposal for a site, the application for Tree Permit shall be submitted simultaneously with an application for Site Plan Review and the material required below shall, to the maximum extent practicable, be integrated with the site plan application.

(2) Contents

An application for a Tree Permit shall be filed with the City Arborist and shall include the following:

- a. A completed application on the form provided by the City Arborist.

- b. A Tree Site Plan shall show the following information at a scale sufficient to enable the determination of matters required under this Chapter:
 - 1. The shape and dimensions of the lot of record, together with the existing and proposed locations of structures and improvements, if any.
 - 2. Location and dimensions of all existing trees that are subject to this Chapter, identified by common or botanical name. Trees proposed to remain, to be relocated or to be removed shall be so identified. Groups of trees in close proximity, at a three-foot spacing or less, may be designated as a clump of trees, and a predominant species, estimated number and average size listed.
 - 3. A statement showing how trees not proposed for removal shall be protected during land clearing and construction (i.e., a statement as to proposed protective barriers).
 - 4. A statement as to grade changes proposed for the lot or parcel and how such changes will affect the matters regulated by this Chapter.
 - 5. A statement identifying the reason for removal of each tree and the cost of relocating each tree by a certified tree specialist.
 - 6. Any proposed tree replacement program.
- c. Upon a showing by the applicant of extreme hardship, the City Arborist, in his discretion, may waive all or certain of the requirements for the Tree Site Plan submission, performing instead an on-site inspection of the property.

(f) Criteria

After an application is filed, the DRC or Planning Commission, working in cooperation with the City Arborist, shall issue a permit for the removal, relocation or substantial alteration of a protected tree if one or more of the following criteria set forth under Subsection (1) of this Section are met, and provided that none of the conditions set forth under Subsection (2) of this Section exists:

- (1)** One or more of the following criteria shall be met:
 - a. The tree is located in an area where a structure or improvement shall be placed according to a tree site plan as required by this Section, and it unreasonably restricts all reasonable use of the property.
 - b. The tree is diseased, injured, in danger of falling too close to and causing destruction or damage to an existing principal structure, interferes with existing utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations.
 - c. The tree is located on City property and only needs routine trimming.
- (2)** The DRC and the City Arborist shall consider significant adverse impact on the urban and natural environment in the following areas in granting a permit, and shall deny the permit if one or more of the following conditions exist:

- a. The removal will substantially alter the water table adversely with regard to water assimilation by vegetation, transpiration, and the evaporation potential of associated soils and bodies of water.
- b. The removal will have a substantial adverse impact upon existing biological and ecological systems, or microclimatic conditions that directly affect these systems, or such removal will create conditions that may adversely affect the dynamic equilibrium of associated systems.
- c. The removal will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur.
- d. The removal will significantly reduce the ability of the existing vegetation to reduce wind velocity to the degree that a nuisance is anticipated to occur.
- e. The removal will significantly affect the natural clearing of the atmosphere by vegetation through particulate matter interception or the release of oxygen to the atmosphere as a byproduct of photosynthesis.
- f. The removal will significantly reduce available habitat for wildlife existence and reproduction or result in the emigration of wildlife from adjacent or associated ecosystems.
- g. The removal will have an adverse impact upon the aesthetic value of the property and the surrounding property, as determined from a consideration of the following factors:
 1. Intended use of the property.
 2. Existing tree coverage.
 3. Number of trees to be removed from entire lot.
 4. Type, size, and condition of tree(s) to be removed.
 5. Area to be covered with structures, parking, and driveways.
 6. Topography and drainage.
 7. Extent to which trees contribute to the economic and environmental integrity of the surrounding area.
 8. Extent to which removal will adversely affect property values and the economic and environmental integrity of the surrounding area.

(g) Hearing/Meeting

- (1) Where an application as required by this Chapter has been submitted, no Tree Permit shall be issued until a Tree Site Plan for the lot of record has been reviewed and approved by the DRC.
- (2) For a project for which a Tree Permit and DRC site plan approval are required under this Section, the Tree Permit shall be processed as part of the Site Plan Review, following the application requirements and procedures of this Section, and including the standards of review under this Section.

- (3) Following any application for a Tree Permit to remove five or more protected trees, the City Arborist shall place one or more signs on the property for which the permit is sought, clearly visible by the public from any roadway adjacent to the property, in compliance with the other provisions of this Chapter. No preliminary or final permit to remove trees may be issued until the sign has been posted at least 15 days.

(h) Action by DRC or Planning Commission

- (1) The application and tree site plan shall be reviewed by the DRC and City Arborist and a permit either granted or denied by the DRC within ten working days from submission thereof unless the Tree Permit must go before the Planning Commission for a full public hearing as stated in Sec. 23-3-6, and such action shall be reported in writing to the applicant.
- (2) The DRC or Planning Commission, upon a determination that a permit is to be denied, shall state the basis for such denial specifically, and shall notify the applicant of the criteria upon which the denial is predicated.

(i) Relationship to Other Approvals

The Tree Permit is an initial step in the City's land development regulatory process.

Sec. 23-4-17 Public Works Permit

(a) Purpose

- (1) The purpose of the Public Works Permit is to ensure compliance with all applicable ordinances and specifically to regulate grading operations on public and private properties, construction or repair on public rights-of-way, and installation of public infrastructure improvements for which the City will accept maintenance or may possibly be expected in the future to accept maintenance. The Engineering Division may review the proposed project for compliance with federal and state policies and regulations and may require proof that such approvals, as appropriate, have been given from such governing agencies. The issuance of a Public Works Permit by the City in no way shall be construed to mean that the applicant has met all applicable federal and state policies and regulations. The applicant shall be responsible for ensuring compliance with all other governing agencies' applicable regulations and policies.
- (2) The purpose of regulating grading operations is to prevent drainage problems and to prevent silt from entering drainage systems or leaving property being graded.
- (3) The purpose of regulating construction or repair on public rights-of-way is to prevent substandard construction or repair, damage to utilities, unsafe conditions on public rights-of-way, and prolonged inconveniences to adjacent property owners; and to ensure that proper permitting is obtained from the governing authority of the right-of-way.
- (4) The purpose of regulating public infrastructure improvements is to ensure infrastructure is constructed in accordance with local, state, and federal regulations and policies concerning the public health, safety, and well being; and

to ensure improvements are constructed in accordance with the City's Standards and Specifications Manual so that future maintenance will be minimized.

(b) Applicability or Activities Subject to Review

The requirements of this Section shall apply to all site work that is not associated with a regulated building activity. Any and all individuals, contractors and utility companies performing work within the City shall obtain a Public Works Permit for any of the activities listed below. This shall include all contractors, City employees and consultants performing work for the City unless the work is being supervised by an authorized representative of the City Public Works Department and excepted from the Public Works Permit process in writing by the City Engineer.

(1) Grading Operations

- a. Stockpiling;
- b. Excavation of earth that is not covered by a separate permit;
- c. Filling operations; and
- d. Removal or demolition that impacts runoff.

(2) Activities within the City Right-of-Way, except repair and maintenance work by utility companies

- a. Placement of underground utilities or utility poles;
- b. Paving operations, except for water/sewer tie-ins supervised by the City's water/sewer operations and maintenance contractor;
- c. Grading operations;
- d. Disturbance of curbing, roadway, or any other roadside appurtenances;
- e. Tie-ins to public storm water drainage system; and
- f. Any other operation which disturbs pavement, structures, driveways, sidewalk, trees, or vegetation.

(3) Any public infrastructure improvements proposed for dedication to the City or, in the opinion of the City Engineer, may be dedicated to the City at any time in the future.

(c) Prerequisites

The following shall be accomplished prior to filing an application for a Public Works Permit:

(1) Grading Operations

- a. The applicant shall have received permits and/or approval letters to verify to the City Engineer that all applicable regulations of other governing authorities have been met.
- b. The City Arborist shall have notified the Building Official and the City Engineer in writing that the applicant has met all requirements for tree

protection and shall identify in writing any conditions relating to tree protection required for the granting of a Public Works Permit. The following must be completed to the City Arborist's satisfaction by the applicant to receive permit approval:

1. The applicant shall provide the City Arborist with sufficient information so that the Arborist may determine the impact of the grading operations on trees.
2. The applicant shall provide a sworn affidavit to the City Arborist that the information provided is accurate.
- c. All utilities within the project area shall have been located in accordance with the Mississippi "One Call" law.

(2) Construction or Repair on Public Rights-of-Way

- a. The applicant shall have received permits and/or approval letters to verify to the City Engineer that all applicable regulations of other governing authorities have been met.
- b. All utilities within the project area shall have been located in accordance with the Mississippi "One Call" law.
- c. All contractors performing work within public right-of-ways shall have provided written verification that they are licensed and bonded in the State of Mississippi.
- d. The contractor performing the work shall have obtained a performance bond for the construction work to be performed under the permit, in an amount satisfactory to the City Engineer, and made payable to the City of Biloxi.

(3) Public Infrastructure Improvements

- a. The applicant shall have received permits and/or approval letters to verify to the City Engineer that all applicable regulations by other governing authorities have been met.
- b. All utilities within the project area shall have been located in accordance with the Mississippi "One Call" law or with other applicable laws requiring notice to or inquiries before digging.
- c. The City Engineer shall have notified the Building Department in writing that the applicant has met all requirements for installation of public infrastructure improvements and shall identify in writing the conditions of granting a Public Works Permit for said public infrastructure improvements. One of the following actions shall have been performed by the applicant in order to receive the City Engineer's approval, prior to initiating installation of infrastructure improvements:
 1. The applicant has complied with the subdivision procedures of this Chapter and has an approved set of specification and construction drawings and has posted a satisfactory performance bond, if required.

2. The applicant has a site plan that has been approved by the Development Review Committee (DRC).
3. The applicant has submitted a set of drawings and specifications prepared in accordance with the City's Standards and Specifications Manual and the City Engineer has approved the construction drawings and specification.
- d. All contractors to install public infrastructure improvement shall have provided written verification that they are licensed and bonded in the State of Mississippi.

(d) Application Requirements

An application for a Public Works Permit shall be filed with the Building Official and shall include a completed application form along with the following information:

(1) Grading Operations

- a. Wetlands delineation as determined to be necessary by the City Engineer.
- b. A copy of all applicable permits and/or approval letters received from other governing authorities.
- c. A letter from the City Arborist that the applicant has met all requirements for tree protection and a list of conditions, if any.
- d. A copy of the confirmation number from the Mississippi "One Call" system that verifies the applicant has called to get a utility locate.

(2) Construction or Repair on Public Rights-of-Way

- a. Contractor information, verifying in writing that the contractor is licensed and bonded in the State of Mississippi.
- b. A copy of all applicable permits and/or approval letters received from other governing authorities.
- c. A copy of the confirmation number from the Mississippi "One Call" system that verifies the applicant has called to get a utility locate.
- d. Written verification that a performance bond has been posted, if required by the City Engineer.

(3) Public Infrastructure Improvements

- a. Contractor information, verifying in writing that the contractor is licensed and bonded in the State of Mississippi.
- b. A letter from the City Engineer stating that the applicant has met all requirements for the installation of the public infrastructure improvements with a list of conditions, if any.
- c. A copy of all applicable permits and/or approval letters received from other governing authorities.

- d. A copy of the confirmation number from the Mississippi “One Call” system that verifies the applicant has called to get a utility locate.
- e. Written verification that a performance bond has been posted, if required by the City Engineer.

(e) Criteria

Work performed under an approved Public Works Permit shall comply fully with all City Codes and the City’s Standards and Specifications Manual.

(f) Review

The Building Official shall forward the application for a Public Works Permit, along with the information submitted in compliance with Subsection(d) Application Requirements, to the City Engineer for review, unless review for said work already has been performed and an approval letter has been sent to the Building Official from the City Engineer.

(g) Action by City Engineer and Building Official

The Building Official shall have two working days from the date of receipt of a complete application to send the application to the City Engineer for review. The City Engineer shall have seven working days from the date of receipt in the Engineering Division to review the application, request additional information from the applicant, review the additional information, and send either a “not approved” or “approved” letter back to the Building Official. If approved, the City Engineer shall list any conditions and the expiration date of the permit, if different from the standard 90 days, in the letter to be placed on the Public Works Permit. The Building Official shall then have two working days to notify the applicant and issue a permit if approved. The City Engineer may assign a City Inspector to conduct on-site inspections during implementation of the activities approved under the permit.

(h) Post Approval Action

Infrastructure improvements will not be accepted by the City unless constructed in accordance with the approved design drawings/specifications and in compliance with the City’s Standards and Specifications Manual. The applicant shall submit as-built drawings upon completion of any public infrastructure improvements or any work within the City rights-of-way. Once work is completed to the City Engineer’s satisfaction, the City shall release the performance bond for right-of-way work or recommend acceptance to the City Council for infrastructure improvements.

Sec. 23-4-18 Sign Permits

(a) Purpose

The purpose of the Sign Permit is to assure compliance, through review of plans and inspection during construction, with all of the requirements established by both this Chapter and Chapter 5, Buildings.

(b) Applicability or Activities Subject to Review

- (1) Except for signs specifically excluded from permitting in Article 17, no sign shall hereafter be erected, moved, added to, structurally altered without a Sign Permit issued by the Building Official in conformity with the provisions of this Chapter.

No Sign Permit issued under the provisions of this Chapter shall be considered valid unless signed by the Building Official.

(2) Normal maintenance of a sign shall not require a Sign Permit.

(c) Prerequisites

The following must be accomplished prior to, or concurrent with, the filing of an application for a Sign Permit:

(1) Pre-application Conference; and

(2) Site Plan Review and Approval

(d) Application Requirements

An application for a Sign Permit shall be filed with the Building Division and shall include the following:

(1) A completed application on the form provided by the Building Division;

(2) A minimum of three copies of a site plan showing data relating to all existing signs and to the number of signs to be placed on the lot, locations, design, materials, colors, height, width, depth, square footages. If this information is already shown on an approved site plan or master sign plan, copies of that approved plan may be used;

(3) For facade signs, three copies of a scaled drawing showing the entire facade or tenant space facade, the proposed sign location, and any existing facade signs;

(4) The name, address, and telephone number of the sign owner and of the sign erector;

(5) Data/calculations performed by a Mississippi licensed design professional as to structural wind resistance compliance, as may be required by the Building Official; and

(6) For a sign to be located within an Architectural/Historic Overlay District or on a site designated as a landmark, the application shall include an application for Certificate of Appropriateness;

(7) Any other pertinent data as may be required to ensure compliance with this Article.

(e) Criteria

The sign must comply with all applicable requirements of Article 17, Signs.

(f) Review Process

(1) DRC Review

If the proposed sign is a freestanding sign that is not shown on an approved site plan, the application shall be submitted to the DRC for Site Plan Review before further action. The DRC shall review the proposed siting of the sign as an amendment to the site plan and act on the recommendation within three weeks of receipt of a complete application.

(2) AHRC Review

If the proposed sign will be located within an Architectural/Historic Overlay District or on a site designated as a landmark and there is no Certificate of Appropriateness in effect for the proposed sign, the application, after DRC approval (if required) shall be submitted to the AHRC for consideration of the Certificate of Appropriateness, in accordance with the standards of Sec. 23-5-6. The AHRC shall act on such application no later than the second meeting of the AHRC after the application has been referred to it. If the AHRC fails to act on the application within 12 weeks after the application has been referred to it, the application for a Certificate of Appropriateness shall be deemed to be approved. If an existing Certificate of Appropriateness authorized for a building or site specifically shows the proposed sign, or if the applicant has elected to apply for a Certificate of Appropriateness before submitting this application, the AHRC review shall be waived upon receipt by the Building Official of a certified copy of the Certificate of Appropriateness.

(3) Action by Building Official

The Building Official shall review each application for Sign Permit to determine whether it requires review by DRC and/or AHRC; if the application requires such review, the Building Official, immediately after determining that the application is complete, shall transmit the application for such review. Following any required review by DRC and/or AHRC, the Building Officials must review each Sign Permit application under this Chapter and act to approve, approve with conditions or deny the permit. The Building Official may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the proposed sign into compliance with Article 17, Signs.

(g) Relationship to Other Approvals

The application for a Sign Permit shall be filed concurrently with an application for a Building Permit if such a permit is required for the sign. If the sign relates to an existing or proposed use for which no Certificate of Occupancy has been issued, the Building Official may approve the Sign Permit at such time as the construction is substantially complete and other site improvements are being installed by the developer.

Sec. 23-4-19 Building Permits**(a) Purpose**

The purpose of the Building Permit is to assure compliance, through review of plans and inspection during all stages, including predevelopment, construction, post-development, and demolition at various stages, with all of the requirements established by both this Chapter and Chapter 5, Buildings.

(b) Applicability or Activities Subject to Review

The requirements of this Section shall apply to all regulated building activity or site work, excluding grading and land clearance activities regulated by Section Sec. 23-4-17, Public Works Permit, and no such activity or work shall commence until the Building Official has issued a Building Permit.

(c) Prerequisite Approvals

The following must be accomplished prior to filing an application for a Building Permit:

(1) If Pre-Foundation Certificate Required

If the proposed Building Permit is for a building or structure for which a Pre-Foundation Certificate, Sec. 23-5-1, is required, there are no other prerequisites. However, a copy of the approved Pre-Foundation Certificate and all supporting documents shall be attached to the Building Permit application.

(2) If Pre-Foundation Certificate Not Required

If the proposed Building Permit is for a building or structure for which there was no Pre-Foundation Certificate is not required, then the following items are prerequisites:

- a. Certificate of Zoning Compliance, or the application for Building Permit may be accompanied by an application for a Certificate of Zoning Compliance;
- b. Certificate of Development Compliance, if applicable;
- c. Site Plan Review and Approval; and
- d. Certificate of Appropriateness, if applicable.

(d) Application Requirements

An application for a Building Permit shall be filed with the Building Division and shall include the following:

- (1)** A completed application on the form provided by the Building Division;
- (2)** Zoning and Land Use Conformance
 - a. If a Pre-Foundation Certificate was obtained, then the application shall include the required second Improvement Location Certificate, specified by Sec. 23-5-2;
 - b. If there was no Pre-Foundation Certificate, then the application shall include the following:
 1. Three copies of an approved site plan or referral to such site plan by date of approval and file number;
 2. Certificate of Zoning Compliance, if available, or an application for Certificate of Zoning Compliance; and
 3. Certificate of Development Compliance, if applicable;
- (3)** Certificate of Appropriateness if applicable;
- (4)** Engineering Design Approval, if required;
- (5)** All information and documents required by Chapter 5, Buildings.

(e) Criteria

Approval of a Building Permit is contingent upon compliance with all applicable provisions of this Chapter and Chapter 5, Buildings. Specifically, but without limitation, a Building Permit shall be issued only if the proposed structure is:

- (1) Designed for a use permitted on the site in accordance with Article 11 and consistent with any specific conditions applicable to the use under that Article or under any Conditional Use or other permit authorizing the use;
- (2) Consistent in location, design and other characteristics with the dimensional standards set forth in Article 12;
- (3) Consistent with an approved site plan for the site; and
- (4) Conforms to or is consistent with other applicable provisions of this Chapter, including specifically, but without limitation, the provisions related to landmarks and Architectural/Historic Overlay Districts as set forth in Article 10, and the special separation standards applicable to certain uses under Sec. 23-11-18(f).

(f) Review and Action by Building Official

- (1) The Building Official shall be responsible for conducting reviews to determine if intended uses, buildings or structures comply with all applicable regulations and standards, including this Chapter and the Building Code. Whenever property is under consideration for designation as a landmark, landmark site or part of an Architectural/Historic Overlay District and the AHRC has adopted a resolution providing for a study to determine the suitability for designation of a particular landmark, landmark site or Architectural/Historic Overlay District, the issuance of Demolition or Building Permits affecting such property shall be prohibited until such time as the subject study is complete and the City has taken appropriate action, based on the recommendations of said study.
- (2) The Building Official shall not issue a Building Permit unless the plans, specifications and intended use of such structures or part thereof conform in all respects to the provisions of this Chapter and the Building Code.
- (3) One copy of the plans shall be returned to the applicant by the Building Official, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original copy of the plans, similarly marked, shall be retained by the Building Official.
- (4) In addition, a digital copy of the building plans shall be provided by the applicant to the Building Official.
- (5) A Building Permit, once issued, shall be prominently displayed on the construction site and shall remain posted until final inspection by the Building Official.

(g) Relationship to Other Approvals

The Building Permit is the final approval necessary to allow construction of a building or other structure; upon receipt of a Building Permit, the applicant may commence construction.

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ARTICLE 5. CERTIFICATES

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Sec. 23-5-1 Pre-Foundation Certificate

(a) Purpose

A Pre-Foundation Certificate is required before any building or structure construction activity is initiated to ensure that all setbacks are met and encroachments discovered at a time when they can be economically corrected and avoid the necessity for a Variance request. This Certificate is part of the overall pre-development approval process.

(b) Applicability or Activities Subject to Review

Construction of and additions to all Principal and Accessory Structures requiring a foundation and a Building Permit.

(c) Prerequisites

- (1) Site Plan Approval;
- (2) Certificate of Zoning Compliance;
- (3) Certificate of Appropriateness, if applicable.

(d) Request

All requests for a Pre-Foundation Certificate shall be made in writing and shall contain the following:

- (1) A completed application, on the form provided by the Building Division, along with a site plan acceptable in detail to the Planning Division, drawn to scale and identifying existing and proposed structures and setbacks on the subject lot of record.
- (2) **Site Plan and/or Survey**
 - a. Single-Family Residential Projects, Principal and Accessory Structures
When current information cannot be reasonably determined by the site plan, then the Building Official may require the applicant to provide a current survey prepared by a registered land surveyor licensed in the State of Mississippi that certifies he has measured the property and the structures' footprints as formed and proposed and that all setback requirements are met, and that the front property line employed was the right-of-way and not that of the curb or street. For the purposes of this Article, a current survey shall mean one that is less than five years old.

- b. Residential Subdivisions, Multi-Family Residential, Commercial or Industrial Projects, Principal and Accessory Structures

Along with the Pre-Foundation Certificate application and site plan, each residential subdivision, multi-family residential project involving four or more units, commercial or industrial project shall submit a current survey prepared by a registered land surveyor licensed in the State of Mississippi that certifies he has measured the property and the structures' footprints as formed and proposed and that all setbacks are met, and that the front property line employed for these calculations was the right-of-way and not that of the curb or street. For the purposes of this Article, a current survey shall mean one that is less than five years old.

- (3) Such other information as the Planning Division deems necessary to process the application.

(e) Action by Director of Community Development

Upon receipt of a complete application, including a site plan and/or survey, the Planning Division shall conduct a pre-pour inspection of the subject lot of record and, when satisfied that the proposed project is in compliance with applicable regulations, may recommend issuance of a Pre-Foundation Certificate as written approval to pour a slab or initiate the framing of a structure when a pre-existing slab is proposed to be used.

(f) Action after Approval

After approval of the Pre-Foundation Certificate and the pouring of the slab or foundation, Planning Division shall conduct a post-pour inspection to verify that the project is being implemented as proposed and approved. The location of the slab or foundation must be consistent with that shown on the approved Pre-Foundation Certificate, with no deviation greater than three inches.

(g) Relationship to Other Approvals

A Pre-Foundation Certificate must be approved prior to the pouring of a slab or foundation for construction of or additions to all principal and Accessory Structures, and/or the framing of any structure where a pre-existing slab is to be used.

Sec. 23-5-2 Accessory Building Location Certificate

(a) Purpose

An Accessory Building Location Certificate is required to ensure any Accessory Building conforms to the standards set forth in Sec. 23-11-19.

(b) Applicability

A Certificate issued under this Section is required for the placement or construction of any Accessory Building or Structure larger than 100 square feet in any R zoning district and placement or construction of any Accessory Building larger than 50 square feet in any other zoning district. For purposes of this Section, an "Accessory Building" shall include a trailer, shed or other structure, whether mobile or otherwise, which is parked in a single location for more than two weeks, except that this provision shall not apply to a trailer parked in an area designated on a site plan for the sales or long-term storage of vehicles. Any Accessory Building that is the subject of a Pre-

Foundation Certificate and Building Permit or simply of a Building Permit is exempt from the requirements of this Section.

(c) Prerequisites

- (1) Site Plan Approval;
- (2) Certificate of Appropriateness, if applicable.

(d) Improvement Location Certificate Required

(1) If Shown on Approved Site Plan

If the proposed Accessory Building is shown on an approved site plan, the application shall include a certificate from a surveyor or engineer licensed in the State of Mississippi that the surveyor or engineer has staked the location of the proposed structure or addition and such location is consistent with the approved site plan.

(2) If Not Shown on Approved Site Plan

If the proposed building or structure is not shown on an approved site plan and such site plan is required under Sec. 23-4-3 or Sec. 23-4-4, then the application shall be rejected and the applicant shall be informed in writing of the site plan requirement. If for any reason a site plan is not required, then the application shall include a drawing showing the site boundaries, the location of public improvements, lines indicating required zoning setback and yard requirements, any other buildings or structures on the site, and the location of the proposed structure; it shall also include a certification from a surveyor or engineer licensed in the State of Mississippi that the surveyor or engineer has staked the location of the proposed structure or addition and such location is consistent with the approved site plan.

(e) Action by Planning and Building Divisions

The Director of Community Development will communicate receipt of a satisfactory certificate to the Planning Division and/or Building Official who may then issue an Accessory Building Location Certificate as written approval to place the Accessory Building.

(f) Action After Approval

After placement of the Accessory Building, the applicant shall submit a second Improvement Location Certificate, signed and sealed by a licensed surveyor or engineer, certifying that the location of the slab or foundation is consistent with that shown in the approved Improvement Location Certificate and specifically identifying any deviation greater than three inches.

(g) Relationship to Other Approvals

This process is intended to ensure that accessory buildings, including trailers, that are placed on a site and that do not require a site plan are located as shown on an approved Building Permit.

Sec. 23-5-3 Certificate of Zoning Compliance (CZC)**(a) Purpose**

The purpose of a Certificate of Zoning Compliance is to assure that a proposed use for a lot of record or structure complies with the Zoning District regulations. This Certificate is part of the overall pre-development approval process.

(b) Applicability or Activities Subject to Review

- (1)** No change in the use or occupancy of land or an existing building or subdivision of land shall be made, nor shall any new building be used or changed in use, until a Certificate of Zoning Compliance (CZC) has been issued by the Director of Community Development certifying that the proposed use of the building or land complies with the provisions of this Chapter.
- (2)** Applications for a Certificate of Zoning Compliance shall be made concurrently with the application for a Building Permit, Tax Privilege License and/or Site Plan Review or at any other time a person seeks a determination that a particular use is allowable in a specific zoning district.

(c) Prerequisites

There are no prerequisites for a Certificate of Zoning Compliance.

(d) Request

All requests for a Certificate of Zoning Compliance will be made in writing, on the form provided by the Community Development Department, and will contain the following information:

- (1)** Street Address, Tax Parcel Number, and Legal Description of the lot of record for which the Certificate of Zoning Compliance is sought; and
- (2)** Proposed use as described in Article 11.

(e) Criteria

The proposed use is allowed in the particular Zoning District in which the lot of record is located and complies with all applicable provisions of this Chapter.

(f) Review and Action by Director of Community Development

After determining that the proposed use is in compliance with the provisions of this Chapter, each such application shall be approved by the Director of Community Development. The Director of Community Development shall maintain a record of all Certificates of Zoning Compliance issued.

(g) Relationship to Other Approvals

The Certificate of Zoning Compliance is the City's verification that a particular use is appropriate to a particular lot and is a precursor to all development.

Sec. 23-5-4 Certificate of Development Compliance (CDC)**(a) Purpose**

The Certificate of Development Compliance, which is generally part of the Certificate of Occupancy process, provides a means to ensure that all improvements on an

approved project are complete and constructed in accordance with the approvals granted by the City. This Certificate is part of the overall post-development approval process.

(b) Applicability or Activities Subject to Review

The regulations set forth in this Section shall apply to any development for which Preliminary Plat approval or DRC Site Plan Approval was granted. A CDC shall be required before a Certificate of Occupancy is issued for any building or use within the development, section of a development, including such building or use, or before Final Plat approval in the case of a subdivision, unless a guarantee of improvement has been posted in accord with this Chapter. If a guarantee of improvement has been posted, a CDC shall be required before the guarantee will be released.

(c) Prerequisites

The following must be accomplished prior to filing an application for a Certificate of Development Compliance:

- (1) Certificate of Zoning Compliance;
- (2) Pre-Foundation Certificate, if applicable;
- (3) Site Plan Approval;
- (4) Certificate of Appropriateness, if applicable;
- (5) Public Works Permit, if applicable;
- (6) Preliminary Plat approval, if applicable; and
- (7) If there are other required permits, licenses or certificates required, as determined by the site plan and/or Subdivision Plat for the project, copies of such permits, licenses or certificates or, if the issuance of any such permit, license or certificate is contingent on the issuance of the COO, a letter or other document indicating that the permit, license or certificate will be issued upon the issuance of the COO will satisfy this requirement.
- (8) Action before the Planning Commission, City Council, and/or DRC, if applicable;
- (9) Building Permit;
- (10) Other permits, licenses, and certificates, as applicable.
- (11) All public infrastructure improvements are complete in accordance with all City codes and standards.
- (12) All property to be dedicated to the City has been properly graded, has establishment of vegetation, all temporary items and structures have been removed, and the site has been thoroughly cleaned of debris and construction trash.
- (13) All required materials have been submitted to the City Engineer, including, but not limited to:
 - a. A hardcopy and a digital copy of as-builts;

- b. Product and material submittals;
- c. Operations and maintenance manuals if applicable; and
- d. All testing reports.

(d) Application Requirements

An application for a Certificate of Development Compliance shall be filed with the Building Division on the form provided by the Community Development Department, along with the submittal of the proposed Final Plat, if applicable, to the Director of Community Development.

(e) Criteria

- (1) If the DRC finds that the required improvements have been completed in accordance with the approved site plan or Preliminary Subdivision Plat and approved construction drawings, the DRC shall approve the CDC. If the DRC finds that any part of the improvements has not been completed in accordance with the approved site plan, Preliminary Subdivision Plat, or approved construction drawings, the DRC shall disapprove the CDC and shall advise the DRC to send the applicant written notice specifying the omissions or deficiencies in the required improvements and specifying the required corrective action.
- (2) Where the approved Preliminary Plat or approved site plan includes a Master Property Development Plan for a project, a CDC may be issued for any phase shown on the approved plan. Where the approved plan includes a Master Property Development Plan, a CDC for a particular phase shall not be issued until a CDC has been issued for all prior phases.

(f) Review

The Building Division shall place CDC applications on the agenda for the next DRC meeting occurring at least four working days after submittal of the completed application.

(g) Action by DRC

In coordination with the Building Official, the DRC will begin its review of the CDC application and may approve or disapprove it. If the application is disapproved, the DRC shall provide written comments to the applicant. Further, if the CDC application is disapproved, the applicant may infer that full compliance with previous City approvals has not been achieved.

(h) Relationship to Other Approvals

The CDC provides certification of satisfactory completion of improvements required by an approved site plan or Subdivision Plat. It may occur before or after issuance of Building Permits for building construction on sites in the development. The CDC is a prerequisite to an issuance of a Certificate of Occupancy or Final Plat approval, unless a guarantee of improvement has been posted, for any structure in a project approved after September __, 2003.

Sec. 23-5-5 Certificate of Occupancy (COO)**(a) Purpose**

The COO process is the City's method of determining compliance with all applicable City Ordinances prior to allowing occupancy and utilization of a lot of record with its accompanying structure(s) or building(s), including but not limited to, zoning, building, electrical, plumbing, or fire requirements. Therefore, it shall be unlawful to use or occupy or permit the use or occupancy of any structure or lot of record, or parts thereof, until a Certificate of Occupancy has been issued by the Building Official stating that the proposed use or occupancy conforms to the requirements of this Chapter. Failure to obtain a Certificate of Occupancy shall be a violation of this Chapter. This Certificate is part of the overall post-development approval process.

(b) Applicability or Activities Subject to Review

A Certificate of Occupancy shall be required for any of the following:

- (1) Occupancy and use of a building hereafter constructed or enlarged;
- (2) Change in use of an existing building to a different Use Category;
- (3) Any change in a nonconforming use; or
- (4) Any change in ownership or management.

(c) Prerequisites

The following must be accomplished prior to filing an application for a Certificate of Occupancy:

- (1) Certificate of Zoning Compliance;
- (2) Pre-Foundation Certificate, if applicable;
- (3) Certificate of Appropriateness, if applicable;
- (4) Certificate of Development Compliance;
- (5) Final Building Inspection, where applicable; and
- (6) If there are other permits, licenses or certificates required, as determined by an approved site plan and/or Subdivision Plat for the project, copies of such permits, licenses or certificates or, if the issuance of any such permit, license or certificate is contingent on the issuance of the COO, a letter or other document indicating that the permit, license or certificate will be issued upon the issuance of the COO will satisfy this requirement.

(d) Application Requirements

An application for a Certificate of Occupancy shall be filed with the Building Division and shall include the following:

- (1) A completed application on the form provided by the Community Development Department;
- (2) Certificate of Development Compliance;
- (3) Action before the Planning Commission, City Council, and/or BZA, if applicable;

(e) Criteria

- (1)** Compliance with all provisions of this Chapter and Chapter 5, Buildings.
- (2)** No Certificate of Occupancy shall be issued until installation of landscaping is complete, and it shall be unlawful to occupy the premises unless the landscaping is installed in accordance with the approved site plan and the requirements of this Article.
- (3)** Pending issuance of a permanent Certificate of Occupancy, a temporary certificate may be issued. The certificate shall be issued in conformity with the provisions of this Chapter for a period of not more than 90 days during alterations, partial occupancy, or complete occupancy of a building pending its completion, provided that such temporary certificate shall include such conditions and safeguards as will protect the safety of the occupants and the public. For good cause shown and upon the application of the occupant, the Building Official may issue a second temporary Certificate of Occupancy.

(f) Action and Approval by Staff

The Building Division shall issue a COO after determining that each such application is in compliance with the provisions of this Chapter.

(g) Post Approval Action**(1) Nonresidential Buildings**

Any Certificate of Occupancy issued after the effective date of this Chapter for a nonresidential building shall be displayed in an area generally open to the public or, if no part of the building is generally accessible to the public, in an area generally accessible to employees.

(2) Certain Residential Buildings

Any Certificate of Occupancy issued after the effective date of this Chapter for a Rooming House or for a residential building or complex containing more than three dwelling units shall be displayed on the premises in an office or main corridor.

(3) Period of Display

Such certificate shall be displayed from the date of issuance and continuing through the entire period of occupancy of the building or until a replacement certificate is issued.

(4) Certain Residential Units Not Affected

Single-family dwelling units and buildings containing three or less dwelling units are not subject to the display requirement.

(h) Relationship to Other Approvals

The Certificate of Occupancy is the final post development approval in the City's development regulation process, and upon receipt of a Certificate of Occupancy, the applicant may utilize and occupy the subject lot of record or structure. It will also be necessary to obtain all applicable licenses.

Sec. 23-5-6 Certificate of Appropriateness (COA)

(a) Purpose

The purpose of the Certificate of Appropriateness is to assure that proposed work on properties affected by an AHO District or historic landmark designation complies with the historic preservation provisions of this Chapter. This Certificate is part of the overall pre-development approval process, and is unique in that post-development inspection by the Building Official is required to validate compliance.

(b) Applicability or Activities Subject to Review

Permits shall be issued for any of the following only when the Building Official or other person responsible for issuing the permit finds that the proposed work to be allowed by the permit is consistent with a Certificate of Appropriateness issued under this Section. This requirement shall apply to any application for a Building Permit or other permit to erect, construct, renovate, move, relocate, demolish, excavate, fill or alter a landmark, landmark site or building or property located within a 300 foot radius of a landmark site or property or any building, structure or lot located or to be located in an Architectural/Historic Overlay District. The Planning staff shall determine whether the subject building, structure or lot falls within the jurisdiction of the AHRC and whether application for a Certificate of Appropriateness must be made.

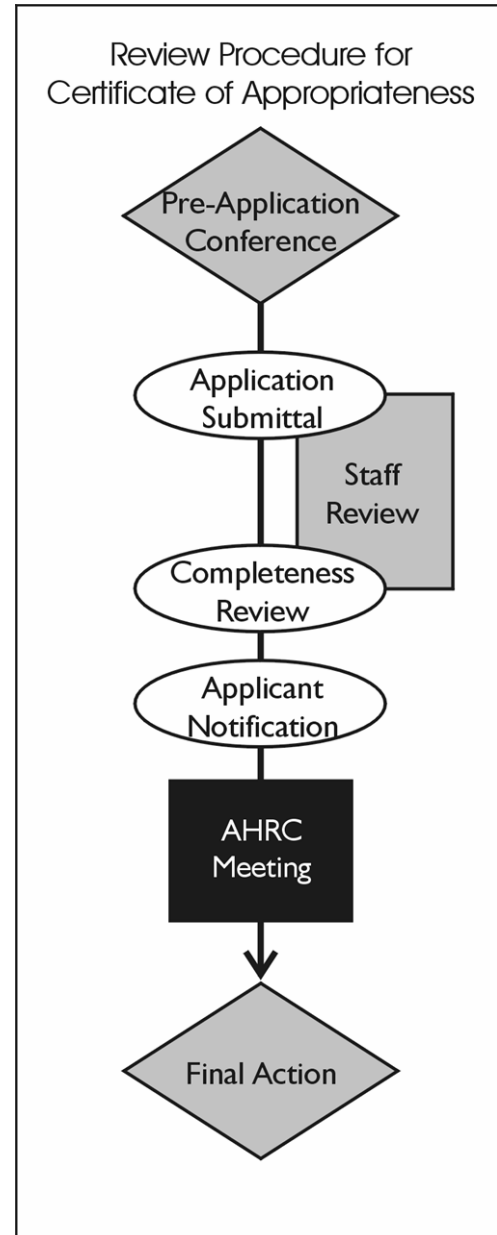
(c) Prerequisites

The following must be accomplished prior to filing an application for a Certificate of Appropriateness:

- (1) Pre-application Conference;
- (2) Certificate of Zoning Compliance.

(d) Application Requirements

An application for a Certificate of Appropriateness shall be filed with the AHRC, on the form provided by the Community Development Department. The application for a Certificate of Appropriateness shall consist of drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building, both before and after the proposed work is done in the cases of altering, renovating, demolishing or razing a building or structure, including proposed materials,



textures, and colors, and the plot plan or site layout, including all site improvements or features such as walls, walks, terraces, planting, filling, excavating, Accessory Buildings, signs, lights and other appurtenances, and such other information or data as may be required by the AHRC.

(e) Criteria

The AHRC shall approve an application for Certificate of Appropriateness if it determines that the application conforms and is in keeping with appropriate design criteria and standards.

(f) AHRC Meeting

After a determination of application completeness, the AHRC secretary shall notify the applicant of the time, date and place of the AHRC meeting at which the application will be considered. The application will be considered at the AHRC meeting following receipt of the application, provided it is filed in proper form at least seven days prior to the AHRC meeting. The applicant shall be required to appear before the AHRC in order for the application to be considered, unless the chairman waives this requirement.

(g) Action by AHRC

- (1)** An application for a Certificate of Appropriateness that requires no change in color and/or proposes only minor alterations may be approved by the AHRC chairman or secretary. Ordinary maintenance or repairs, or minor alterations consistent with the City's adopted design criteria, of landmarks or properties contained within Architectural/Historic Overlay Districts may be reviewed and approved by appropriate Community Development Department staff in conjunction with the chairman of the AHRC.
- (2)** The AHRC may conditionally approve an application, subject to compliance with certain written conditions and standards; the Planning staff may give final approval after all conditions and standards have been fully met. The AHRC may approve or deny all or part of the application, as it deems appropriate.
- (3)** Failure of the AHRC to act upon an application for a Certificate of Appropriateness within 90 days after presentation of the complete application at an AHRC meeting shall constitute approval of the application.
- (4)** The AHRC secretary shall notify the applicant of the AHRC decision in writing.
- (5)** Once the AHRC has approved the application, the AHRC secretary shall issue the Certificate of Appropriateness and transmit copies to the applicant and Building Official, as well as retain a copy for the AHRC files.
- (6)** Decisions of the AHRC shall be final, and shall be appealable to the City Council by any of the following:
 - a. The applicant;
 - b. The Director of Community Development;
 - c. Any owner of property located in the same historic district as the property involved in the decision;

- d. Any owner or property which is locally designated as historic and is located within 500 feet of the property involved in the decision; or
- e. Any participant in the hearing before the AHRC.

(h) Relationship to Other Approvals

Upon receipt of the required Certificate of Appropriateness, the Building Official, subject to compliance with all other applicable codes and ordinances, may cause a Building Permit to be issued for work consistent with the COA. Before any use may be made of improvements or changes that have been reviewed and approved by the AHRC subject to the provisions of this Article, the Building Official shall make a final inspection and determination of compliance with the conditions of the Certificate of Appropriateness.

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ARTICLE 6. CONDITIONAL USES AND VARIANCES

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Sec. 23-6-1 Conditional Uses

(a) Purpose

The purpose of the Conditional Use provisions of this Chapter is to provide for certain uses which, because of their unique characteristics, can be allowed with special consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Because of their unique characteristics, however, each of these requires the exercise of planning judgment on a case-by-case basis.

(b) Applicability or Activities Subject to Review

All Conditional Uses, as indicated by “C” or “C#” in the Tables 23-11A and 23-11B, are subject to review.

(c) Prerequisite Approvals

The following must be accomplished prior to filing an application for Conditional Use:

- (1) Pre-application Conference; and
- (2) Certificate of Appropriateness, if applicable.

(d) Application Requirements

An application for a Conditional Use shall be filed with the Director of Community Development and shall include the following:

- (1) A completed application on the form provided by the Community Development Department.
- (2) If the proposed Conditional Use is consistent with an acceptable site plan, the application shall include a copy of the site plan or a reference to it by date of approval and file number. If the proposed Conditional Use is not consistent with an acceptable site plan, then the application for Conditional Use shall include a complete application for site plan, in accordance with Sec. 23-4-3 or Sec. 23-4-4.
- (3) A written narrative shall be included that describes the neighborhood and explaining the potential impact of the Conditional Use on same. Also, the narrative shall comment on the impact of the conditions found in Subsection (e) hereof on the Conditional Use.

(e) Criteria and Conditions

(1) Basic Criteria

A Conditional Use will be approved only when the use complies with all of the following provisions:

- a. The use is necessary to promote the public interest at that location;
- b. The use is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected;
- c. The use will not cause substantial injury to other property in the neighborhood in which it is located;
- d. The use conforms to all district regulations of the applicable zoning district in which it is to be located, unless other provisions are specifically set forth in the requirements governing specific Conditional Uses; and
- e. Satisfactory provision and arrangement has been made concerning the following, where applicable:
 1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 2. Off-street parking and loading areas, where required, with particular attention to the items listed in this Section and the economic, noise, glare or odor effects of the Conditional Use on adjoining properties and properties generally in the zoning district;
 3. Refuse and service areas, with particular reference to the items listed in this Section;
 4. Utilities, with reference to location, availability, and compatibility;
 5. Screening and buffering, with reference to type, dimensions, and character;
 6. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the zoning district;
 7. Required yards and other open spaces; and
 8. General compatibility with adjacent properties and other property in the zoning district.

(2) Conditions

The DRC and/or Planning Commission may recommend, and/or the City Council may impose on the issuance of the Conditional Use Permit, one or more of the following conditions:

- a. Restriction of permitted outside signs or advertising structures;
- b. Limitation of signs as to size, type, color, location or illumination;
- c. Limitation of amount, direction, and location of outdoor lighting;
- d. Limitation of amount and location of off-street parking and loading space;
- e. Specifications for cleaning or painting;

- f. Limitations on type of roof;
- g. Limitations on type of construction and materials;
- h. Limitations on connections or disconnections with other buildings;
- i. Limitations on exits or entrances, doors, and windows;
- j. Specifications on paving, shrubbery, landscaping or ornamental or screening fences, walls or hedges;
- k. Limitations on time of day and night for operating;
- l. Restrictions on storefronts;
- m. Limitations on structural changes;
- n. Limitations on restrictions for control or elimination of noise or vibration;
- o. Consistency (or lack thereof) with the Comprehensive Plan;
- p. Compatibility with uses of nearby property and with the character of the neighborhood;
- q. Utilities and infrastructure sufficient to meet the needs of the proposed use; and
- r. Any other factors as determined by the DRC, Planning Commission and/or City Council.

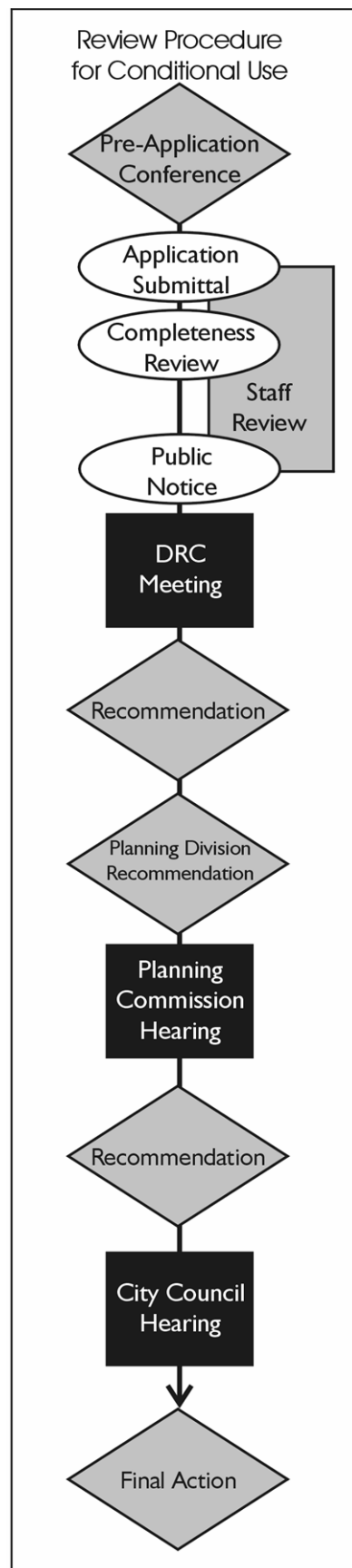
(f) Review Process

(1) DRC Review

The Conditional Use application shall be scheduled for review at the first meeting of the DRC occurring at least 7 days after receipt of a complete application. The DRC shall provide written comments to the Planning Division relative to the status of the project at that meeting or within 14 days thereafter. The recommendation of the DRC may be to approve, approve with conditions, or disapprove the application.

(2) Staff Report

The Planning Division shall prepare a staff report, incorporating input from the DRC that reviews the



proposed Conditional Use for compliance with the general requirements of this Chapter. The Planning Division may solicit additional information, as it deems appropriate. A copy of the staff report shall be provided to the Planning Commission and the applicant before the scheduled public hearing.

(3) Public Hearing

Following published notice in accordance with Sec. 23-3-5(c), the Planning Commission shall hold a public hearing. All pertinent papers and other data submitted by the applicant for a Conditional Use shall be transmitted to the Planning Commission.

(4) Planning Commission Review, Report

At a regular meeting, the Planning Commission shall review a Conditional Use application for compliance with the requirements of this Chapter. Before recommending approval of a Conditional Use, the Planning Commission may recommend reasonable additional requirements. Subsequent to its review, the Planning Commission shall prepare a report, including its recommendation, for transmittal to the City Council. The recommendation of the Planning Commission may be to approve, approve with conditions, or disapprove the application. No application for a Conditional Use shall be acted upon by the City Council until there shall have been held a public hearing in relation thereto before the Planning Commission at which parties in interest and citizens shall have had an opportunity to be fully heard. Following action by the Planning Commission, all papers and data pertinent to the application shall be transmitted to the City Council for final action.

(5) Action by City Council

After the required public hearing, the Planning Commission shall submit the report and recommendations on any proposed Conditional Use to the City Council. The City Council shall not take official action upon the Conditional Use application until the report of the Planning Commission has been received; provided, however, that, if the report has not been filed within 45 days following the closing date of the public hearing, the City Council may then take official action on the Conditional Use application without the report from the Planning Commission. The City Council shall act to approve, approve with modifications, or deny the Conditional Use request within 90 days from receipt of a recommendation from the Planning Commission. If required by the City Council after recommendation by the Planning Commission, a Guarantee of Improvement shall be filed or deposited in escrow with the City for a sum sufficient to ensure completion of requirements as may be imposed by the City Council in accordance with this Article.

(6) Annual Review

Each Conditional Use Permit shall be subject to annual review for conformance, as set forth in Sec. 23-2-2(h).

Sec. 23-6-2 Variances

(a) Purpose

The purpose of a Variance is to relieve an owner from strict adherence to certain provisions of this Chapter under such circumstances that strict compliance with such

provisions would deprive an owner of the reasonable use of property allowed by the zoning district regulations in which the property is located, where the circumstances arise from an undue hardship that is not economic in nature and that is not created by the owner of the property.

(b) Applicability or Activities Subject to Review

Consistent and in accordance with the provisions of this Chapter, the Board of Zoning Adjustments shall have the power to grant a variation in setbacks, lot width, depth or frontage, height, lot area per family, spacing of buildings, landscaping, floor area ratio or parking requirements in any zoning district so as to relieve practical difficulties or particular hardships. For Variances to development design criteria not included herein, see Sec. 23-16-13.

(c) Prerequisites

Pre-application Conference.

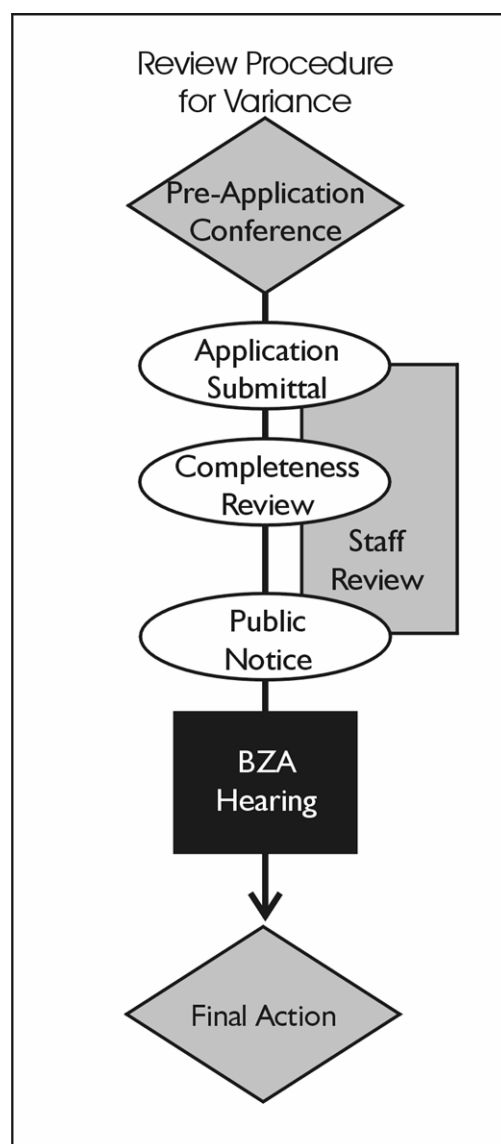
(d) Application Requirements

An application for a Variance shall be filed with the Director of Community Development and shall include the following:

- (1) A completed application on the form provided by the Community Development Department;
- (2) A written narrative indicating the Article of this Chapter from which the Variance is sought and stating the grounds justifying relief. Any application that does not specify a hardship and describe it in detail shall be deemed incomplete and returned to the applicant; and
- (3) The application shall include a copy of the site plan that demonstrates the need for the Variance, identifies the circumstances that warrant the granting of the Variance, and that complies with Sec. 23-4-3 or Sec. 23-4-4.

(e) Criteria

- (1) No Variance shall be granted by the BZA unless it finds that:
 - a. There are special circumstances and conditions constituting a hardship fully described in the findings applying to the land or structure for which the Variance is sought, which circumstances or conditions are peculiar to such land or structure and do not apply generally to land or structures in the subject neighborhood, and that the circumstances or conditions are such that the strict application of the



provisions of this Chapter would deprive the applicant of the reasonable utilization of such land or structure as allowed by the zoning district regulations in which the property is located.

- b. For reasons fully set forth in the findings, the granting of the Variance is necessary for the reasonable utilization of the land or structure and that the Variance granted by the BZA is the minimum Variance that will accomplish this purpose.
 - c. The granting of the Variance will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - d. Granting the Variance requested would not confer on the applicant any special privilege that is denied by this Chapter to other lands or structures without a demonstration of hardship. A written application for Variance shall be submitted showing that the request for Variance is based on hardship as herein defined, which is not economic in nature and is not created by the property owner.
- (2) Where Variances are granted, such approval shall be limited by such conditions as the case may require, including the imposition of any or all of the following:
- a. Restriction of permitted outside signs or advertising structures;
 - b. Limitation of signs as to size, type, color, location or illumination;
 - c. Limitation of amount, direction, and location of outdoor lighting;
 - d. Limitation of amount and location of off-street parking and loading space;
 - e. Specifications for cleaning or painting;
 - f. Limitations on type of roof;
 - g. Limitations on type of construction and materials;
 - h. Limitations on connections or disconnections with other buildings;
 - i. Limitations on exits or entrances, doors, and windows;
 - j. Specifications on paving, shrubbery, landscaping or ornamental or screening fences, walls or hedges;
 - k. Limitations on time of day and night for operating;
 - l. Restrictions on storefronts;
 - m. Limitations on structural changes;
 - n. Limitations on restrictions for control or elimination of noise and/or vibration;
 - o. That satisfactory provision and arrangement has been made concerning the following, where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
2. Off-street parking and loading areas, where required, with particular attention to the items listed in this Section and the economic, noise, glare or odor effects of the Variance on adjoining properties and properties generally in the zoning district;
3. Refuse and service areas, with particular reference to the items listed in this Section;
4. Utilities, with reference to location, availability, and compatibility;
5. Screening and buffering, with reference to type, dimensions, and character;
6. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
7. Required yards and other open spaces; and
8. General compatibility with adjacent properties and other property in the zoning district.

(f) Public Hearing

Before acting on the Variance, the BZA shall hold a public hearing on the Variance. Notice shall be given in compliance with Sec. 23-3-5.

(g) Action by BZA

The BZA may grant the Variance, grant a lesser Variance, grant the Variance with conditions, or deny the Variance.

(h) Appeals

Appeals from the action of the BZA shall be in accordance with Sec. 23-3-9.

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ARTICLE 7. ZONING DISTRICT MAP AND ZONING TEXT AMENDMENTS

Article 7 Index

Sec. 23-7-1	Zoning District Map Amendments (Rezoning)	127
Sec. 23-7-2	Text Amendments	129

Sec. 23-7-1 Zoning District Map Amendments (Rezoning)

(a) Purpose

When the public necessity, convenience, general welfare, or appropriate land use practices justify such action, and after the required review, public notice and report by the Planning Commission, the City Council may undertake the necessary steps to amend the Zoning District Map.

(b) Who may initiate

A proposed amendment to the Zoning District Map may be initiated by the City Council, Planning Commission or by the owner of such property for which the amendment is sought provided that:

- (1) No application for a Map Amendment affecting the same parcel or parcels of property or any part thereof, and requesting the same change by the same property owner or owners may be made more often than once every 24 months;
- (2) No petition for a Map Amendment shall be considered or acted upon unless such petition is duly signed and acknowledged by the owners or authorized agents of not less than 50 percent of the area of land subject to the proposed map amendment; and
- (3) No application for a Map Amendment of a site less than two contiguous acres will be accepted unless said site clearly expands an existing district.

(c) Prerequisites

A Pre-application Conference must be accomplished prior to filing an application to amend the Zoning District Map.

(d) Application Requirements

An application for a Zoning District Map Amendment shall be filed with the Director of Community Development and shall include the following:

- (1) A completed application on the form provided by the Planning Division;
- (2) A written narrative identifying the reasons for the requested Zoning District Map Amendment and addressing the applicable review criteria set forth herein;
- (3) A boundary map of the subject property drawn to scale;
- (4) A composite legal description;
- (5) Where applicable, a copy of correspondence illustrating that the applicant has solicited written comments from the appropriate property owners regarding the requested amendment. Such correspondence shall encourage the owners to

direct any comments in writing to the Director of Community Development and the applicant within 15 calendar days of receipt of the notification.

(e) Criteria

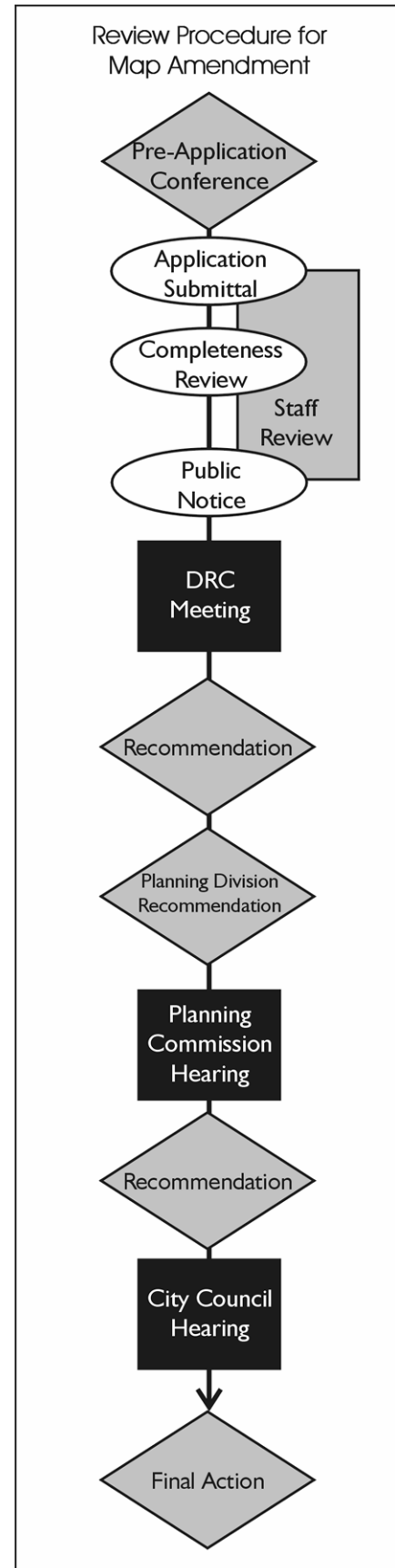
In making recommendations regarding amendments to the Zoning District Map, the Planning Commission shall consider and make findings on the following aspects of the proposed amendment:

- (1) Consistency (or lack thereof) with the Comprehensive Plan;
- (2) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
- (3) Suitability of the property affected by the amendment for uses permitted by the present district;
- (4) Suitability of the property affected by the amendment for uses permitted by the proposed amendment;
- (5) Change in the character of the neighborhood and established community need for uses permitted by the district applicable to the property at the time of the proposed amendment;
- (6) Availability of utilities and infrastructure sufficient to address the impacts associated with the allowed uses in the proposed district; and
- (7) A mistake in the original zoning.

(f) Review Process

(1) Review by Staff and DRC

The Planning Division shall prepare a staff report that reviews the proposed Map Amendment for consistency with the Comprehensive Plan and general requirements of this Chapter, incorporating the comments and recommendations of the DRC. The Planning Division may solicit additional input, as it deems appropriate. A copy of said report shall be provided to the Planning Commission and the applicant before the



scheduled public hearing. Following notice in accordance with Sec. 23-3-5(c), the Planning Commission shall hold a public hearing. All pertinent papers and other data submitted by the applicant and any other information deemed pertinent by the Director of Community Development shall be transmitted to the Planning Commission.

(2) Planning Commission Review and Recommendation

The Planning Commission shall study the proposed Map Amendment, taking into account all factors which it may deem relevant including, but not limited to, the consistency of the proposed amendment with the Comprehensive Plan and whether the proposed Map Amendment serves to carry out the purposes of this Chapter. The Planning Staff shall prepare a report of the Planning Commission deliberations and recommendation that shall be forwarded to City Council. The Planning Commission shall have 45 days from the close of the public hearing to make a recommendation to the City Council.

(3) Action by City Council

- a. No application for a Map Amendment shall be acted upon by the City Council until there shall have been held a public hearing in relation thereto before the Planning Commission at which parties in interest and citizens shall have had an opportunity to be fully heard.
- b. Before enacting an amendment to the Zoning District Map, the City Council may hold an additional public hearing thereon, with notice of the time and place published in compliance with Sec. 23-3-5(c). The City Council shall consider the proposed Map Amendment at the earliest reasonable date and shall consider the report and recommendation of the Planning Commission in making a decision. The City Council shall not take official action upon the proposed change until the report of the Planning Commission has been received; provided, however, that, if the report has not been filed within 45 days following the closing date of the public hearing, the City Council may then take official action on the proposed Map Amendment without the report from the Planning Commission. The City Council shall act to approve, approve with modifications, or deny the Map Amendment request. A final vote by the City Council shall be taken on the Map Amendment request within 90 days from the receipt of a recommendation from the Planning Commission.

(4) Map Amendment

Following final action by the City Council, any approved changes shall be made to the Zoning District Map by the Director of Community Development, as specified in Sec. 23-1-6.

Sec. 23-7-2 Text Amendments

(a) Purpose

When the public necessity, convenience, or general welfare and appropriate land use practices justify such action, and after the required review, public notice and report by the Planning Commission, the City Council may undertake the necessary steps to amend this Chapter. This Section shall apply to any amendment of this Chapter.

(b) Who May Initiate

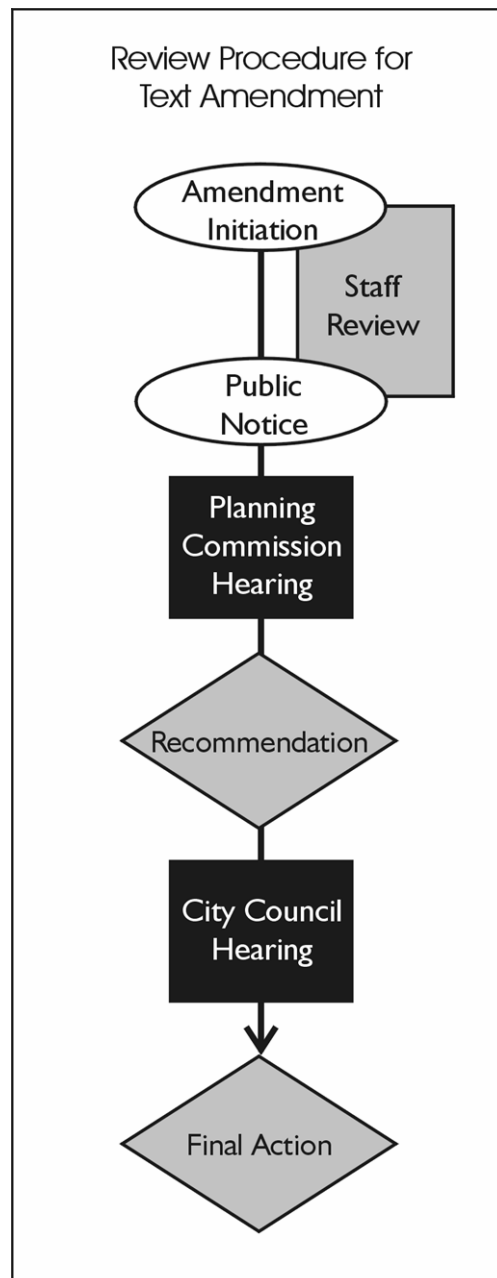
An amendment to this Chapter may be initiated by any member of the City Council, by introduction of an ordinance or by adoption of a motion, or by the Planning Commission. It shall be the duty of the Planning Commission, in cooperation with the Director of Community Development and the City Attorney, to continuously review the provisions of this Chapter, including the Zoning District Maps, and to offer recommendations to the City Council as to the sufficiency thereof in accomplishing the orderly development of the City.

(c) Public Hearing by Planning Commission

Following published notice in accordance with Sec. 23-3-5(c), the Planning Commission shall hold a public hearing. Any and all papers and other data submitted by the applicant on behalf of the Text Amendment request shall be transmitted to the Planning Commission. The Planning Commission, at a regular meeting, shall review the proposed Text Amendment taking into account all factors it may deem relevant. The staff shall prepare a report of the Planning Commission deliberations and recommendation that shall be forwarded to the City Council within 45 days from the close of the public hearing. If the Planning Commission has not issued a report within 45 days of the close of the public hearing, the City Council may request available records from the Planning Commission and may proceed to consider the Text Amendment, without a report. No application for a Text Amendment shall be acted upon by the City Council until there shall have been held a public hearing in relation thereto before the Planning Commission at which parties in interest and citizens shall have had an opportunity to be fully heard. Following action by the Planning Commission, all papers and data pertinent to the application shall be transmitted to the City Council for final action.

(d) Action by City Council

Before enacting any Text Amendment to this Chapter, the City Council may hold an additional public hearing thereon, with notice of the time and place published in compliance with Sec. 23-3-5(c). The City Council shall consider the proposed Text Amendment at the earliest reasonable date and shall consider the report and recommendation of the Planning Commission in making a decision. The City Council shall act to approve, approve with modifications, or deny the proposed Text



Amendment within 90 days from receipt of a recommendation from the Planning Commission.

(e) Criteria

The City Council shall approve Text Amendments in order to encourage the orderly development of the City, to promote the public health, welfare, and safety, to insure compliance with the Comprehensive Plan, and to accommodate changes in land development design and development techniques.

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ARTICLE 8. PUBLIC RIGHTS-OF-WAY AND EASEMENTS

Article 8 Index

Sec. 23-8-1	Public Right-of-Way Vacation	133
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Sec. 23-8-1 Public Right-of-Way Vacation

(a) Purpose

The purpose of the Public Right-of-Way Vacation, commonly referred to as “Street Vacation,” process is to assure full utilization of property through the elimination of developed and undeveloped rights-of-way when same are no longer required by the City or its inhabitants. For the purposes of this ordinance the procedure for “Street Vacation” shall be the same as that for right-of-way vacation.

(b) Who may initiate

A petition to vacate a Public Right-of-Way or any portion thereof may be initiated by any person, the City Engineer or Director of Community Development, motion of the City Council or majority vote of the Planning Commission.

(c) Prerequisites

A Pre-application Conference must be accomplished prior to filing an application for Public Right-of-Way Vacation.

(d) Application Requirements

An application for a Public Right-of-Way Vacation shall be filed with the Director of Community Development and shall include the following:

- (1) A completed application on the form provided by the Planning Division.
- (2) Documents by which the public right-of-way, was dedicated to the City, or in the case of implied dedication, a survey of the area implied to be dedicated.
- (3) A written narrative describing the title interests in the vacated public right-of-way.
- (4) A letter from each utility company authorized to maintain facilities in the part of the City where the proposed vacation is located. The letter shall list any utilities contained within the proposed vacated area and the letter shall state if the particular utility company has any objection to the proposed vacation.
- (5) Additional requirements as may be found in the Manual.

(e) Criteria

The City Council shall grant the application for vacation of a right-of-way, or a portion thereof, only if it finds that the portion of the right-of-way, is not now, or foreseeably, of any benefit to the City or its inhabitants.

(f) DRC Review

Upon initiation of a petition to vacate a public right-of-way or any portion thereof, the Director of Community Development shall refer the petition to the DRC, which shall review the petition at its next meeting for the purpose of identifying all parties affected by the proposed vacation.

(g) Public Commission Hearing Notice

Upon completion of the review by the DRC, the Director of Community Development shall schedule a hearing on the petition before the Planning Commission, which hearing shall be scheduled for a meeting falling at least 30 days after the DRC review is completed but within 60 days after the filing of the petition. The Director of Community Development shall cause notice to be served to the following, in compliance with Sec. 23-3-5(c):

- (1)** To the record owner of each property directly abutting the portion of the public right-of-way proposed for vacation;
- (2)** To the record owner of each property abutting any public right-of-way within 500 feet of any part of the portion of the public right-of-way proposed for vacation;
- (3)** To every utility authorized to maintain facilities in the part of the City where the public right-of-way proposed for vacation is located;
- (4)** To the Fire Chief, Police Chief, and City Engineer;
- (5)** To the Council member(s) representing the ward(s) in which the public right-of-way proposed for vacation is located;
- (6)** To any other party in interest identified by the DRC.

(h) Limitation

The City Council shall in no case vacate a section of public right-of-way without the express, written consent (which may be in the form of an application for vacation) of every owner of property adjoining the section of the public right-of-way to be vacated.

(i) Planning Commission Hearing and Recommendation

The Planning Commission shall hold the hearing as scheduled in the notice and, following such hearing, shall make a recommendation to the City Council regarding the proposed vacation. The Commission may recommend that the entire vacation be granted, that part of it be granted, that it be denied, or that it be granted subject to conditions, such as the maintenance of a public utility easement in any portion of the vacated public right-of-way. If the Commission recommends that the vacation be granted, granted in part or granted subject to conditions, it shall separately identify each party in interest that may be adversely affected by the vacation.

(j) Action by City Council

Upon receiving the recommendation of the Planning Commission on a proposed Public Right-of-Way Vacation, the City Council may, with or without holding an additional hearing, decide to grant the proposed vacation, grant the proposed vacation in part, grant it subject to conditions or deny it reflecting equal distribution of property in accordance with State Law.

(k) Action After Approval

If the City Council grants the proposed vacation, grants the proposed vacation in part, or grants it subject to conditions, the following procedures shall be performed:

- (1)** The applicant shall deposit with the City the appropriate deposit or fee, as set out in the Manual;
- (2)** The City shall prepare the survey, quitclaims, plats and other appropriate documentation for the vacation;
- (3)** Once the documentation has been prepared it shall go through the appropriate signature process for approval as identified in the Manual;
- (4)** Once all appropriate signatures have been obtained, the vacation shall be recorded in the Harrison County Court House;
- (5)** A recorded copy of documentation shall be distributed to the City Engineer and the Director of Community Development; and
- (6)** The City shall transfer any utility usage responsibilities for the vacated property to the new owners of the property.

Sec. 23-8-2 Easement Abandonment**(a) Purpose**

The purpose of the Easement Abandonment process is to establish a uniform procedure for abandoning public easements that are no longer required by the City or its inhabitants.

(b) Who may initiate

A petition to abandon an existing public easement or any portion thereof may be initiated by any person, the City Engineer or Director of Community Development, motion of the City Council or majority vote of the Planning Commission.

(c) Prerequisites

A Pre-application Conference must be accomplished prior to filing an application for Easement Abandonment.

(d) Application Requirements

An application for an Easement Abandonment shall be filed with the Director of Community Development and shall include the following:

- (1)** A completed application on the form provided by the Planning Division.

- (2) A current survey and other documents showing that the easement was dedicated to the City, or in the case of implied dedication, a survey of the area implied to be dedicated.
- (3) A written narrative describing the title interests in the proposed abandoned easement and the purpose of the proposed abandonment.
- (4) A letter from each utility company authorized to maintain facilities in the part of the City where the proposed easement abandonment is located. The letter shall list any utilities contained within the area proposed to be abandoned and the letter shall state if the particular utility company has any objection to the proposed easement abandonment.

(e) Criteria

The City Council shall grant the application for easement abandonment, or a portion thereof, only if it finds that the portion of the easement is not now, or foreseeably, of any benefit to the City or its inhabitants.

(f) DRC Review

Upon receiving an application for a petition to abandon a public easement or any portion thereof, the Director of Community Development shall refer the application to the DRC, which shall review the petition at its next meeting for the purpose of identifying all parties affected by the proposed easement abandonment. If there are any outstanding issues with adjacent property owners, the DRC shall send the application to the Planning Commission for a public hearing, otherwise the DRC shall make a recommendation to the City Council.

(g) Action by City Council

Upon receiving the recommendation of the DRC on a proposed easement abandonment, the City Council may, with or without holding a public hearing, decide to grant the proposed abandonment, grant the proposed abandonment in part, grant it subject to conditions or deny it.

(h) Action After Approval

If the City Council grants the proposed easement abandonment, grants the proposed abandonment in part, or grants it subject to conditions, the following procedures shall be performed:

- (1) The applicant shall prepare a survey, quitclaims, plat revision and/or other appropriate documentation as required by the city for the easement abandonment;
- (2) Once the documentation has been prepared it shall go through the applicable signature process for approval as identified in the Manual;
- (3) Once all applicable approval signatures have been obtained, the easement abandonment shall be recorded in the Harrison County Court House;
- (4) A recorded copy of documentation shall be distributed to the City Engineer and the Director of Community Development; and
- (5) The City shall transfer any utility usage responsibilities for the abandoned easement to the new owners of the property.

Sec. 23-8-3 Right-of-Way or Property Dedication

Refer to the Manual for the process for acceptance of right-of-way and property dedication.

Sec. 23-8-4 Easement Dedication

Refer to the Manual for the process for acceptance of easement dedication.

Sec. 23-8-5 Work within Rights-of-Way

Refer to Sec. 23-4-16 Public Works Permit for the procedure for obtaining permission to perform work within any public rights-of-way.

Sec. 23-8-6 Work within Easements

Refer to the Manual for the requirements for work or improvements within or crossing public easements.

Sec. 23-8-7 Right-of-Way Standards

Refer to the Manual for the requirements for any work or improvements within the public rights-of-way including, but not limited to curb cuts, driveways, and utilities.

Sec. 23-8-8 Easement Standards

Refer to the Manual for the minimum requirements for easements.

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ARTICLE 9. ZONING DISTRICTS

Article 9 Index

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Sec. 23-9-2	Base Districts and Purposes.....	140

Sec. 23-9-1 Base Districts Established

- (a) For the purpose of promoting the public health, safety, and general welfare of the community, the City is hereby divided into the following base districts:

Table 23-9-1-A Base Districts

New District:	Base District:
A	Agricultural
RE	Residential Estate
RER	Residential Estate, Restricted
RS-10	Single-Family Residential, Low Density
RS-7.5	Single-Family Residential, Medium Density
RS-5	Single-Family Residential, High Density
RD	Duplex or Two-Family Residential
RM-10	Multiple-Family Residential, Low Density
RM-20	Multiple-Family Residential, Medium Density
RM-25	Multiple-Family Residential, High Density
RMH	Residential Manufactured/Mobile Home
RO	Residential Office
B-1	Neighborhood Business
B-2	Community Business
B-3	Hospitality Business
B-4	General Business
B-5	High Volume Business
CBD	Central Business District
SB	Sand Beach
WF	Waterfront
CRD	Corridor Redevelopment District
I-1	Light Industrial
I-2	Heavy Industrial

- (b) In addition to all requirements of this Chapter, all development in the City of Biloxi shall be performed in compliance with Chapters 5, 8, and 22 of this Code of Ordinances.

(c) Submerged Land

All areas within the corporate limits of the City that are under water shall be subject to all of the regulations of the zoning district adjacent to the water area, unless otherwise specified on the Zoning District Map.

Sec. 23-9-2 Base Districts and Purposes**(a) A Agricultural**

The Agricultural District is hereby established to provide an area primarily for agricultural purposes and low-density residential development. It is the further purpose of this district to preserve in agricultural use land suited to eventual development in other uses, pending proper timing for the economical provision of utilities, major streets and other facilities, so that compact orderly development will occur. A minimum of one acre lot size is required within the Agricultural District.

(b) RE Residential Estate

The purpose of the RE Residential Estate District is to provide for low density, large lot residential development that is characterized by a broad variety of housing stock.

(c) RER Residential Estate, Restricted

The purpose of the RER Residential Estate, Restricted District is to provide for low density residential development on large lots together with such other facilities and Accessory Uses that are deemed necessary or related functionally and which would not be considered incompatible with a residential development and is characterized by high quality design standards.

(d) RS-10 Single-Family Residential, Low Density

The purpose of the RS-10 Single-Family Residential District is to provide for low density residential development on large lots together with such other uses as places of worship, parks, recreational facilities and Accessory Uses that are deemed necessary or related functionally and which would not be considered incompatible with a residential development.

(e) RS-7.5 Single-Family Residential, Medium Density

The purpose of the RS-7.5 Single-Family Residential District is to provide for single-family residential development on medium sized lots, together with such other uses as places of worship, parks, recreational facilities and Accessory Uses that are deemed necessary or related functionally and which would not be considered incompatible with a residential environment.

(f) RS-5 Single-Family Residential, High Density

The purpose of the RS-5 Single-Family Residential District is to provide for higher density residential development on smaller lots together with such other uses as places of worship, parks, recreational facilities and Accessory Uses that are deemed necessary or related functionally and which would not be considered incompatible with a residential environment.

(g) RD Duplex or Two-Family Residential

The purpose of the RD Two-Family Residential District is to maintain a quiet residential environment by requiring medium density residential development of no more than two family units per lot and to permit Accessory Uses and such institutional

uses as places of worship, parks, recreational facilities, and Accessory Uses that are deemed necessary or related functionally and are compatible with residential surroundings.

(h) RM-10 Multiple-Family Residential, Low Density

The purpose of the RM-10 Multiple-Family Residential District is to maintain a residential environment by requiring low densities (10 dwelling units per acre) while permitting a variety of other dwelling types but prohibiting other uses that would not be compatible with the protection of the residential environment.

(i) RM-20 Multiple-Family Residential, Medium Density

The purpose of the RM-20 Multiple-Family Residential District is to provide for a variety of dwelling types. Medium population densities (20 dwelling units per acre) are permitted. Other medium-density conglomerate uses are permitted, also.

(j) RM-25 Multiple-Family Residential, High Density

The purpose of the RM-25 Multiple-Family Residential District is to provide for high density (25 dwelling units per acre), multi-family residential uses, while still providing for a variety of dwelling types. High population densities are permitted with a slight increase in height of buildings.

(k) RMH Residential Manufactured/Mobile Home

The purpose of the RMH Residential Manufactured/Mobile Home District is to provide a specific district for manufactured and mobile homes, Manufactured and/or Mobile Home Parks and appropriate accessory and supporting uses.

(l) RO Residential Office

The purpose of the RO Residential Office District is to create an environment especially suited to a group of professional, general administrative and general sales offices, together with certain commercial uses primarily to serve employees in the district. The residential alternatives to office use are the same as permitted in the RM-25 Multiple-Family Residential District.

(m) B-1 Neighborhood Business

The purpose of the B-1 Neighborhood Business District is to provide primarily for retail shopping and personal service uses to serve the needs of a relatively small area, usually the nearby low-density residential neighborhoods. This classification may also apply in up to 35 percent of an approved Planned Unit Development.

(n) B-2 Community Business

The purpose of the B-2 Community Business District is to provide for personal and business services and retail business uses of the community. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

(o) B-3 Hospitality Business

The purpose of the B-3 Hospitality Business District is to provide for tourist accommodations in the form of hotels and motels with some accessory commercial activities, but prohibiting unrelated commercial activities as principal uses.

(p) B-4 General Business

The purpose of the B-4 General Business District is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities serving a wide area and located particularly along certain major thoroughfares, without extensive warehousing, frequent heavy trucking activity, open storage of materials or other nuisance factors associated with manufacturing.

(q) B-5 High Volume Business

The purpose of the B-5 High Volume Business District is to provide for the conduct of personal and business services for the motoring public.

(r) CBD Central Business District

The purpose of the CBD Central Business District is to create a mixed-use commercial-residential district for the downtown and to prohibit uses detrimental thereto. The provisions of this Section shall apply to any new construction or any change of use within the area designated as the Central Business District. Any use which is a Permitted Use, Conditional Use or Accessory Use as shown in the CBD District column in Table 23-11-13-B, shall be permitted in an existing building previously devoted to that use without any special review required. Any mix of office, retail and residential uses shall be encouraged throughout the CBD District and shall be permitted subject to the Site Plan Review procedures set forth in Sec. 23-4-3. Establishment of other uses in the CBD District, including retail which is not part of a mixed-use project or building, shall require compliance with the DRC checklist components related to the CBD District. The process for review shall be the DRC, AHRC and/or PUD review processes set forth in Sec. 23-4-4. The standards to be applied in the review process shall be those applicable to the CBD District and not the PUD standards contained in Article 4. The Residential Protection Standards set forth in Sec. 23-12-8 shall apply to projects within 500 feet of any boundary of the CBD District.

(s) SB Sand Beach

The purpose of the SB Sand Beach District is to permit limited development in those areas that are subject to periodic or occasional inundation from stream overflows and tidal conditions, under such conditions as will reduce the possibility of flooding in the areas. No Permitted Use for building purposes shall be erected or constructed except in accordance with the provisions of the Standard Building Code and the applicable appendix governing "Hurricane Requirements," or the equivalent provisions governing hurricane requirements in any subsequent edition of the Standard Building Code adopted by the City.

(t) WF Waterfront

The purpose of the WF District is to create an environment attuned to preserving and protecting the existing seafood and marine related uses and activities customary to the area. It is the intent of this classification to locate uses which allow and actually encourage visual and physical accessibility to the water, and to accommodate a number of diverse uses inclusive of residential, commercial and amusement and Dockside Gaming activities, as herein provided for, as Permitted, Accessory or Conditional Uses.

(u) CRD Corridor Redevelopment District

The purpose of this district is to establish criteria for redevelopment of major commercial or mixed-use corridors within Biloxi. It is the intent of this district to encourage redevelopment that is consistent both with the historic character of the commercial development along such corridors, which is often very different from more recent commercial development, as well as with the Comprehensive Plan and uses of surrounding properties.

(v) I-1 Light Industrial

The purpose of the I-1 Light Industrial District is to provide for a wide variety of light manufacturing, processing or fabricating, wholesale distributing and warehousing uses located in the vicinity of major streets or railroads for access. Commercial uses are permitted, but new residential development is excluded except as a Conditional Use.

(w) I-2 Heavy Industrial

The purpose of the I-2 Heavy Industrial District is to provide for all types of industrial operations except certain potentially hazardous industries, which are permitted only as Conditional Uses to ensure protection of the public interest and surrounding property. New residential development is excluded except developments deemed appropriate adjuncts to industrial operations.

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ARTICLE 10. HISTORIC PRESERVATION

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Sec. 23-10-1 Purpose

It is the purpose of this Article to preserve the more than 300-year history of Biloxi and its unique character by creating Architectural/Historic Overlay Districts; establishing a map showing the locations of the Architectural/Historic Overlay Districts; establishing a requirement for the issuance of a Certificate of Appropriateness for work on properties affected by an Architectural/Historic Overlay District or designated as a landmark; adopting by reference the design criteria for properties affected by an Architectural/Historic Overlay District or historic landmark designation; providing procedures for designating additional landmarks and additional Architectural/Historic Overlay Districts in Biloxi; and defining “demolition by neglect” and providing remedies for it.

Sec. 23-10-2 Architectural/Historic Overlay (AHO) Districts

The AHO Districts are hereby adopted as an overlay zoning district, subject to the following:

- (a) The boundaries of the AHO Districts shall be shown on the Architectural/Historic Overlay District Map identified in Sec. 23-1-6(b).
- (b) The AHO Districts shall be overlay districts, with the regulations of the district applying in addition to the regulations of the base district. In case of any conflict, the regulations of the AHO District shall control.

Sec. 23-10-3 Criteria for Designation of Landmarks and Architectural/Historic Overlay Districts

(a) Architectural/Historic Overlay Districts

The AHRC may recommend and the City Council may approve the expansion of an AHO District or the application of an AHO District to a new area if the AHRC finds that:

- (1) It exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or City;
- (2) It is identified with historic personages or with important events in national, state or local history;
- (3) It embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or

- (4) It is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

(b) Landmark

The AHRC may recommend and the City Council may approve the designation of a landmark if the AHRC finds that the proposed landmark is an improved site or tract including a building or structure that fulfills one or more of the following:

- (1) It exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or City;
- (2) It is identified with historic personages or with important events in national, state or local history;
- (3) It embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or
- (4) It is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

(c) Landmark Site

The AHRC may recommend and the City Council may approve the designation of a landmark site if the AHRC finds that the proposed landmark site is a parcel or tract that fulfills one or more of the following:

- (1) It exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or City;
- (2) It is identified with historic personages or with important events in national, state or local history;
- (3) It embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or
- (4) It has yielded or may be likely to yield information important in prehistory or history.

(d) Landmark Site-Cemetery

The AHRC may recommend and the City Council may approve the designation of a cemetery as a landmark site if the AHRC finds that the proposed landmark site fulfills one or more of the following guidelines, as set forth by the Mississippi Department of Archives and History under the provisions of House Bill No. 780, Laws of Mississippi, 1971 (Section 39-5-19); it is understood that any currently unidentified grave or cemetery that is subsequently identified will be considered for Biloxi Landmark Site status and will be protected according to applicable state and federal statute, including the Native American Graves Protection and Repatriation Act (Public Law 101-601; 25 U.S.C. 3001 et seq.):

- (1) It contains the graves of persons who have contributed significantly to the history of the nation, state or local region.

- (2) It is associated with events that have made a significant contribution to the broad patterns of the history of the nation, state or local region.
- (3) It is associated with properties entered on the National Register of Historic Places.
- (4) It is associated with a property identified as a Mississippi Landmark, as provided for in the Antiquities Law of the State of Mississippi.
- (5) It is located on land belonging to the State of Mississippi, Harrison County or the City of Biloxi.
- (6) It contains graves of veterans of any of the nation's wars.
- (7) It contains statuary, vaults, markers and monuments of sufficient architectural and artistic value to merit their protection and preservation.
- (8) By its preservation, it would contribute in turn to the preservation of the earlier historic image of the area.
- (9) It contains eighteenth century burials.
- (10) It has been identified as a cemetery or Indian burial ground by professional archaeologists.

Sec. 23-10-4 Design Review Guidelines

Design review guidelines for the respective landmarks, landmark sites, and Architectural/Historic Overlay Districts are set out in Appendix A. The design review guidelines may be amended by the City Council, based upon recommendations from the AHRC.

Sec. 23-10-5 Moving or Demolition of Structures in Architectural/Historic Overlay Districts

(a) Initial Criteria

The AHRC may deny any Certificate of Appropriateness for the moving, relocation, excavation or demolition of any landmark, landmark site, or building or structure within an Architectural/Historic Overlay District if the AHRC determines that the moving, relocation, excavation or demolition of the building or structure would disrupt or diminish the concentration, linkage or continuity of sites, buildings, structures or objects located within the Architectural/Historic Overlay District. Further, the AHRC may deny the Certificate of Appropriateness if it determines that moving, relocation, excavation or demolition would be detrimental to Biloxi's architectural history and/or aesthetic and cultural heritage.

(b) Standards after Permit Approved

The applicant must obtain approval of a Certificate of Appropriateness for replacement plans 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, which shall enable the applicant to receive a Building Permit. Permits for demolition and construction shall be issued simultaneously, provided the applicant furnishes written proof to the City of his financial ability to complete the project.

Sec. 23-10-6 Demolition by Neglect

- (a) Any building or structure which is a landmark, any landmark site, or any building or structure located within a 300 foot radius of a landmark property, and all buildings or structures within an Architectural/Historic Overlay District shall be preserved by the owner or such other person who may have the legal custody or control thereof against decay and deterioration and free from unreasonable structural defects. The owner or other person having legal custody or control thereof shall repair such building or structure in accordance with applicable City codes if it is found that demolition by neglect is occurring.
- (b) If the AHRC makes a determination that a building or structure which is a landmark or is located within an Architectural/Historic Overlay District is being demolished by neglect and the finding is confirmed by the Building Official or Fire Marshal, it shall be the responsibility of the Building Official or Fire Marshal to notify the owner of the resource of this determination, stating the reasons therefore, and he shall give the record owner 30 days from the date of mailing such notice, or the posting thereof on the property in the event of non-delivery of certified mail, to secure necessary permits and commence work to correct the specific defects as determined by the AHRC, Building Official or Fire Marshal.
- (c) The notice shall be given as follows:

 - (1) Notice shall be given by certified mail, mailed to the last known address of the record owners as listed on the Harrison County tax rolls; or
 - (2) If the mailing procedure described in this Section is not successful, notice shall be posted in a conspicuous, protected place on the resource involved.
- (d) The AHRC may determine that a property has been or is in danger of being demolished by neglect if it finds any of the following conditions:

 - (1) The deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the Building Official or Fire Marshal; or
 - (2) The deterioration of a building characterized by one or more of the following:

 - a. Parts which are so attached that they may fall and injure members of the public or property;
 - b. Deteriorated or inadequate foundation;
 - c. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety;
 - d. Members of walls or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
 - e. Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;
 - f. Members of ceilings, roofs, ceiling, and roof supports and other horizontal members that sag, split or buckle due to defective material or deterioration;

- g. Members of ceilings, roofs, ceiling, and roof supports or other horizontal members which are insufficient to carry imposed loads with safety;
 - h. Fireplaces or chimneys, which list, bulge or settle due to defective material or deterioration; or
 - i. Any fault, defect or condition in the building, which renders the building structurally unsafe or not properly watertight.
- (e) If the owner fails to secure necessary permits and commence work within the time allotted, the AHRC shall notify the owner in the manner provided in this Section to appear at a public hearing before the AHRC at a date, time and place to be specified in the notice. The notice shall be mailed or posted at least 15 days prior to the hearing. The AHRC shall receive evidence on the issue of whether the subject resource is being demolished by neglect, and the owner may present evidence in rebuttal. Any person who fails to repair or remedy any building or structure determined by the AHRC to be in the condition of demolition by neglect within 90 days of receipt of such determination that the subject building or structure is being demolished by neglect shall be guilty of a misdemeanor and shall be subject to the penalties provided in Article 19.

Sec. 23-10-7 Correction of Unsafe or Dangerous Conditions

None of the provisions of this Article shall be construed to prevent any measure of construction, alteration or demolition necessary to correct or abate the unsafe or dangerous condition of any resource or other feature, or part thereof, where such condition has been declared unsafe or dangerous by the Building Official or the Fire Marshal and where the proposed measures have been declared necessary, by such authorities, to correct such condition; provided, however, that only such work as is appropriately permitted and reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this Section. If any structure or other feature shall be damaged by fire or other calamity or by act of God to such an extent that in the opinion of the AHRC it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

Sec. 23-10-8 Procedure for Designation of Landmarks, Landmark Sites and AHO Districts

(a) General

The City may establish landmarks, landmark sites and Architectural/Historic Overlay Districts within the area of its jurisdiction. Such landmarks, landmark sites and Architectural/Historic Overlay Districts shall be designated following the criteria specified in this Article.

(b) Nomination

Nominations for designation as a landmark, landmark site and AHO Districts will be made upon motion of three members of the AHRC or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as required by the AHRC.

(c) Review

After receipt of all required nomination information, the AHRC must reach a decision on whether to recommend a proposed nomination to the City Council within two

months. If the AHRC fails to make a decision in the required time, the nomination may be forwarded to the City Council for consideration.

(d) Recommendation to City Council

- (1)** If the AHRC votes to recommend the designation of a proposed Architectural/Historic Overlay District, landmark or landmark site, it shall forward to the City Council a proposed ordinance, together with an accompanying file.
- (2)** The AHRC's recommendation to the City Council for designation of an Architectural/Historic Overlay District shall be accompanied by:
 - a. A map of the district that clearly delineates boundaries;
 - b. A boundary description and justification; and
 - c. A written statement of significance for the proposed Architectural/Historic Overlay District.

(e) City Council Hearing

The City Council shall conduct a public hearing, after notice, to discuss the proposed ordinance for designation and the boundaries thereof. A notice of the hearing shall be published once a week for at least three consecutive weeks in at least one local qualified newspaper of general circulation in Biloxi. The publication of such notice shall be made in compliance with Sec. 23-3-5.

(f) Decision

Within 60 calendar days after the close of the public hearing, the City Council shall adopt the ordinance as proposed, reject it entirely or adopt the ordinance with modifications.

(g) Notification of Other Agencies

Within ten days after the approval of an ordinance designating a new landmark, site or an Architectural/Historic Overlay District, the secretary of the AHRC shall notify the appropriate state, county, and other pertinent agencies of the official designation of all landmarks, landmark sites, and Architectural/Historic Overlay Districts.

Sec. 23-10-9 AHO Districts, Landmarks and Landmark Sites

For the purpose of promoting the public health, safety, and general welfare of the community, the following Architectural/Historic Overlay Districts, landmarks, and landmark sites are hereby designated:

(a) Architectural/Historic Overlay Districts

Architectural/Historic Overlay Districts in Biloxi shall be the following, as specifically shown on the AHO District Map identified in Sec. 23-1-6(b):

Point Cadet
East Central
Downtown
West Central
West Beach
Edgewater Park

(b) Landmarks

The following are landmarks of Biloxi:

Street Address	Landmark Name
147 Balmoral Avenue	
271 Bayview Avenue	
622 Bayview Avenue	Old Brick House
206 Beach Boulevard	Bailey House
360 Beach Boulevard	Tullis-Toledano House
360 Beach Boulevard	Tullis-Toledano House Dependency
360 Beach Boulevard	Tullis-Toledano House Carriage House
420 Beach Boulevard	Tivoli Hotel
580 Beach Boulevard	Hermann House
590 Beach Boulevard	Gillis House
590 Beach Boulevard	Carriage House
648 Beach Boulevard	
710 Beach Boulevard	Brielmaier House
710 Beach Boulevard	Foretich House
964 Beach Boulevard	Santini-Stewart House
1034 Beach Boulevard	
1042 Beach Boulevard	Dantzler House
1061 Beach Boulevard	Biloxi Lighthouse
1092 Beach Boulevard	
1096 Beach Boulevard	
1196 Beach Boulevard	Father Ryan House
1210 Beach Boulevard	O.G. Swetman House
1230 Beach Boulevard	White House Hotel
1274 Beach Boulevard	
1302 Beach Boulevard	
1306 Beach Boulevard	
1308 Beach Boulevard	
1332 Beach Boulevard	
1348 Beach Boulevard	Rear Cottage
1348 Beach Boulevard	Main House
1352 Beach Boulevard	Rear Cottage
1352 Beach Boulevard	Main House
1364 Beach Boulevard	
1374 Beach Boulevard	
1378 Beach Boulevard	
2110 Beach Boulevard	Broadwater Marina

Street Address	Landmark Name
2244 Beach Boulevard	Beauvoir
142 Benachi Avenue	
321 Benachi Avenue	
122 Caldwell Avenue	
121 Cedar Street	
123 Cedar Street	
125 Cedar Street	
144 Cedar Street	
634 Copp Street	
769 Division Street	United Novelty Company
803 Division Street	Our Mother of Sorrows
112 Edgewater Drive	
306 Elmer Street	
1352 Father Ryan Avenue	Water Plant
1400 Father Ryan Avenue	Water Plant
115 First Street	U.S. Coast Guard Station
177 First Street	St. Michael's Church
131 Fayard Street	
358 Forrest Avenue	
1596 Glenn Swetman St.	Glenn Swetman House
319 Haise Street	Fred Haise House
131 Holley Street	
436 Howard Avenue	Old Charity Hospital
460 Howard Avenue	
466 Howard Avenue	
476 Howard Avenue	
506 Howard Avenue	
536 Howard Avenue	
555 Howard Avenue	Bowen House
566 Howard Avenue	
567 Howard Avenue	
579 Howard Avenue	
632 Howard Avenue	Galloway's Funeral Home
638 Howard Avenue	
657 Howard Avenue	
709 Howard Avenue	Masonic Temple
750 Howard Avenue	Old Peoples Bank
759 Howard Avenue	
781/783 Howard Avenue	Old Eddie's Drug Store

Street Address	Landmark Name
784 Howard Avenue	
796 A&B Howard Avenue	
796 C Howard Avenue	
814 Howard Avenue	Kress Building
870 Howard Avenue	Church of the Nativity
917 Howard Avenue	Bond House
988 Howard Avenue	
770 Jackson Street	Redding House
140 Keller Avenue	E. Barq Pop Factory
1295 Kensington Drive	
122 Lameuse Street	Fisherman's Cottage
124 Lameuse Street	Old Biloxi Library
139 Lameuse Street	Creole Cottage
139 Lameuse Street	Biloxi Library
140 Lameuse Street	Biloxi City Hall
152 Lameuse Street	Peoples Bank
225 Lameuse Street	
364 Lameuse Street	
168 Lee Street	
1400 Leggett Drive	Van Hook Hall, Seashore Meth. Campground
210 Main Street	
127 Morrison Avenue	Labuzan-Stirling House
870 Nativity Drive	Sacred Heart High School
118 Oak Street	
126 Pine Street	Zengel House
130 Porter Avenue	
170 Reynoir Street	Saenger Theater
330 Reynoir Street	
352 Reynoir Street	
355 Reynoir Street	
439 Reynoir Street	
116 Rue Magnolia	Brunet-Fourchey House
119 Rue Magnolia	Magnolia Hotel
125 Rue Magnolia	
129 Rue Magnolia	
131 Rue Magnolia	
134 Rue Magnolia	
136 Rue Magnolia	
124 St. Paul	

Street Address	Landmark Name
122 Seal Avenue	
130 Seal Avenue	
143 Seal Avenue	
149 Seal Avenue	
159 Seal Avenue	
187 Seal Avenue	
245 Seal Avenue	
266 Seal Avenue	
1012 Tullier Court	Suter House
610 Water Street	Church of the Redeemer
610 Water Street	Church of the Redeemer Bell Tower
631 Water Street	
635 Water Street	
660 Water Street	
664 Water Street	
725 Water Street	
764 Water Street	Clemens House
771 Water Street	
782 Water Street	Scherer House (Old Spanish House)

(c) Landmark Sites

The following are landmark sites of Biloxi:

Landmark Site Name	Street Address
Biloxi National Cemetery	Veteran's Administration Hospital
Brasher-Akin Cemetery	Brodie Road
Cedar Lake Methodist Church Cemetery	Cedar Lake Road
Coalville Methodist Church Cemetery	Lorraine Road, Woolmarket
Confederate Veteran's Cemetery	Beauvoir
Hamilton Cemetery	Biloxi Commerce Park
Hollingsworth Family Cemetery	Near Brady Drive on West Beach
Lopez Elmer and Co.	Bayview Avenue at end of Reynoir Street
Old Biloxi Cemetery	1166 Beach Boulevard
Old Jewish Cemetery	Corner of Reynoir Street and Elder Street
Orphan's Cemetery	Grounds of Coast Coliseum
Sunkist Cemetery (a.k.a. Blackwell Cemetery)	Bluff west of Popps Ferry Bridge near Beau Chene Drive

ARTICLE 11. USE REGULATIONS

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Sec. 23-11-1 Use Categories; General

(a) Basis for Classifications

Use Categories classify land uses and activities based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, likely impact on surrounding properties, and site conditions. The Use Categories provide a systematic basis for assigning land uses to appropriate districts.

(b) Principal Use Characteristics

A Principal Use is assigned to the Use Category that most closely corresponds to its nature as described in the “Characteristics” Subsection of each Use Category.

(c) Principal Use Considerations

- (1) Determination of the appropriate category for a proposed Principal Use shall be made by the Director of Community Development in accordance with the provisions of this Section.
- (2) Generally, uses not listed are prohibited; however, for a use not listed in the Use Tables, the zoning district purpose statements in Sec. 23-9-2 shall be taken into consideration by the Director of Community Development in making a determination.
- (3) The following shall be used to determine the appropriate category for a use not specifically listed in the Use Tables or the examples in the Use Category descriptions, and whether a use is considered principal or accessory:
 - a. Actual or projected characteristics of each activity in relationship to stated characteristics of each Use Category;

- b. Relative amount of site area or floor space and equipment devoted to each activity;
- c. Relative amounts of sales from each activity;
- d. Customer type for each activity;
- e. Relative number of employees in each activity;
- f. Hours of operation;
- g. Building and site arrangement;
- h. Vehicles used and their parking requirements;
- i. Relative number of vehicle trips generated;
- j. Signs;
- k. How each use is advertised;
- l. Likely impact on surrounding properties;
- m. Whether each activity is likely to be found independent of other activities on site; and
- n. Zoning district purpose statement.

(d) Lot of Record with Multiple Principal Uses

A lot of record with multiple Principal Uses shall conform to the following:

- (1) When all Principal Uses of a lot of record fall within one Use Category, the entire development is assigned to that Use Category.
- (2) When the Principal Uses of a lot of record fall within different Use Categories, each Principal Use is classified in the applicable Use Category and each use is subject to all applicable regulations for that Use Category.

(e) Accessory Uses

Unless otherwise stated in this Chapter, Accessory Uses are allowed by right in conjunction with a Principal Use and are subject to the same zoning district regulations as the Principal Use. Common Accessory Uses are listed as examples in the Use Category descriptions.

(f) Examples

The “Examples” Subsection of each Use Category lists uses common to that Use Category. The names of these sample uses are generic and are based on common meanings, not on how a specific use may describe itself. For example, a use that calls itself “Wholesale Warehouse,” but sells mostly to retail consumers, is included in the Retail Sales and Service category rather than the Wholesale Trade category.

(g) Uses Not Included

The “Uses Not Included” Subsection provides cross-references to uses that may appear to be part of a particular category, but which are included within a different Use Category.

(h) Related but Different Uses and Distinctions

A “Related but Different Uses” Subsection appears under a few uses in general categories where there are many similar uses subject to relatively fine distinctions. Language in said Subsections expands on the other material contained in the use descriptions and may be used in determining in which narrow category a specific use falls. No significance should be attached to the fact that this Subsection does not appear under many of the use classifications.

Sec. 23-11-2 Residential Use Categories**(a) Household Living****(1) Characteristics**

Residential occupancy of a dwelling unit on a month-to-month or longer basis by a family, as defined herein, or by a group consisting of not more than three unrelated individuals living and functioning as a household.

(2) Examples

Single-family houses; guest cottages; duplexes; triplexes; other multi-dwelling structures; condominiums; townhouses; retirement center apartments; zero lot line homes; manufactured homes; Manufactured Home Parks, mobile homes and Mobile Home Parks; and other structures with self-contained dwelling units. A Group Home for not more than six senior citizens, persons with disabilities, or children, living in a family setting, is permitted as a form of Household Living in a single-family residential unit.

(3) Accessory Uses

Recreational facilities; raising of pets; hobbies; swimming pools; storage units; and off-street parking of the occupants’ registered vehicles. Home Occupations are Accessory Uses subject to additional standards listed in this Article.

(4) Uses Not Included

- a. Lodging where tenancy may be arranged for periods of less than 30 days (Visitor Accommodations, Sec. 23-11-4(d)).
- b. Group living other than Group Homes (Group Living, Sec. 23-11-2 (b)).
- c. Congregate care facilities where individual family-occupancy units do not include full cooking and eating facilities (Group Living, Sec. 23-11-2 (b)).
- d. Nursing home or residential assisted living facility not having individual dwelling units (Group Living, Sec. 23-11-2 (b)).

(b) Group Living**(1) Characteristics**

Residential occupancy of a structure by a group of people that does not meet the definition of Household Living. Tenancy is usually arranged on a monthly or longer basis. Generally, Group Living structures have a common eating area for residents, and the residents may receive care, training, or treatment.

(2) Examples

Nursing homes; residential assisted living facilities not having individual dwelling units; hospices; elderly group homes; orphanages; rooming houses; dormitories, fraternities, and sororities; congregate care facilities; monasteries and convents.

(3) Accessory Uses

Recreational facilities, associated offices, food preparation and dining facilities, and off-street parking of vehicles for occupants and staff.

(4) Uses Not Included

- a. Lodging where tenancy may be arranged for periods of less than 30 days (Visitor Accommodations, Sec. 23-11-4(d)).
- b. Lodging where residents meet the definition of family (Definitions, Article 20).
- c. Household Living Sec. 23-11-2 (a).

Sec. 23-11-3 Public and Civic Use Categories**(a) Community Service****(1) Characteristics.**

Uses of a public, nonprofit, or charitable nature providing ongoing education, training, or counseling to the general public on a regular basis, without a residential component. Uses providing medical or surgical care to patients and offering overnight care. Uses that primarily provide meeting areas for religious activities, treatment of terminally ill or those with psychiatric, alcohol, or drug problems, and transient housing related to social service programs.

(2) Examples

Libraries; museums; art galleries; neighborhood centers; senior centers; community centers; youth centers; social service facilities; medical centers, public health centers, hospitals and medical service support facilities; places of worship; cemeteries, mausoleums and memorial parks; treatment centers and hospices; and transient lodging or shelters for the homeless.

(3) Accessory Uses

- a. General: offices; meeting areas or rooms; food preparation and dining areas; off-street parking; maintenance facilities; storage; daycare; non-commercial indoor or outdoor recreation and athletic facilities, teaching and school facilities.
- b. In addition, accessory to a medical or health related facility: health and therapy areas; out-patient clinics, laboratories, limited support retail, temporary housing for relatives of patients; staff or trainee residences located on the same site.

(4) Uses Not Included

- a. Private lodges or service clubs (Entertainment Establishments, Sec. 23-11-4(a)).
- b. Private or commercial health clubs (Retail Sales and Service, Sec. 23-11-4(e)).
- c. Parks (Parks and Open Space, Sec. 23-11-3 (e)).
- d. Counseling in an office setting (Offices, Sec. 23-11-4(b)).
- e. Medical clinics that provide care where patients are not kept overnight (Offices, Sec. 23-11-4(b)).
- f. Congregate care facilities (Group Living, Sec. 23-11-2(b)).
- g. Residential assisted living facilities (Group Living, Sec. 23-11-2(b)).
- h. Group homes (Group Living, Sec. 23-11-2(b)).
- i. Elementary, middle, junior and high schools, colleges, and technical schools as a Principal Use (Educational Facilities, Sec. 23-11-3(c)).

(b) Day Care Center**(1) Characteristics**

Uses providing care, protection, and supervision for children or adults.

(2) Examples

Home care centers and day care centers.

(3) Accessory Uses.

Day Care Center: offices; day care where children are cared for while parents or guardians are occupied on the premises; off-street parking; noncommercial indoor or outdoor recreation areas or athletic facilities; food preparation; and dining areas.

(c) Educational Facilities**(1) Characteristics**

Public and private schools at the preschool, elementary, middle, or high school level that provide basic academic education. Also, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree or vocational certification.

(2) Examples

Schools; boarding schools; universities; liberal arts colleges; community colleges; nursing and medical schools not accessory to a hospital; seminaries; business schools; trade schools; and industrial schools.

(3) Accessory Uses

- a. Accessory to a school: Play areas; cafeterias; non-commercial indoor or outdoor recreational and sports facilities; auditoriums; and before or after school day care.
- b. Accessory to a college: Offices; housing for students and faculty; food service; day care; libraries; laboratories; health and sports facilities; cinemas; meeting areas or rooms; off-street parking; maintenance facilities; and limited support commercial.

(d) Government Facilities**(1) Characteristics**

Offices, storage, maintenance, and other facilities for the operation of local, state, or federal government.

(2) Examples

Any government office or building including City Hall; maintenance facilities; fire stations; police stations; emergency medical and ambulance stations; detention centers; post offices; and local, state or federal offices.

(3) Accessory Uses

Storage; maintenance and fueling facilities; satellite offices; cafeterias; auditorium and meeting rooms; day care; infirmaries; holding cells; and off-street parking areas.

(4) Uses Not Included

- a. County or State parks or recreational facilities (Parks and Open Space, Sec. 23-11-3 (e)).
- b. Water and wastewater facilities, gas, electric, and other infrastructure services, whether public or private (Transportation and Utilities, Sec. 23-11-3(f)).
- c. Waste and recycling services (Transportation and Utilities, Sec. 23-11-3(f)).
- d. Elementary, middle, junior and high schools, colleges, and business, trade or industrial schools (Educational Facilities, Sec. 23-11-3(c)).

(e) Parks and Open Space**(1) Characteristics**

Land uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas, community gardens, sand beach, and having few structures.

(2) Examples

Parks; beach access and sand beach areas; public swimming pools; non-commercial swim or tennis clubs and sports facilities; open space; public plazas; recreational trails; botanical gardens and nature preserves.

(3) Accessory Uses

Swimming pools; maintenance facilities; concessions without alcohol; caretaker's quarters; and off-street parking.

(4) Uses Not Included

- a. Commercial swimming pools, driving ranges, and miniature golf courses (Entertainment Establishments, Sec. 23-11-4(a)).
- b. Public or private golf courses (Entertainment Establishments, Sec. 23-11-4(a)).
- c. Shooting ranges (Entertainment Establishments, Sec. 23-11-4(a)).
- d. Clubs and Lodges (Entertainment Establishments, Sec. 23-11-4(a)).
- e. Commercial tennis or swim clubs, health clubs or spas (Retail Sales and Service, Sec. 23-11-4(e)).

(f) Transportation and Utilities**(1) Characteristics**

Facilities for the takeoff and landing of airplanes and helicopters, and terminals for rail or bus service. Public or private infrastructure serving a limited area with no on-site personnel (minor utility) or the general community and possibly having on-site personnel (major utility).

(2) Examples

Airports; bus and railroad passenger terminals; heliports and seaplane bases; multimodal transportation facilities; and transportation passenger shelters. Minor utilities include water and sewage pump stations; storm water retention and detention facilities; un-staffed recycling collection facilities; telecommunications antennas and telephone exchanges. Major utilities include water towers; waste treatment plants; waste transfer centers; public recycling centers; telecommunication towers; and electrical substations.

(3) Accessory Uses

Freight handling areas; concessions without alcohol (not for minor utilities); offices (not for minor utilities); off-street parking; maintenance and fueling facilities; control, monitoring, data, or transmission equipment; and limited storage.

(4) Uses Not Included

- a. Private helistops that are accessory to another use (Government Facilities, Sec. 23-11-3(d)).
- b. Non-public maintenance yards and buildings (Industrial Production and Manufacturing, Sec. 23-11-6).
- c. Non-public utility offices (Offices, Sec. 23-11-4(b)).

Sec. 23-11-4 Commercial, Office, Retail Use Categories**(a) Entertainment Establishments****(1) Characteristics**

Large, generally commercial uses providing daily or regularly scheduled recreation or entertainment-oriented activities or services. Activities may take place outdoors or indoors and in a number of structures.

(2) Examples

Amusement facilities; golf driving ranges; public or private golf courses; bowling alleys, game arcades, pool halls, dance halls, shooting ranges, miniature golf facilities; commercial tennis facilities and swimming pools; clubs or lodges (minimum of three acres); commercial amphitheaters; Dockside Gaming; commercial sports facilities; and drive-in cinemas.

(3) Accessory Uses

Restaurants, clubhouses, bars, concessions, off-street parking, and maintenance facilities.

(4) Uses Not Included

Riding academies and other equestrian events or facilities; nightclubs and bars (Agriculture, Sec. 23-11-7(a) and Eating and Drinking Establishments, Sec. 23-11-5).

(b) Offices**(1) Characteristics**

Activities conducted in an office setting and generally focusing on business, professional, medical, or financial services.

(2) Examples

Professional services such as lawyers, accountants, bookkeepers, engineers, or architects; financial businesses such as lenders, investment or brokerage houses, collection agencies, or real estate and insurance agents; advertising offices; data processing; mail order or direct-mail offices; sales offices; radio and television stations and studios; educational and scientific research offices; medical and dental offices, clinics or laboratories; nursing services; and blood-collection facilities.

(3) Accessory Uses

Cafeterias, health facilities, technical libraries, meeting rooms, day care, off-street parking, or other amenities primarily for the use of on-site employees and without exterior advertising signage.

(4) Uses Not Included

- a. Offices that are part of and located with a Principal Use in another category (Accessory Uses, Sec. 23-11-12).

- b. Contractors and others who perform services off-site, but store equipment and materials or perform fabrication or similar work on-site (Industrial Production and Manufacturing, Sec. 23-11-6(a)).
- c. Urgent care or emergency medical offices (Community Service, Sec. 23-11-3(a)).

(c) Parking, off-street

(1) Characteristics

Facilities that provide parking not accessory to a specific use and for which a fee may or may not be charged.

(2) Examples

Short- and long-term fee parking facilities; parking lots; parking garages; and mixed parking lots (partially accessory to a specific use, partly for rent to others).

(3) Accessory Uses

Small structures intended to provide shelter from the weather.

(4) Uses Not Included

- a. Parking facilities that are accessory to a Principal Use, but that charge the public to park for occasional events nearby (Accessory Uses, Sec. 23-11-12).
- b. Public transit park-and-ride facilities (Transportation and Utilities, Sec. 23-11-3(f)).
- c. Sales or servicing of vehicles (Vehicle Sales and Service, Sec. 23-11-4(f)).

(d) Visitor Accommodations

(1) Characteristics

Residential units arranged for short-term stays of less than 30 days for rent or lease.

(2) Examples

Bed and Breakfasts; Recreational Vehicle Parks; hotels and motels. Any condominium project which has any two of the following characteristics shall be subject to the rules set forth in Sec. 23-12-7(b): 1) restaurant on the premises; 2) management office on the premises handling rentals for individual unit owners where typical rentals are for less than 30 days each; 3) maid service offered by the management, whether included in management fee or as a separate fee; or 4) acceptance of credit cards for rentals. Conversion of an existing multi-family project to such a condominium project shall require approval of a new site plan and conformance with all other applicable requirements of this Chapter.

(3) Accessory Uses

Swimming pools and other recreational facilities; limited storage; offices; food preparation and dining facilities; laundry facilities; meeting facilities; gift shops without a separate entrance; and off-street parking.

(4) Uses Not Included

Restaurants; bars; nightclubs or other eating, drinking or entertainment establishments are permitted as Accessory Uses to Visitor Accommodations only in districts where such use is expressly permitted as a Principal or Accessory Use and subject to any conditions affecting such use in such district.

(e) Retail Sales and Service**(1) Characteristics**

Companies or individuals involved in the sale, lease, or rental of new or used products, or providing personal services to the general public.

(2) Examples

- a. Sales-Oriented: Stores selling, leasing, or renting consumer, home, and business goods including alcoholic beverages; antiques; appliances; art; art supplies; baked goods; bicycles; books; cameras; carpet and floor coverings; crafts; clothing; convenience goods; dry goods; electronic equipment; fabric; flowers; furniture; garden supplies; gifts; groceries; hardware; home improvements; household products; jewelry; medical supplies; musical instruments; pet food or pets; pharmaceuticals; photo finishing; picture frames; plants; printed material; produce; sporting goods; stationery; tobacco and related products; and videos.
- b. Personal Service-Oriented: Animal care or training and kennels; banks and other financial institutions; business, driving, industrial, martial arts, dance, art, or music studios or classes; security services; dry cleaning business; emergency medical care offices; hair, tanning, and personal care services; health clubs, spas and gyms; laundromats; funeral home, mortuary; photocopy, blueprint, and quick-sign services; taxidermists; and veterinarians.
- c. Repair-Oriented: Locksmith; repair of appliances, bicycles, canvas products, clocks, guns, jewelry, musical instruments, office equipment, radios, shoes, televisions, and watches; tailor; and upholsterer.

(3) Accessory Uses

Offices; food preparation and dining areas; a residential unit for security purposes; storage of goods; and off-street parking.

(4) Uses Not Included

- a. Restaurants (Eating and Drinking Establishments, Sec. 23-11-5).
- b. Small-scale and large-scale catering (Industrial Production and Manufacturing, Sec. 23-11-6(a)).
- c. Dry-cleaning plants (Industrial Production and Manufacturing, Sec. 23-11-6(a)).
- d. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation (Wholesale Trade, Sec. 23-11-6(c)).

- e. Major repair and service of motor vehicles, personal watercraft, scooters, motorcycles, and light, medium and heavy trucks (Vehicle Sales and Service, Sec. 23-11-4(f)).

(f) Vehicle Sales and Service

(1) Characteristics

Direct sales of and service to passenger vehicles, light, medium, and heavy trucks, and other consumer motor vehicles such as motorcycles, boats, personal watercraft, and recreational vehicles.

(2) Examples

Full-service and self-service gas stations; car washes; minor and major vehicle repair; towing service; tire sales and mounting; sales, rental, or leasing of new or used consumer vehicles including passenger vehicles, scooters, motorcycles, light, medium and heavy trucks and other recreational vehicles; and watercraft sales and service.

(3) Accessory Uses

Offices, sales of parts, fueling, towing, and vehicle storage.

(4) Uses Not Included

- a. Gas stations for fleet vehicles that belong to a specific use (Accessory Uses, Sec. 23-11-12).
- b. Vehicle parts sales as a Principal Use (Retail Sales and Service, Sec 23-11-4 (e)).

Sec. 23-11-5 Eating and Drinking Establishment Use Categories

(a) Fast-Food Restaurant

(1) Characteristics

Establishments characterized by large carry-out clientele, long hours of service and high-turnover rates for eat-in customers. Such establishments typically feature extensive counter-service and self-service with limited if any table-service.

(2) Examples

Franchised hamburger, fish, chicken and pizza establishments; similar non-franchised establishments; ice cream and yogurt stores; coffee bars that feature coffees and similar drinks with very limited food service.

(3) Accessory Uses

Off-street customer and employee parking areas; in some districts, drive-through windows.

(4) Uses Not Included

Any establishment serving alcoholic beverages; any establishment with live entertainment (Bar, Brewpub, Nightclub, Sec. 23-11-14(f)(2)).

(5) Related but Different Uses and Distinctions

- a. High-turnover restaurants generally have table service and very limited carry-out service. Any establishment otherwise meeting the definition of fast-food restaurant but including non-amplified live entertainment shall be considered a high-turnover restaurant (High-turnover restaurant, Sec. 23-11-5(b)).
- b. A coffee shop with sit-down service and complete meal offerings is considered a high-turnover restaurant, while a coffee bar, offering primarily coffee and related drinks, falls under this category (High-turnover restaurant, Sec. 23-11-5(b)).
- c. Quality restaurants are characterized by table service and turnover times of one hour or more per customer (Quality restaurant, Sec. 23-11-5 (c)).

(b) High-Turnover Restaurant**(1) Characteristics**

High-turnover restaurants typically feature sit-down service and some table service, although some cafeterias and buffets also fall in this category. The high-turnover restaurant has little carry-out business. Turnover times are typically one hour or less per customer. These restaurants may in some cases feature live entertainment.

(2) Examples

Chain, family-style restaurants featuring modest prices; high-volume, cafeteria service steakhouses; coffee shops; franchised and chain pizza restaurants that emphasize sit-down, eat-in service.

(3) Accessory Uses

Off-street customer and employee parking areas, in some districts; accessory bar in some districts.

(4) Uses Not Included

Fast-food restaurant; drive-through window (Fast-food restaurant, Sec. 23-11-5 (a)).

(5) Related but Different Uses and Distinctions

- a. Fast-food restaurants are characterized by a high percentage of carry-out service and have limited table service. Any establishment otherwise meeting the characteristics of this category but including a drive-through window shall be classified as a fast-food restaurant with drive-through (Fast-food restaurant, Sec. 23-11-5 (a)).
- b. Quality restaurants are characterized by table service and turnover times of one hour or more per customer (Quality restaurant, Sec. 23-11-5 (c)).

(c) Quality Restaurant**(1) Characteristics**

Quality restaurants are characterized by sit-down, table service, with self-service being limited to salad bars, buffets or other special features. Prices range from moderate to high. Turnover times are typically one hour or more per customer. Quality restaurants often include accessory bars and, where permitted, live entertainment. The emphasis of most quality restaurants is on lunch and dinner service, although the inclusion of breakfast service will not by itself remove a use from this category.

(2) Examples

Non-format, locally owned or managed restaurants offering lunch and dinner; major restaurants in large hotels; up-scale format and chain restaurants featuring steak, expensive fish dishes and similar fare.

(3) Accessory Uses

Off-street customer and employee parking areas, in some districts; accessory bar in some districts; live entertainment; banquet and catering service; where permitted by this Chapter, a nightclub.

(4) Uses Not Included

Fast-food restaurant; drive-through window (Fast-food restaurant, Sec. 23-11-5 (a)).

(5) Related but Different Uses and Distinctions

- a. High-turnover restaurants feature turnover times of less than one hour and may include more self-service features. Carry-out services may be incorporated in high-turnover restaurants, but will be rare in quality restaurants (generally a customer accommodation and not an advertised service) (High-turnover restaurant, Sec. 23-11-5(b)).
- b. A quality restaurant will have a kitchen with current Harrison County Health Department certification and size and equipment adequate to provide full meals to the entire capacity of the establishment during any one-hour service period; in addition, the kitchen shall be open, staffed and offering full meal service for at least one-half the hours that the establishment is open. Any establishment that includes the service of alcoholic beverages and that fails to meet these criteria shall be classified as a bar (if no amplified live entertainment) or nightclub (if it includes amplified live entertainment). An establishment for which the Certificate of Zoning Compliance shows quality restaurant, which at some later date fails to meet this criteria, must apply for a new Certificate of Zoning Compliance as a bar or nightclub; such application shall be issued only if a bar or nightclub, as applicable, is a Permitted Use in the applicable district and on the specific site (Quality restaurant, Sec. 23-11-5 (c)).

(d) Bar or Lounge**(1) Characteristics**

A bar is an establishment that may include food service but that emphasizes the service of alcoholic beverages for consumption on the premises.

(2) Examples

Lounge or bar.

(3) Accessory Uses

Live entertainment (not amplified); off-street parking for employees and customers; in some districts, as a Conditional Use, a nightclub.

(4) Uses Not Included

Amplified live entertainment (Nightclub, Sec. 23-11-5(f)).

(e) Brewpub**(1) Characteristics**

A brewpub is a bar or accessory bar in a restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on premises for either consumption on premises in hand-capped or sealed containers in quantities up to one-half barrel or 15 and one-half gallons sold directly to the consumer. Wholesaling shall be permitted only where authorized by state law from an establishment located in the WF or B-5 Districts.

(2) Examples

Brewpub.

(3) Accessory Uses

Live entertainment; off-street parking for employees and customers; in some districts, if licensed by the state for off-premises sales, sales for consumption off the premises of not more than ten percent of the total on-premises production of fermented malt beverages.

(4) Uses Not Included

Sales of alcoholic beverages produced elsewhere and sold for consumption off the premises (Bar, Sec. 23-11-5(d) and Nightclub, Sec. 23-11-5 (f)).

(5) Related but Different Uses and Distinctions

Distinctions from bars are generally not critical because the uses are typically allowed in the same locations and under the same conditions (Bar, Sec. 23-11-5 (d)).

(f) Nightclub**(1) Characteristics**

A nightclub serves alcoholic beverages for on-premises consumption and offers live entertainment, which may be amplified, and/or music for dancing by patrons. A nightclub may also offer food service.

(2) Examples

Dance club with disc jockey or live music; comedy club.

(3) Accessory Uses

Food service; off-street parking for employees and customers, in some districts.

(4) Uses Not Included

None specifically noted.

(5) Related but Different Uses and Distinctions

A high-turnover restaurant, quality restaurant or bar may offer live entertainment, such as a piano, harp, saxophone, electronic keyboard without external amplification, or small combo or a coin-operated music-box without external speakers. Live entertainment shall be allowed only in a nightclub or where expressly allowed as an Accessory Use.

(g) Accessory Restaurant**(1) Characteristics**

An accessory restaurant is not necessarily separated by a permanent wall from the Principal Use to which it is accessory, and generally shares one or more entrances, as well as restrooms, coatrooms and other facilities, with the restaurant. No sales of alcoholic beverages shall be permitted.

(2) Examples

Bowling alley snack bar; school cafeteria; hospital cafeteria; cinema snack bar; soda fountain; supermarket delicatessen.

(3) Accessory Uses

Not applicable.

(4) Uses Not Included

Clubhouse; Bar or Lounge.

(h) Accessory Bar**(1) Characteristics**

An accessory bar is a part of a quality restaurant or high-turnover restaurant offering alcoholic beverages. An accessory bar is not separated by a permanent wall from the restaurant to which it is accessory, and generally shares one or more entrances, as well as restrooms, coatrooms and other facilities, with the restaurant. An establishment with an accessory bar will generally characterize itself in its signs, advertising and other promotions as a restaurant or food-service establishment rather than as a bar.

(2) Examples

Lounge or bar area in a restaurant used in part as a waiting area for restaurant customers; pool bar; service bar in a restaurant but without separate seating; lounge or bar area integrated into the space used by a quality or high-turnover restaurant.

(3) Accessory Uses

Not applicable.

(4) Uses Not Included

None specifically noted.

Sec. 23-11-6 Industrial and Manufacturing Use Categories**(a) Industrial Production and Manufacturing****(1) Characteristics**

- a. Heavy Industry: Firms involved in the manufacturing, processing, fabrication, packaging, or assemblage of goods using natural, man-made, raw, secondary, or partially completed materials. Activities may be considered noxious in terms of their impacts on surrounding uses due to noise, glare, dust, odor, or hazardous materials, or their high incidence of rail or truck traffic, or outdoor storage of products, materials, or equipment. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but, if so, they are a subordinate part of sales. Few customers, especially the general public, come to the site.
- b. Light Industry: Firms engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products mainly by providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- c. Retail Manufacturing: Firms engaged in the manufacturing of goods to be sold primarily on-site and to the general public.

(2) Examples

Heavy industry; light industry; retail manufacturing; extraction of mineral resources; retail manufacturing; and processing and storage of hazardous materials.

- a. Heavy Industry: Concrete batching and asphalt mixing; fuel oil distributors; production or fabrication of metals or metal products including enameling and galvanizing; processing of food and related products, including seafood processing; large-scale catering establishments; sawmills; woodworking, including cabinet makers and furniture manufacturing; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; clothing or textile manufacturing; movie production facilities; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and other electrical items; production of artwork and toys; and sign making.
- b. Light Industry: Welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; building, heating,

plumbing, or electrical contractors; printing, publishing, and lithography; exterminators; janitorial and building maintenance services; research, testing, and development laboratories; laundry, dry-cleaning, and carpet cleaning plants; and photo-finishing laboratories.

- c. Retail Manufacturing: Baking, catering, confectioner, dressmaking, dyeing, printing, tailoring, upholstering, and similar establishments and businesses of a similar and no more objectionable character.

(3) Accessory Uses

Offices; cafeterias; off-street parking; employee recreational facilities; warehouses; storage yards; repair facilities; truck fleets; and a residential unit for maintenance or security personnel.

(4) Uses Not Included

- a. Manufacture and production of goods from composting organic material (Transportation and Utilities, Sec. 23-11-3(f)).
- b. Contractors and others who perform services off-site if major equipment and materials are not stored on-site and fabrication or similar work is not carried on at the site (Offices, Sec. 23-11-4(b)).

(b) Warehouse and Storage

(1) Characteristics

Firms involved in the storage or movement of goods for themselves or other firms for delivery to other firms or to the final consumer; and facilities providing separate storage areas for personal or business use designed to allow private access by tenants for storing or removing personal property.

(2) Examples

Mini-warehouses and self-storage facilities; separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; postal and parcel delivery services; and the stockpiling of sand, gravel, or other non-hazardous aggregate materials.

(3) Accessory Uses

Offices; daycare; truck fleet parking and maintenance areas; off-street parking; and a residential unit for security purposes.

(4) Uses Not Included

Uses that involve the transfer or storage of solid or liquid wastes (Transportation and Utilities, Sec. 23-11-3(f)).

(c) Wholesale Trade

(1) Characteristics

Firms involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order-taking and often include display areas. Businesses may or may not

be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer.

(2) Examples

Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail-order houses; wholesale plant nurseries; and wholesalers of food, clothing, auto parts, and building hardware.

(3) Accessory Uses

Offices; product repair; warehouses; cafeterias; daycare; off-street parking; minor fabrication services; repackaging of goods; growing of nursery stock, outside or in greenhouses, as an Accessory Use to a wholesale nursery; and a residential unit for security purposes.

(4) Uses Not Included

- a. Firms that engage primarily in sales to the general public or on a membership basis (Retail Sales and Service, Sec. 23-11-4(e)).
- b. Firms that are primarily storing goods with little on-site business activity (Warehouse and Storage, Sec. 23-11-6(b)).
- c. Retail plant nurseries (Retail Sales and Service, Sec. 23-11-4(e)).

Sec. 23-11-7 Other Use Categories

(a) Agriculture

(1) Characteristics

Agriculture includes activities that primarily involve growing or raising, producing or keeping plants or animals.

(2) Examples

Examples include farming; forestry; breeding or raising of fowl or other animals; stockyards; riding academies; equestrian events or facilities; and retail plant nurseries.

(3) Accessory Uses

Farm equipment and materials storage; buildings for storage or on-site repair of equipment; dwellings for proprietors and employees; structures related to primary uses; wholesale sale of animals, plants or plant materials as an Accessory Use to the lawful raising or breeding of such plants or animals in this district.

(4) Uses Not Included

- a. Processing of animal or plant products (Industrial Production and Manufacturing, Sec. 23-11-6(a)).
- b. Plant nurseries having a retail sales orientation (Retail Sales and Service, Sec. 23-11-4(e)).

(b) Water-Oriented Facilities**(1) Characteristics**

Facilities for embarking on and disembarking from boats, ferries, and water taxis and for the construction, sales, and repair of boats, ships, and yachts. Also includes the processing and manufacture of seafood.

(2) Examples

Examples include marinas; commercial fish camps; boat yard; docking facilities; dry storage facilities; ship terminals; boat ramps; yacht clubs; private or public fishing piers; facilities for tour boats; boat repairs and sales; and seafood processing plants.

(3) Accessory Uses

Accessory uses include docks; piers; walkways; marina store; parking areas; boathouses and storage areas; boat servicing facilities; offices; and ticket sales.

(4) Uses Not Included

- a. Dockside Gaming Establishments (Entertainment Establishments, Sec. 23-11-4(a)).
- b. Watercraft sales and rentals (Vehicle Sales and Service, Sec. 23-11-4(f)).

(c) Utility Substations**(1) Characteristics**

Utility substations are facilities incident to transmission, distribution and collection facilities for utilities. They are typically designated as Conditional Uses because their location depends on the location of the transmission, distribution and collection lines and facilities and engineering factors in their operation, making it impracticable to determine in advance where such facilities should be allowed.

(2) Examples

Such facilities include transformers; electric substations; pumping stations; electronic booster, relay, and switching stations; and gas pressure regulating and metering stations.

(3) Accessory Uses

Only facilities essential to the operation or maintenance of such utility substations.

(4) Uses Excluded

Unless otherwise allowed in the zoning district, a utility substation shall not include any of the following:

- a. A principal relay or switching station for telephone or other communications;
- b. An electric generating plant;
- c. A natural gas step-down plant connected to a high-pressure line;
- d. An office;

- e. A maintenance facility;
- f. Storage for utility or other equipment;
- g. Parking or storage for vehicles, except the required on-site parking spaces to serve the facility; and
- h. Transmission lines, pipes or other facilities regulated by the state or federal government and not subject to local land-use control, provided that this limited exception shall confer no right to run such facilities through the public right-of-way.

(d) Railway Support Facilities

(1) Characteristics

Railway support facilities are facilities incident to the operation of a railroad. They are typically designated as Conditional Uses because their location depends on the location of the rail line and engineering factors in its operation, making it impracticable to determine in advance where such facilities should be allowed.

(2) Examples

Such facilities may include switching stations, signaling stations and other incidental facilities.

(3) Accessory Uses

Only facilities essential to the operation or maintenance of such railway support facility.

(4) Uses Excluded

Unless otherwise allowed in the zoning district, a railway support facility shall not include any of the following:

- a. An office;
- b. A passenger terminal (see Railway Station, Sec. 23-11-3(f));
- c. A maintenance facility;
- d. Storage for railway or other equipment;
- e. Parking or storage for vehicles, except the required on-site parking spaces to serve the facility; and
- f. Rail lines regulated by the state or federal government and not subject to local land-use control.

Sec. 23-11-8 Enclosure of Uses

Every principally Permitted Use in any zoning district, except in I-1 Light Industrial, I-2 Heavy Industrial, CBD and SB Districts, shall be conducted entirely within a completely enclosed structure, except those uses expressly exempted from the complete enclosure requirement, as listed in this Section. Such uses are not exempt from obtaining a Certificate of Occupancy for a permanent on-premises structure, from which general business operations must be conducted, nor are they exempt from the screening and buffering requirements set forth in this Chapter.

(a) Exemptions from the enclosure requirement are as follows:

- (1)** Vehicular or equipment and machinery sales and rentals, including but not limited to automobiles, boats, trucks, farm equipment, trailers, mobile homes or other similar uses. This does not include maintenance, repair activities, and/or pawned items.
- (2)** Live bait sales.
- (3)** Plant nurseries.
- (4)** Lumber yards.
- (5)** Stone monument sales.
- (6)** Service stations and car washes.
- (7)** Contractor's storage yard for vehicles, materials or supplies.
- (8)** Dog pound and kennels.
- (9)** Golf courses, driving ranges, and skeet and trap ranges.
- (10)** Parks, playgrounds or other similar recreational uses, or facilities contained therein.
- (11)** Entertainment Establishments, where expressly permitted.
- (12)** Drive-in cinemas, drive-in restaurants, drive-in banks or other similar drive-in facilities.
- (13)** Farm operations and sales.
- (14)** Parking lots and garages.
- (15)** Cemeteries.
- (16)** Restaurant cafes, where expressly permitted as either an accessory or high-turnover restaurant.
- (17)** Newspaper, soft drink, and other similar vending machines.
- (18)** Souvenir store shell displays, provided such displays are located on the same property as the principal business and are enclosed by a minimum of a six-foot-high, opaque fence and conform to all other applicable regulations.
- (19)** Accessory patio lounges, i.e., a type of lounge which must be attached to an existing, operating, indoor lounge; provided, however, that these patio lounges are situated exclusively within a B-4 general commercial district, are fenced, screened or otherwise closed off from public rights-of-way and adjoining properties by means of a minimum four-foot-high fence or wall, and meet all other requirements of this Chapter and other ordinances, as applicable.

(b) Requirements for Exterior Storage, Sale and/or Rental

- (1)** For the following uses exempted in the preceding Subsection (a), any items stored or displayed outside, for sale and/or rent, must be located on an impervious surface:
 - a. Vehicular or equipment and machinery sales and rentals, including but not limited to automobiles, boats, trucks, farm equipment, trailers, mobile homes or other similar uses;
 - b. Lumber yards;
 - c. Contractor's storage yard for vehicles, materials or supplies;
 - d. Dog pounds and kennels;
 - e. Drive-in cinemas, drive-in restaurants, drive-in banks or other similar drive-in facilities; and
 - f. Parking lots and garages.
- (2)** Impervious surfaces shall include, but are not limited to, brick pavers, concrete and asphalt. In order to further the goal of improving drainage throughout the City, the use of material that has the least adverse impact on drainage, and which meets the approval of the DRC, shall be encouraged.

Sec. 23-11-9 Single Principal Uses

There shall be only one Principal Use per lot of record, except as specifically allowed by this Section:

- (a)** Where an approved Site Plan shows multiple Principal Uses, such Principal Uses may be allowed.
Examples: Shopping centers and multi-tenant buildings are designed to accommodate multiple Principal Uses. Multiple Principle Uses may be allowed only if the zoning district in which the proposed project is located permits each of the uses and the approved site plan indicates a compatibility of the uses within the subject site.
- (b)** This shall not prohibit Accessory Uses that may also be Principal Uses in other districts or circumstances.
Example: Telecommunications towers are allowed as Permitted or Conditional Uses in a number of zoning districts. In some districts (relatively intensive nonresidential districts) they are also allowed as Accessory Uses, allowing the establishment of a tower on a site with another Principal Use.
- (c)** In no instance shall a billboard or an off-premise sign be allowed on any lot of record with any other Principal Use.

Sec. 23-11-10 Permitted Uses, General

Permitted Uses shall be allowed in the zoning districts where indicated by a "P" in Tables 23-11A and 23-11B, subject to the specific regulations applicable to that zoning district.

Sec. 23-11-11 Conditional Uses, General**(a) General**

Conditional Uses shall be allowed where indicated by a “C” in Tables 23-11A and 23-11B, subject to the General Conditions identified in Subsection (1), and subject to any specific conditions applicable to such use (whether such conditions are generally applicable to the use or only in the district where it is proposed), subject to all parking, site development and other standards in this Chapter. The Planning Commission may impose conditions, such as increased buffering, in addition to those set out in this Article.

(1) General Conditions

- a. The Conditional Use shall be consistent with the Comprehensive Plan;
- b. Some Conditional Uses are subject to additional conditions or standards, set forth in this Article;
- c. The Conditional Use shall be compatible with the uses and use groups permitted in the applicable zoning district;
- d. The Conditional Use shall satisfy parking, loading, landscaping and other standards that would apply to it as a Permitted Use in a zoning district in which it is a Permitted Use; and
- e. The Conditional Use, if non-residential and if adjoining a residential lot, shall be set back from the lot line(s) adjoining residential use by at least the minimum setback(s) applicable to the residential use.

(b) Procedures

Procedures for approval of a Conditional Use shall be those set forth in Sec. 23-6-1.

(c) Purpose

The purpose of the Conditional Use provisions of this Chapter is to provide for certain uses which, because of their unique characteristics, cannot be classified properly in particular districts without special consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses are generally of a public or semipublic nature and are often essential and desirable for the general convenience and welfare. Because of their unique characteristics, however, each of these uses requires the exercise of planning judgment.

(d) Applicability

A Conditional Use shall be authorized by the City Council only when the use complies with all of the following provisions:

- (1) The use is necessary to promote the public interest at that location;
- (2) The use is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected;
- (3) The use will not cause substantial injury to other property in the neighborhood in which it is to be located;

- (4) The use conforms to all district regulations of the applicable district in which it is to be located, unless other provisions are specifically set forth in the requirements governing Conditional Uses;
- (5) The proposed use conforms to any standards specifically applicable to such Conditional Use; and
- (6) The use conforms to any additional conditions that shall be deemed necessary by the City Council, upon recommendation of the Planning Commission, to secure the general objectives of this Chapter so as to not adversely affect other properties in the neighborhood. Such additional conditions shall be established where applicable as necessary to provide:
 - a. Adequate ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire;
 - b. Off-street parking and loading areas, where required, with particular attention to the items listed in (6)a above, and the economic, noise and glare effects of the Conditional Use on adjoining properties and properties generally in the district;
 - c. Refuse and service areas, to avoid conflict with items listed in (6)a and (6)b above;
 - d. Utilities, with reference to location, availability and compatibility;
 - e. Buffering and screening as required in accordance with Article 16;
 - f. Restrictions on signs, lighting of signs and other external lighting adjacent to single-family residential uses and designated landmarks and landmark sites and the CBD, in compliance with Sec. 23-12-8;
 - g. Required yards and open space; and
 - h. General compatibility with adjacent and nearby land uses and zoning in the area.

Sec. 23-11-12 Accessory Uses, General

(a) General

Accessory Uses shall be allowed where indicated by an “A” in Tables 23-11A and 23-11B, subject to General Conditions identified in Subsection (b) of this Section and subject to any specific conditions applicable to such use (whether such conditions are generally applicable to the use or only in the zoning district where it is proposed), subject to all parking, site development and other standards in this Chapter. The Planning Commission may impose conditions and standards, such as increased buffering, in addition to those set out in this Article.

(b) General Conditions

- (1) An Accessory Use shall be permitted only so long as a lawful Principal Use exists on the same premises. If the Principal Use ceases or becomes unlawful, the Accessory Use shall no longer be allowed;

- (2) Some Accessory Uses are subject to additional conditions or standards, set forth in this Article;
- (3) An Accessory Use shall be consistent with the Comprehensive Plan;
- (4) An Accessory Use shall be compatible with the uses and use groups permitted in the applicable zoning district; and
- (5) An Accessory Use shall satisfy parking, loading, landscaping and other standards that would apply to it as a Permitted Use in a zoning district in which it is a Permitted Use.

Sec. 23-11-13 Use Tables

Use Tables 23-11A and 23-11B are hereby incorporated by reference and made part of this Chapter. Uses shown in these tables shall be interpreted as follows, in the context of the definitions in this Chapter and the use categories set out in the following Sections. Symbols in the table shall have these meanings:

P shall mean "Permitted by Right;"

C shall mean "Permitted as a Conditional Use," subject to Sec. 23-6-1 and Sec. 23-11-11;

A shall mean "Permitted as an Accessory Use," subject to Sec. 23-11-12;

A blank in the chart means that the use is not permitted; and

Where a number appears in the right-hand, "Standards," column of the row for a particular use, that use shall be subject to the specified numbered standard.

(ED'S NOTE: USE TABLE LIST-ADDITIONS, AMENDMENTS, CORRECTIONS, CLARIFICATIONS, OMISSIONS)

Residential Use Table

Table 23-11-13-A Use Table, Residential Districts

Use Category	Specific Use	A	RER	RE	RS-10	RS-7.5	RS-5	RD	RM-10	RM-20	RM-25	RMH	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards													
Residential													
Household Living	Guest cottage	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#		Sec. 23-11-15(a)(1)
	Home occupation	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#	Sec. 23-11-15(a)(1)
	Manufactured Home	P#		P#								P#	Sec. 23-11-14(a)(1)
	Manufactured/Mobile Home Park											P#	Sec. 23-11-18(c)
	Mobile Home	P#										P#	Sec. 23-11-14(a)(1)
	Multi-family or duplex							P	P	P	P		
	Residential above first floor												
	Single-family attached or townhouse					C#	C#	P	P	P	P		Sec. 23-11-16(a)(1)
	Single-family detached	P#	P#	P#	P#	P#	P#	P	P	P	P	P	Sec. 23-11-14(a)(1)
	Zero Lot Line Single Family						P#	P#	P#	P#	P#		Sec. 23-11-14(a)(1)
Group Living	Convent or monastery	C	C	C	C	C	C	C	C	P	P		
	Group Home				C	C	C	C	P	P	P		
	Group Living							C	C	C	C		
	Institutional Group Living								C	C	C		
	Nursing home	C								P	P		
Public and Civic Uses													
Community Service	Cemetery or mausoleum	C	C	C	C	C	C	C	C	C	C	C	
	Hospital	C	C	C	C	C	C	C	C	P	P	C	
	Library	P	P	P	P	P	P	P	P	P	P	P	
	Neighborhood center	C	C	C	C	C	C	C	C	C	C	C	
	Place of worship	P	P	P	P	P	P	P	P	P	P	P	
	Public health center	C							C	C	C	C	
	Youth center	C	C	C	C	C	C	C	C	C	C	C	
	All other community service or uses	C	C	C	C	C	C	C	C	C	C	C	
Day Care	Day care center								P#	P#	P#	P#	Sec. 23-11-14(b)(1)
	Home care center	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#	Sec. 23-11-15(b)(1)
Educational Facilities	Business school												
	College or university	P								P	P		
	Elementary, junior, middle or high school	P	P	P	P	P	P	P	P	P	P	P	
	Trade or industrial school												
Government Facilities	Government office or building	P	P	P	P	P	P	P	P	P	P	P	
Parks and Open Space	Parks and open space	P	P	P	P	P	P	P	P	P	P	P	
	Public launch ramp	P											

Use Category	Specific Use	A	RER	RE	RS-10	RS-7.5	RS-5	RD	RM-10	RM-20	RM-25	RMH	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards													
Transportation and Utilities	Public Accomodations	P	C	C	C	C	C	C	C	C	C	C	
	Public Accomodations Facilities	C	C	C	C	C	C	C	C	C	C	C	
	Satellite dish	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#	A#	Sec. 23-11-15(b)(2)
	Telecommunications antenna	C#	C#	C#	C#	C#	C#	C#	C#	C#	C#/A#	A#C#	Sec. 23-11-18(d)
	Telecommunications tower	C#	C#	C#						C#	C#	C#	Sec. 23-11-18(d)
	Utility substation	C	C	C	C	C	C	C	C	C	C	C	
	All other similar utilities	C	C	C	C	C	C	C	C	C	C	C	
Commercial, Office, Retail													
Entertainment Establishments	Cinema												
	Clubhouse	A#							A#	A#	A#		Sec. 23-11-15(c)(1)
	Club or lodge	C											
	Dockside Gaming Establishment												
	Golf course	P#	P#	P#	P#	P#	P#	P#	P#	P#	P#	P#	Sec. 23-11-14(e)(1)
	Riding academy	P#											Sec. 23-11-14(e)(1)
	Shooting range	C#											Sec. 2-11-16(b)(1)
	Other entertainment establishments	C#											Sec. 23-11-14(e)(1)
Offices	General office												
	Contractor's Office												
	Massage therapy												
	Medical or dental office and/or lab												
	Medical or dental clinic and/or lab												
	Radio or television station												
Parking, Off-Street	Parking garage												
	Parking lot												
Retail Sales and Service	Animal care, training, or kennel	C											
	Art, music or dance studio												
	Bank or financial institution												
	Beach vending												
	Book or media shop												
	Convenience store												
	Dry cleaning business												
	Funeral home or mortuary	C											
	General retail												
	Laundry												
	Nursery, retail	C											
	Personal services												

Use Category	Specific Use	A	RER	RE	RS-10	RS-7.5	RS-5	RD	RM-10	RM-20	RM-25	RMH	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards													
Retail Sales and Service	Tennis, swim, health club or spa												
	Veterinary clinic	C											
Vehicle Sales and Service	Auto repair, major												
	Auto repair, minor												
	Auto sales, new or used												
	Body shop												
	Car/Truck rental agency												
	Car wash												
	Gas station, full service												
	Gas station, self service												
	Heavy truck repair/equipment dealer												
	Personal watercraft, motorcycle, scooter												
	Truck Stop												
Visitor Accommodations	Bed and Breakfast	C#							C#	C#	C#	C#	Sec. 23-11-16(b)(4)
	Hotel or motel, or extended stay												
	Recreational vehicle park	C#											Sec. 23-11-18(b)(3)
	Timeshare												
	Condotel												
Eating and Drinking Establishments													
Eating Establishment	Fast-food restaurant												
	High-turnover restaurant												
	Quality restaurant												
Drinking Establishment	Bar or Lounge												
	Brewpub												
	Nightclub												
Industrial and Manufacturing													
Industrial Production and Manufacturing	Boat manufacturing												
	Dry cleaning plant												
	Extraction industries	C#											Sec. 23-11-16(c)(1)
	Hazardous materials processing												
	Research and development												
	Retail manufacturing												
	Other industry and manufacturing												
Warehouse and Storage	Facility maintenance								A#	A#	A#		Sec. 23-11-15(e)(1)
	Junkyard												
	Self-storage facility									A#	A#		Sec. 23-11-15(e)
	Warehouse												
Wholesale Trade	All wholesale uses												

Use Category	Specific Use	A	RER	RE	RS-10	RS-7.5	RS-5	RD	RM-10	RM-20	RM-25	RMH	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards													
Other													
Agriculture	Farming	P	P#	P#									Sec. 23-11-14(h)(1)
	Forestry and Commercial Timbering	P#	C#	C#									Sec. 23-11-18(h)
	Livestock	P#											Sec. 4-1-4
	Wholesale plant nursery	P											
	All other agricultural uses	C											
Water-Oriented Facilities	Boat repair												
	Boat sales												
	Fish camp	C#	C#	C#									Sec. 23-11-14(h)(2)
	Marina	P	C	C	C	C	C	C		C	C	C	
	Pier or boathouse	A	A	A	A	A	A	A	A	A	A	A	
	Seafood processing												
	Ship terminal												
	Yacht club	C	C	C	C	C	C	C		C	C	C	
	All other water-oriented uses												
Regulated Businesses													
Regulated Businesses (subject to spacing in Table 23-11-18-A.)	Check cashing or title loan												
	Day labor businesses												
	Escort services												
	Lingerie modeling studio												
	Pawn or buy-sell shop												
	Sexually-oriented cabaret												
	Sexually-oriented cinema												
	Sexually-oriented media shop												
	Sexually-oriented video arcade*												
	Sex shop												
	Tattoo and body piercing parlor												

* Sex-oriented video arcades existing on the effective date of this Chapter may continue to exist as lawful, nonconforming uses, subject to a separate Regulated Business licensing ordinance adopted December 4, 2001 as Article 12, Chapter XI of the City Code. No new sex-oriented video arcades shall be permitted.

(a) Nonresidential Use Table

Table 23-11-13-B Use Table, Non-Residential Districts

Use Category	Specific Use	RO	B-1	B-2	B-3	B-4	B-5	CBD	SB	WF	CRD	I-1	I-2	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards														
Residential														
Household Living	Guest cottage	A#	A#		C#					C#	C#	C#		Sec. 23-11-15(a)(1)
	Home occupation	A#	A#								A#			Sec. 23-11-15(a)(1)
	Manufactured Home													
	Mobile Home													
	Manufactured/Mobile Home Park											C#	C#	Sec. 23-11-18(c)
	Multi-family or duplex	P	P	C	C	C	C	C		P	C#	C	C	Sec. 23-11-16(a)(1)
	Residential above first floor	P#	P#	P#	P#	P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-14(a)(1)
	Single-family attached or townhouse	P	P	P	C	C	C	P		P	P#	C	C	Sec. 23-11-14(a)(1)
	Single-family detached	P	P	P	P	P	P	P		P	P#	C	C	Sec. 23-11-14(a)(1)
	Zero lot line single family	P#	P#					P			P			Sec. 23-11-14(a)(1)
Group Living	Convent or monastery	P	P	P	P	P	P	P			P	P	P	
	Group Home	C	C	C	C	C	C					C		
	Group Living			C	C	C	C							
	Institutional group living			C	C	P	P					P	P	
	Nursing home	P	P	P	P	P	P					P	P	
Public and Civic Uses														
Community Service	Cemetery or mausoleum	C	C	C	C	C	C	C		C	C	C	C	
	Hospital	C	C	P	P	P	P	P				P	P	
	Library	P	P	P	P	P	P	P		P	P	P	P	
	Neighborhood center	C	C	P	P	C	C	C		C	C	C	C	
	Place of worship	P	P	P	P	P	P	P		P	P	P	P	
	Public health center	C	C	C	C	P	P	C		C	C	C	C	
	Youth center	C	C	P	P	P	P	C		C	C	C	C	
	All other community service or uses	C	C	C	C	C	C	C		C	C	C	C	
Day Care	Day care center	P#	P#	P#	P#	P#	P#	P#		P#	P#	P#	C#	Sec. 23-11-14(b)(1)
	Home care center	A#	A#	A#	A#	A#	A#	A#			A#	A#		Sec. 23-11-15(b)(1)
Educational Facilities	Business school			P	P	P	P	C		P	P	P	P	
	College or university			C	P	P	P	C		P	C	P	P	
	Elementary, junior, middle, or high school	P	P	P	P	P	P							
	Trade or industrial school						C			C	P	C	P	
Government Facilities	Government office or building	P	P	P	P	P	P	P	P	P	P	P	P	
Parks and Open Space	Parks and open space	P	P	P	P	P	P	P	P	P	P	P	P	
	Public launch ramp			C	C	C	C	C	C	C	P	P	P	
Railway Transportation and Utilities	Public Accomodations	C	C	C	C	P	P	P	P	C	C	P	P	
	Public Accomodations Facilities	C	C	C	C	C	C	C		C	C	C	C	
Railway Transportation	Satellite dish	A#	A#	A#	A#	A#	A#	A#		A#	P#	P#	P#	Sec. 23-11-15(b)(2)

Use Category	Specific Use	RO	B-1	B-2	B-3	B-4	B-5	CBD	SB	WF	CRD	I-1	I-2	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards														
and Utilities	Telecommunications antenna	P#	P#	P#	P#	P#	P#	C#		P#	A#	P#	P#	Sec. 23-11-18(d)
Railway Transportation and Utilities	Telecommunications tower			C#	C#	C#	C#			C##	C#	C#	C#	Sec. 23-11-18(d)
	Utility substation	C	C	C	C	C	C	C	C	C	C	C	C	
	All other similar utilities	C	C	C	C	C	C			C	C	C	C	
Commercial, Office, Retail														
Entertainment Establishments	Cinema				P#	P#	P#	P#		P#	P	P#		Sec. 23-11-14(e)(1)
	Clubhouse	A#	A#	A#	A#	A#	A#			A#	P	A#		Sec. 23-11-15(c)(1)
	Dockside Gaming Establishment									C#				Sec. 23-11-18 (e)
	Golf course	P#	P#	P#	P#	P#	P#					P#		Sec. 23-11-14(e)(1)
	Lodge	C#	C#	C#	C#	P#	P#	P#		P#	P	P#		Sec. 23-11-16(b)(1); Sec. 23-11-14(c)(1)
	Riding academy					C	C					C#	C#	23-11-14(e)(1)(d)
	Shooting range											C#	C#	Sec. 23-11-16(b)(1)
	Other entertainment establishments			C	C	C	C	C		C	C	C	C	
Offices	General office	P#	P#	P#	P	P	P	P		P	P	P	P	Sec. 23-11-14(c)(1) Sec. 23-11-16(b)(2)
	Contractor's Office			C#	P#	P	P					P	P	Sec. 23-11-14(c)(1)
	Massage therapy	P#	P#	P#	P#	P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-14(c)(1)
	Medical or dental office and/or lab	P	C	P	P	P	P	P		P	P	P	P	
	Medical or dental clinic and/or lab			P	P	P	P	P		P	P	P	P	
	Radio or television station					P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-14(c)(1)
Parking, Off-Street	Parking garage				C	C	P	C#		C#	C#	P	P	Sec. 23-11-16(b)(3)
	Parking lot	C	C	C	C	C	P			C	C	P	P	
Retail Sales and Service	Animal care, training, or kennel			P	P	P	P			A#		P	P	Sec. 23-11-15(c)(3)
	Art, music or dance studio	A#	P	P	P	P	P	P			P			Sec. 23-11-15(c) (3)
	Bank or financial institution	P	P	P	P	P	P	P		P	P	P	P	
	Beach vending								P#					Sec. 23-11-14(c)(2)
	Book or media shop	P#	P#	P#	P#	P#	P#	P#		P#	P#	P#		Sec. 23-11-14(c)(2)
	Convenience store			P#	P#	P#	P#	P#		P#	P#	P#		Sec. 23-11-14(c)(2)
	Dry cleaning business		P	P	P	P	P	P		P	P	P		
	Funeral home or mortuary			C	C	P	P	P#		C	C	P	P	See Fire Code
	General retail		C	P	P	P	P	P		P	P	P	P	
	Laundry		C	P	P	P	P				P	P		
	Nursery, retail			P#	P	P	P			C	P#	P		Sec. 23-2-5
	Personal services		P	P	P	P	P	P		P	P	P		
	Tennis, swim, health club or spa			P	P	P	P	P		P	P	P		
Retail Sales and Service	Veterinary clinic			P	P	P	P	C			C	P	P	
Vehicle Sales and Service	Auto repair, major					C	P					P	P	
	Auto repair, minor			C	P	P	P	C			C	P	P	
	Auto sales, new or used			C	C	P	P	C				P		
Vehicle Sales and Service	Body shop					C	P				C	P	P	

Use Category	Specific Use	RO	B-1	B-2	B-3	B-4	B-5	CBD	SB	WF	CRD	I-1	I-2	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards														
Vehicle Sales and Service	Car/Truck rental agency			C	P	P	P	P		A	C	P		
	Car wash			C	P	P	P			A	C	P	P	
	Gas station, full service			C#	C#	P#	P#					P#	P	Sec. 23-11-14(d)(1)
	Gas station, self service			C#	C#	P#	P#			A#	C#	P#	P#	Sec. 23-11-14(d)(2)
	Heavy truck repair/equipment dealer						P					P	P	
	Personal watercraft, motorcycle, scooter			C	C	P	P			C		P	P	
	Truck Stop					P#	P#					P	P	Sec. 23-11-14(d)
Visitor Accommodations	Bed and Breakfast	C#	C#	C#	C#	C#	C#	C#		C#	C#	C#	C#	Sec. 23-11-16(b)(4); Sec. 23-11-14(e)(2)
	Hotel, motel, or extended stay				P#	P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-14(e)(2)
	Recreational vehicle park			C#	P#	P#	P#			C#	C#	P#	P#	Sec. 23-11-18(b)
	Timeshare				C#	C#	C#	C#		C#	C#	C#	C#	Sec. 23-11-16(b)(4)
	Condotel				C	C	C	C		C	C	C	C	
Eating and Drinking Establishments														
Eating Establishment	Fast-food restaurant			P	P	P	P	P#		P	P#	P	P	Sec. 23-11-14(f)(1)
	High-turnover restaurant			P#	P#	P#	P#	P#		P#	P	P#	P	Sec. 23-11-14(f)(1)
	Quality restaurant		P#	P#	P#	P#	P#	P#		P#	P	P	P	Sec. 23-11-14(f)(1)
Drinking Establishment	Bar or Lounge		A#	A#	A#	P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-14(f)(2); Sec. 23-11-15(d)(2)
	Brewpub				P#	P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-5(e)
	Nightclub				P#	P#	P#	P#		P#	P#	P#	P#	Sec. 23-11-5(f)
Industrial and Manufacturing														
Industrial Production and Manufacturing	Boat manufacturing									C		P	P	
	Dry cleaning plant						C#					P#	P#	Sec. 23-11-18(a)
	Extraction industries											C#	C#	Sec. 23-11-18(a)
	Hazardous materials processing												C#	Sec. 23-11-18(a)
	Research and development									C	C	P	P	
	Retail manufacturing				P	P	P	P				P	P	
	Other industry and manufacturing											C#	C#	Sec. 23-11-18(a)
Warehouse and Storage	Facility maintenance				A#	A#	A#			A#		P	P	Sec. 23-11-15(e)(1)
	Junkyard												C#	Sec. 23-11-16(c)(2)
	Self-storage facility			C#	C#	P	P			C#	C#	P	P	Sec. 23-11-16(c)(2)
	Warehouse					P	P			C		P	P	
Wholesale Trade	All wholesale uses					P	P			C		P	P	
Other														
Agriculture	Farming											P	P	
	Forestry and Commercial Timbering											C#	C#	Sec. 23-11-18(h)
	Livestock													
	Wholesale plant nursery					P	P					P	P	
	All other agricultural uses													

Use Category	Specific Use	RO	B-1	B-2	B-3	B-4	B-5	CBD	SB	WF	CRD	I-1	I-2	Listed Standards
Key: P=Permitted by Right; C=Conditional Use; A=Permitted Accessory Use; #=Subject to Listed Standards														
Water-Oriented Facilities	Boat repair					C	P			C		P	P	
	Boat sales					P	P			C		P	P	
	Fish camp			P#		P#	P#			C		C		Sec. 23-11-14(h)(2)
	Marina			C	C	C	C		C	P		C	C	
	Pier or boathouse	A#					A#		P#	P#		P#	P#	Sec. 23-11-14(h)(2) Sec. 23-11-15(f)
	Seafood processing									P		C	P	
	Ship terminal									C		C	C	
	Yacht club	C	C	C	C	C	C		C	C		C	C	
	All other water-oriented uses					C	C			C#		C	C	Sec. 23-11-16(d)
Regulated Businesses														
Regulated Businesses (subject to spacing in Table 23-11-18-A)	Check cashing or title loan				P#	P#	P#					P#		Sec. 23-11-18(f)
	Day labor employment service				P#	P#	P#					P#		Sec. 23-11-18(f)
	Escort bureau or escort service					P#	P#					P#		Sec. 23-11-18(f)
	Lingerie modeling studio					P#	P#					P#		Sec. 23-11-18(f)
	Pawn or buy-sell shop			C#		P#	P#					P#		Sec. 23-11-18(f)
	Sexually-oriented cabaret					P#	P#					P#		Sec. 23-11-18(f)
	Sexually-oriented media store					P#	P#					P#		Sec. 23-11-18(f)
	Sexually-oriented cinema					P#	P#					P#		Sec. 23-11-18(f)
	Sexually-oriented video arcade*													
	Sex shop						P#					P#		Sec. 23-11-18(f)
	Tattoo and body piercing parlor					P#	P#					P#		Sec. 23-11-18(f)

* Sex-oriented video arcades existing on the effective date of this Chapter may continue to exist as lawful, nonconforming uses, subject to a separate Regulated Business licensing ordinance adopted December 4, 2001 as Article 12, Chapter XI of the City Code. No new sex-oriented video arcades shall be permitted.

Sec. 23-11-14 Permitted Uses with Standards (P#)

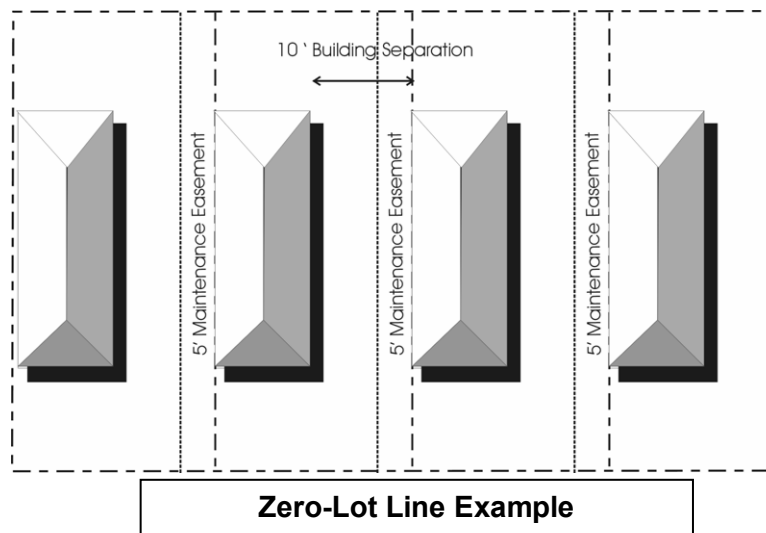
Where Table 23-11-13-A and Table 23-11-13-B show a P# for a Permitted Use in a particular zoning district, such use in such zoning district may be conducted only in accordance with the following standards.

(a) Residential Use Categories

(1) Household Living

- a. **Manufactured Home:** No manufactured home shall be located on a platted lot or parcel containing another manufactured home or other principal structure. This shall not apply in the RMH District, where a manufactured home shall be permitted on a site in an approved Manufactured or Mobile Home Park. Manufactured homes must be skirted and tied down.
- b. **Mobile Home:** A mobile home shall be permitted only in an approved Mobile Home Park, existing as a lawful Permitted Use on the effective date of this Chapter.

- c. **Residential Above First Floor:** Residential living above the first floor is allowed in zoning districts in which the City intends to preserve nonresidential activity at street level. Lobbies, security, and uses incidental to the residential living units may be allowed on the street level, but all principal living spaces in multi-story or multi-tenant buildings shall be above the first floor.
- d. **Single-Family Attached or Townhouse:** See Appendix B: Caillavet Street CRD Design Standards.
- e. **Single-Family Detached Home:** Such dwelling unit may be occupied by any number of persons related by blood or marriage or by not more than three persons not related by blood or marriage.
- f. **Zero-Lot Line Residential Development:**
Zero lot line residential developments shall be permitted in the RS-5, RD, RM-10, RM-20 and RM-25 and RO Districts, provided that:
 - 1. The site area designated for detached single-family zero-lot line development is not less than one acre;
 - 2. That minimum lot width and lot depth requirement contained in Sec. 23-12-1 shall not apply except that maximum density requirements contained in Sec. 23-12-1 shall not be exceeded;



- 3. That not less than a ten foot setback shall be provided between all dwelling units;
- 4. That not less than a five foot maintenance easement shall be provided on and along the lot adjacent to any dwelling unit constructed on a side property line;
- 5. A zero-lot line unit shall be located along the designated zero-lot line, unless the dwelling unit includes an overhang, which extends beyond the wall line. In this case, the dwelling unit must be setback an appropriate distance to accommodate the overhang;

6. In no case shall any part of a dwelling unit in a zero-lot line development extend beyond the property line; and
7. When located in the RS-5 District, such dwelling unit may be occupied by any number of persons related by blood or marriage or by not more than three persons not related by blood or marriage.

(2) Group Living

Six or Fewer Residents: When a single-family detached dwelling is located in the A District or in any RS District, such dwelling unit may be occupied by any number of persons related by blood or marriage or by not more than three persons not related by blood or marriage.

(b) Public and Civic Use Categories

(1) Day Care

A Day Care Center shall be permitted in accordance with the Use Tables whether or not in conjunction with a school, subject to the following conditions, in addition to the general conditions applicable in the zoning districts:

- a. There shall be a building or structure within which a minimum of 35 square feet per child of useable, available play or instruction space shall be provided.
- b. There shall be a minimum of 35 square feet per child of usable, available outdoor play or instruction area on the lot or property, as required by the State of Mississippi, provided that no portion of such play or instruction area shall be located within the required front yard area of the property.
- c. Outdoor play or instruction area in side and/or rear yards shall be enclosed by a fence no less than six feet in height.
- d. Additionally, a landscaped hedge or fence shall be provided along any rear or side property line adjoining any residentially zoned property not used for a similar purpose. Any such hedge or fence shall be designed and planted so as to be at least six feet in height, and, further, the fence or hedge shall provide a solid barrier between the day care center and adjoining residential property.
- e. Day Care Centers shall provide a minimum of one off-street parking space for each 250 square feet of gross floor area.
- f. Day Care Centers that serve clients other than children shall comply with state requirements for per client spacing.

(c) General Commercial, Office, Retail Use Categories

(1) Offices

- a. General office

In the RO and B-1 zoning districts, individual offices shall not exceed 2,000 square feet and office complexes shall be limited to not more than ten offices.

b. Contractor's Offices

In B-2 and B-3 zoning districts, Contractor's Offices are permitted only if all storage of materials occurs inside and the storage of materials is clearly incidental to the office use. Where the total area devoted to the storage of materials exceeds the area devoted to office use, it shall be considered materials' storage and allowed only in zoning districts where materials storage is allowed as a Principal Use. Where the Contractor's Office involves outside storage of materials, it shall be located only in a zoning district which allows such outdoor storage as an Accessory Use. Where a Contractor's Office does not involve any storage of materials, it shall be treated as a General Office.

Also in B-2 and B-3, no more than three trucks or other vehicles related to the contracting business housed in the office may be regularly parked at or near that office. A vehicle that remains at a location overnight or over the weekend, or that is parked at the same location for more than three hours on two or more days in the same calendar week shall be deemed to be "regularly parked" at that location. Violation of this condition shall be treated as a violation of this Chapter, regardless of whether it is also treated as a violation of the traffic or parking provisions of the Code of Ordinances.

c. Massage Therapy

Only licensed therapeutic massage therapy establishments are allowed in the City of Biloxi. Therapeutic massage may also be operated as a permitted Accessory Use in any physician's office, clinic, hospital or other licensed establishment providing other health care services.

d. Radio or Television Station

In any district in which radio or television stations are permitted, any telecommunications towers or dishes associated with those uses shall be subject to separate permit and approval process.

(2) Retail Sales and Service

a. Beach Vending

Beach vending uses not allowing permanent buildings or structures shall be permitted in accordance with the permitting procedures and standards established in the Harrison County Sand Beach Ordinance, as it may be amended from time to time. Permanent buildings or structures in the SB District shall be subject to the provisions of this Code.

b. Book or Media Shop

A book or media shop which devotes more than ten percent of its floor area or ten percent of the number of items in inventory to sexually-explicit material, but which devotes less than forty percent of its floor area and less than forty percent of the number of items in inventory to sexually-explicit material shall be treated for zoning purposes as a book or media shop and

not as a sex-oriented media shop, provided that it meets the following conditions:

1. All sexually-explicit material shall be maintained in a room that is separated from other material by an opaque wall that extends to the ceiling or eight feet above the floor, whichever is less;
2. Access to the room containing the sexually-explicit material shall be through an opaque, solid door;
3. The room containing sexually-explicit material shall be posted with a notice indicating that only persons 18 years of age or older are allowed in the room;
4. Access to the room will be physically limited to adults through control of access by an employee of the store, through use of an access release located at least 66 inches off the floor, or through constant monitoring of the room by an employee on duty through electronic means or through a window or mirror providing visibility into the room from the manager's or cashier's work station.

c. Convenience Store

1. No gasoline pumps or gas stations shall be permitted with convenience stores.
2. All lighting, including lighting for canopies, shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties. No source of illumination shall be allowed if such source of illumination would be visible from a residentially zoned district to the extent that it is a nuisance and interferes with the residential use of that area.
3. If gas is offered for sale at a convenience store, the establishment shall be classified either as a Self-Service or a Full-Service Gas Station, whichever is more appropriate.

(d) Vehicle Sales and Service

(1) Gas Station, Full Service

- a. In addition to selling or dispensing fuels, a Full-Service Gas Station may provide the following services, and only these services. A use providing additional automobile-related services shall be considered "Other Vehicle Sales and Service."
 1. Washing and polishing, and sale of automotive washing and polishing materials;
 2. Greasing and lubrication;
 3. Providing and repairing fuel pumps, oil pumps, and lines;
 4. Minor servicing and repair of carburetors;

5. Emergency wiring repairs;
 6. Adjusting and repairing brakes;
 7. Minor motor adjustments not involving removal of the head or crankcase, or racing the motor;
 8. Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, dispensed from vending machines, as accessory and incidental to principal operation;
 9. Provision of road maps and other informational material to customers, and provision of restroom facilities;
 10. Performing minor engine tune-ups;
 11. Cleaning, overhauling and adjusting carburetors;
 12. Adjusting and relining brakes;
 13. Rotating and balancing tires;
 14. Front-end alignment, to include toe in and toe out, caster and camber;
 15. Overhauling of wiring and the electrical system;
 16. Replacing and adjusting fan belts, generator belts, and air conditioning belts;
 17. Checking, adding, and replacing radiator coolants;
 18. Clutch adjustment;
 19. All other safety checks for the safe operation of the vehicle; and
 20. The repair of bicycles, such as but not limited to repairing and replacing wheels, spokes, chains, sprockets, seats, handlebars, and any safety devices.
- b. All lighting, including lighting for canopies, shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties. No source of illumination shall be allowed if such source of illumination would be visible from a residentially-zoned district to the extent that it interferes with the residential use of that area.
 - c. An eight-foot high visual barrier or screen, not less than ninety-five percent opaque, shall be provided between the gas station and any adjacent residential district.
 - d. All uses shall be so operated as to comply with all applicable local, state and federal standards of performance, or their equivalent, which have been adopted or amended from time to time.

(2) Gas Station, Self Service

- a. The primary use of a Self-Service Gas Station in any district in which it is permitted shall be the sale of fuel with incidental sale of convenience goods and/or self-serve car wash facilities. No vehicle repairs shall be permitted.
- b. All lighting, including lighting for canopies, shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties. No source of illumination shall be allowed if such source of illumination would be visible from a residentially zoned district to the extent that it is a nuisance and/or interferes with the residential use of that area.
- c. An eight-foot high visual barrier or screen, not less than ninety-five percent opaque, shall be provided between the gas station and any adjacent residential district.

(3) Truck Stop

- a. In addition to selling and dispensing fuels, a Truck Stop may provide the following Accessory Uses:
 1. Restaurant
 2. Gift shop and the sale of convenience goods
 3. Overnight parking
 4. Shower facilities
 5. Business services center
 6. Self-serve car wash facilities
 7. Minor vehicle repairs
- b. All lighting, including lighting for canopies, shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties. No source of illumination shall be allowed if such source of illumination would be visible from a residentially-zoned district to the extent that it interferes with the residential use of that area.
- c. An eight-foot high visual barrier or screen, not less than ninety-five percent opaque, shall be provided between the truck stop and any adjacent residential district.
- d. All uses shall be so operated as to comply with all applicable local, state and federal standards of performance, or their equivalent, which have been adopted or amended from time to time.

(e) Entertainment and Hospitality Uses (except Eating and Drinking Establishments)**(1) Entertainment Establishments**

- a. Cinema
For accessory restaurants and bars, see Sec. 23-11-15(d).

- b. Lodge
For accessory restaurants and bars, see Sec. 23-11-15(d).
- c. Golf Course
Private and commercially operated golf courses are permitted in the A District, provided that no building or Accessory Use is located closer than 100 feet to adjoining property lines. (For accessory restaurants and bars, see Sec. 23-11-15(d)).
- d. Riding Academy
 - 1. A riding academy shall be located on a lot of at least three acres.
 - 2. Full-time, on-site supervision of clients and stock is required.
 - 3. On a lot on which a riding academy is allowed, a maximum of two horses are permitted on the first acre, with one horse allowed for each additional one-half acre.
 - 4. All riding lessons shall be conducted on the premises of the riding academy only.
- e. Other Entertainment Establishments
 - 1. In the A District, private and commercial recreational uses such as tennis courts, swimming pools, and other similar activities are permitted provided that no such use, structure or Accessory Use is located closer than 50 feet to any adjoining property lines unless such property line fronts a public street or drainage canal with right-of-way not less than 25 feet, in which instance the required setback need not exceed 25 feet, and provided further that all such facilities must be located on a site having a minimum of three acres.
 - 2. A restaurant or bar is permitted as an Accessory Use to private and commercial recreational uses in the A District.

(2) Visitor Accommodations

- a. Bed and Breakfasts
A bed and breakfast is permitted subject to the standards listed in Sec. 23-11-16(b)(4)a except that no such use shall be required to undergo the Conditional Use review process.
- b. Hotel or Motel
 - 1. The maximum number of units per acre for a hotel or motel shall be 30, and shall comply with District Dimensional Standards identified in Table 23-12-1-A. The permitted Floor Area Ratio for Accessory Uses is one. No part of the lot may be considered in computing both the allowable area devoted to units and Accessory Uses.
 - 2. A hotel with 100 or more rooms may have a restaurant as an Accessory Use; a restaurant may be permitted as a second Principal Use on the same property as a smaller hotel, subject to all of the other

conditions applicable to the use and the district in which it is located, including separate parking requirements.

3. A hotel with 200 or more rooms may have a bar as an Accessory Use, subject to all of the other conditions applicable to the use and the district in which it is located, including separate parking requirements.
4. A hotel with 300 or more rooms may have a nightclub or other live entertainment as an Accessory Use.

(f) Eating and Drinking Establishments

(1) Eating Establishments

- a. Fast-food restaurant
Fast-food restaurants shall be permitted in the B-1 and CBD Districts without drive-through service.
- b. High-turnover and/or Quality Restaurant
 1. In the B-1 District, a quality restaurant may have an accessory bar as an Accessory Use.
 2. In the B-2, B-3, B-4, B-5, CBD or WF District, a high-turnover or quality restaurant may have an accessory bar as an Accessory Use.
 3. In the B-3, B-4, B-5, CBD and WF Districts, live entertainment may be allowed as an Accessory Use to a quality restaurant.

(2) Drinking Establishments

- a. Bar or Lounge
 1. No bar as a Principal Use shall be located within 500 feet of another bar as a Principal Use, a brewpub, a nightclub, or any Regulated Business, as measured from property line to property line.
 2. No bar as a Principal Use shall be located on a block on which 25 percent or more of the property is zoned and/or used for single-family residential use.
 3. In the B-1 District, sale of alcoholic beverages shall be limited to beer and wine.
 4. These conditions shall not apply to a bar permitted as an accessory bar.
- b. Brewpub
 1. No brewpub as a Principal Use shall be located within 500 feet of another brewpub as a Principal Use, bar, nightclub or Regulated Business, as measured from property line to property line.
 2. No brewpub shall be located on a block on which 25 percent or more of the property is zoned and/or used for single-family residential use.

3. These conditions shall not apply to a brewpub permitted as an accessory brewpub.

c. Nightclub

1. No nightclub as a Principal Use shall be located within 500 feet of another nightclub as a Principal Use or bar, brewpub or Regulated Business, as measured from property line to property line.
2. No nightclub as a Principal Use shall be located on a block on which 25 percent or more of the property is zoned and/or used for single-family residential use.
3. These conditions shall not apply to a nightclub permitted as an accessory nightclub.

(g) Industrial and Manufacturing

Hazardous Materials Processing: Hazardous materials processing shall be conducted in accordance with all state and federal laws. Any hazardous materials processor shall maintain records of its federal and state regulatory compliance on the premises, and such records shall be available for inspection by the Building Official on request.

(h) Other

(1) Agriculture

a. Farming

1. Farming shall include animal agriculture.
2. Farming operations shall be subject to further, future restrictions to make them compatible with a suburban setting. Such limitations may include, but are not limited to, restrictions on the hours of operation of heavy equipment and restrictions on the use and application of chemicals within a specified distance from established residential uses.

(2) Water-Oriented Facilities

a. Fish Camp

1. A fish camp shall be allowed only in a location with direct access to the Gulf of Mexico, a bay or river designated on official maps;
2. There shall be no sale of alcoholic beverages for consumption on the premises; and
3. If the fish camp is located in an A or R district, the camp shall be buffered from adjacent uses in any A or R district with a 20-foot buffer meeting the standards of Sec. 23-16-9.

b. Pier or Boathouse

A pier or boathouse shall be allowed as a Principal Use provided that it shall be used only by the primary occupants of the property and shall not be used for commercial uses except those allowed in the district. A pier or boathouse

permitted as a Principal Use shall be subject to side yard setbacks applicable to the district.

Sec. 23-11-15 Accessory Uses With Standards (A#)

Where Table 23-11-13-A and Table 23-11-13-B show an A# for an Accessory Use in a particular zoning district, such use in such zoning district may be conducted only in accordance with the following standards.

(a) Residential Use Categories

(1) Household Living

a. Guest Cottage: A guest cottage shall only be permitted as follows:

1. Situated upon a lot of record having an area greater than 20,000 square feet in overall size;
2. Shall be limited to a single guest cottage upon any lot of record;
3. Utilities for the principal dwelling and the guest cottage cannot be separately metered; and
4. A guest cottage may not exceed 750 square feet of heated or cooled habitable area;

In addition, the principal dwelling and the guest cottage together may not exceed 50 percent coverage of a lot of record.

b. Home Occupation: A Home Occupation is an Accessory Use allowed as long as it meets the following standards:

1. Receives and annually renews a tax privilege license;
2. Is conducted entirely within a principal dwelling and involves no outside storage of any kind including in an Accessory Building;
3. Is clearly incidental and secondary to the Principal Use of the dwelling and does not use more than 20 percent of the gross floor area of the dwelling;
4. Does not affect the residential character of the dwelling nor cause the dwelling to be extended;
5. Uses no mechanical equipment, except that normally used for family, domestic or household purposes;
6. Does not create any disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, unhealthy or unsightly condition, or traffic or parking problem;
7. Does not involve on-site retail sales or services or delivery that involve visits by customers on any sort of regular basis;
8. Does not employ outside employees or employees other than the occupants of the home and is conducted only by persons residing on the premises; and

9. Has no identification sign for the home occupation.

(b) Public and Civic Uses

(1) Day Care Uses

a. Home Care Center

A Home Care Center shall be permitted as an Accessory Use to a private residence as a home occupation, in accordance with the Use Tables and subject to the following standards, in addition to the general conditions applicable in the zoning districts:

1. There shall be a building or structure within which a minimum of 35 square feet per child of useable, available play or instruction space shall be provided.
2. There shall be a minimum of 35 square feet per child of usable, available outdoor play or instruction area on the lot or property, as required by the State of Mississippi, provided that no portion of such play or instruction area shall be located within the required front yard area of the property.
3. Outdoor play or instruction area shall be enclosed by a fence no less than six feet in height.
4. Additionally, a landscaped hedge or fence shall be provided along any rear or side property line adjoining any residentially zoned property not used for a similar purpose. Any such hedge or fence shall be designed and planted so as to be at least six feet in height, and, further, the fence or hedge shall provide a solid barrier between the Home Care Center and adjoining residential property.
5. Home Care Centers shall provide one off-street parking space to accommodate pickup and drop-off.
6. Home Care Centers that serve clients other than children shall comply with state regulations for per client spacing.

b. Day Care Center

A Day Care Center shall be permitted as an Accessory Use in accordance with the Use Tables, subject to the following standards, in addition to the general conditions applicable in the zoning districts:

1. A Day Care Center operated as an Accessory Use shall comply with all applicable state regulations regarding the provision of day care services.
2. Accessory Day Care Centers may be required to provide additional and/or specifically-designated off-street parking to accommodate pickup and drop-off of clients.

(2) Transportation and Utilities, Satellite Dish

a. Less than One Meter

A satellite dish of less than one meter shall be permitted as an Accessory Use in all districts, subject to the following:

1. No such dish shall block a required exit or other means of emergency egress;
2. No such dish shall block a required clear visibility triangle;
3. Installation of such a dish in a designated AHO District or on a designated landmark property shall require review by the Architectural and Historical Review Commission and issuance of a Certificate of Appropriateness, subject to such conditions as the Planning Commission may reasonably impose.

b. Less than Two Meters

A satellite dish of less than two meters, but larger than one meter, shall be permitted as an Accessory Use in any district except residential districts RS-10, RS-7.5, RS-5 subject to the following:

1. Such dish shall be subject to the height and setback requirements applicable to buildings in that district;
2. Such dish may be allowed in a side yard or rear yard by approval of the BZA but such dish shall in no case be allowed in a required front yard or front setback area;
3. If located in any district other than I-2, such dish shall be screened from view from the street with an opaque fence, extensions of building walls or dense landscaping.

c. More than Two Meters

A satellite dish of more than two meters shall not be allowed in any primarily residential district and shall be allowed in other districts only after review by the BZA, subject to such conditions as it may approve, and subject to Sec. 23-4-11 and Sec. 23-11-18(d).

(c) Commercial, Office, Retail

(1) Entertainment Establishments, Clubhouse

A clubhouse shall be an Accessory Use to a golf course or a multi-family apartment development in any district in which those uses are permitted. Food and alcoholic beverages in golf course clubhouses may only be sold to members and their guests, and patrons actually using the golf course. Food and beverages may not be sold at clubhouses within multi-family apartment developments, except as through vending machines; alcoholic beverages may not be sold in clubhouses within multi-family apartment dwellings.

(2) Offices, Massage Therapy

Only licensed therapeutic massage therapy establishments are allowed in the City of Biloxi. Therapeutic massage may also be operated as a permitted Accessory Use in any physician's office, clinic, hospital, or other licensed establishment providing other health-care services.

(3) Retail Sales and Service**a. Accessory Retail and/or Service**

Accessory retail and/or service facilities located on the first or second floor within a building containing at least 2,500 square feet of floor area devoted to office uses, or in a multiple dwelling in the Central Business District with more than four rental units or dwelling units, shall have no exterior entrances or exits other than through the inner lobby of the main use. Retail and service facilities may include barbershops, beauty shops, newsstands, valet service and retail stores for sale of books, stationery supplies, gifts, flowers, tobacco, drugs and sundries. Regulated Businesses shall not be included.

b. Animal care, training, or kennel

An animal care or training facility or kennel shall be permitted as an Accessory Use to a hotel in the WF District, provided that:

1. The kennel shall serve only guests of the hotel and shall not advertise separately or take in animals for boarding from persons who are not guests of the hotel; and
2. If located outside, the kennel shall be located at least 150 feet from the nearest property in any R District.

c. Art, music or dance studio

An art, music or dance studio shall be permitted in the RO District only as an Accessory Use in a private residence. The studio shall not exceed 500 square feet and no more than five students may be instructed at the studio at any given time.

d. Retail Sale of Propane and Similar Products

1. Retail sale of propane, butane, and similar products as an Accessory Use to Gas Stations, RV Parks, Manufactured and Mobile Home Parks, may be allowed, but shall be subject to the following standards:
 - i. Location of tanks for on-site storage and/or disbursement shall be approved by the Fire Marshal;
 - ii. The Director of Community Development may require additional safety signage, fencing, and screening of on-site fuel tanks, in addition to those required for the Principal Use.
 - iii. Storage and handling of all such products shall comply with all applicable federal, state, & local codes.
2. Retail sale of tanks prefilled with propane and similar types of fuel is considered a Permitted Use allowed in general retail and convenience stores.

(4) Vehicle Sales and Service, Gas Station, Self Service

- a. The primary function of an Accessory Use Self-Service Gas Station in any district in which it is permitted shall be the sale of fuel with incidental sale of convenience items. No vehicle repairs shall be permitted.
- b. All lighting, including lighting for canopies, shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties. No source of illumination shall be allowed if such source of illumination would be visible from a residentially zoned district to the extent that it is a nuisance and interferes with the residential use of that area.
- c. An eight-foot high visual barrier or screen, not less than ninety-five percent opaque, shall be provided between the gas station and any adjacent residential district.

(d) Eating and Drinking Establishments**(1) Eating Establishments**

- a. Accessory Restaurant
 1. An accessory restaurant is permitted as an Accessory Use to an Entertainment Establishment, except a shooting range, in accordance with Table 23-11-13-A and Table 23-11-13-B, provided that the restaurant shall not have a separate exterior entrance and shall not be advertised on any sign on the exterior of the building.
 2. A hotel with 100 or more rooms may have an accessory restaurant as an Accessory Use, subject to all of the other conditions applicable to the use and the district in which it is located, including separate parking requirements.
- b. Quality Restaurant

In the B-3, B-4, B-5, CBD and WF Districts, live entertainment may be allowed as an Accessory Use to a quality restaurant.

(2) Drinking Establishments

- a. Accessory Bar or Lounge
 1. In the B-1 District, a quality restaurant may have an accessory bar as an Accessory Use, but it will be limited to the sale of beer and wine.
 2. In the B-2, B-3, B-4, B-5, CBD, CRD or WF District, a high-turnover or quality restaurant may have an accessory bar as an Accessory Use.
 3. An accessory bar is permitted as an Accessory Use to a golf course, club or lodge, and to Dockside Gaming Establishments in accordance with Table 23-11-13-A and Table 23-11-13-B, provided that the bar shall not have a separate exterior entrance and shall not be advertised on any sign on the exterior of the building. Accessory bars are permitted in conjunction with restaurants, provided there is no exterior entrance into the bar portion of the building, no more than 35 percent of the total floor area of the restaurant is devoted to the bar operation, the

bar operation is accessory to the restaurant (less than 50 percent of the business is generated by the lounge).

- b. Bar or Lounge: A hotel with 200 or more rooms may have a bar as an Accessory Use.
- c. Nightclub: A hotel with 300 or more rooms may have a nightclub or other live entertainment as an Accessory Use.

(e) Industrial and Manufacturing

(1) Warehouse and Storage

- a. Facility Maintenance
All work and storage of materials must be in a building or completely enclosed behind a wall or fence and landscaping. The Accessory Use includes only work performed on the facility or equipment for the Principal Use and shall not include contract work for others.
- b. Self-Storage Facility
A self-storage facility may be an Accessory Use to an apartment complex for use by on-site tenants only.

(f) Other Water-Oriented Facilities, Pier or Boathouse

A pier or boathouse shall be allowed as an Accessory Use provided that it shall be used only by the primary occupants of the property, and their guests, and shall not be used for commercial uses except those allowed in the district. A pier or boathouse permitted as an Accessory Use shall be subject to side yard setbacks applicable to the district in which the Principal Use is located; front yard and rear yard setbacks shall not apply to a pier or boathouse permitted as an Accessory Use.

Sec. 23-11-16 Conditional Uses with Standards (C#)

Where Table 23-11-13-A and Table 23-11-13-B show a C# for a Conditional Use in a particular zoning district, such use in such zoning district may be conducted only in accordance with the following standards.

(a) Residential Use Category

(1) Household Living

- a. Guest Cottage
A guest cottage shall be permitted as a Conditional Use only as follows:
 - 1. Situated upon a lot of record having an area greater than 20,000 square feet in overall size and shall be limited to a single guest cottage upon any lot of record;
 - 2. Utilities for the principal dwelling and the guest cottage cannot be separately metered;
 - 3. A guest cottage may not exceed 750 square feet of heated and cooled habitable area; and

4. In addition, the principal dwelling and the guest cottage together may not exceed 50 percent coverage of a lot of record.

- b. Single-family attached home

When located in any RS District, such dwelling unit may be occupied by any number of persons related by blood or marriage or by not more than three persons not related by blood or marriage.

(b) Commercial, Office, Retail

(1) Entertainment Establishments

- a. Lodge

The Planning Commission may impose additional conditions and/or standards for accessory restaurants and bars, based on specific locations.

- b. Dockside Gaming Establishment

For specific requirements, see Sec. 23-11-18(e).

- c. Shooting range

1. The applicant for a permit for a shooting range shall furnish a certificate or letter from an architect or engineer licensed to practice in Mississippi, certifying to the City that the design of the proposed shooting range is adequate to keep all projectiles and all firing noises within the confines of the range which shall not be less than 20 acres for an outdoor shooting range, and a minimum 10,000 square foot space for indoor shooting ranges;
2. The applicant for an outdoor shooting range shall submit a site capacity calculation and a detailed site plan showing the layout and design of the proposed outdoor shooting range, including all required setbacks and landscape buffers and the existing and proposed structures, their floor areas and impervious surfaces. The scale of the site plan shall be no greater than 1"=100';
3. The applicant for any shooting range shall submit a detailed written narrative describing the proposed use. This narrative shall, at a minimum, describe the type of range (e.g. public, private, or government), the type of firearms and targets expected to be used, and the days and hours of operation;
4. In I-Districts, shooting ranges shall be located only inside buildings;
5. No outdoor shooting range shall operate after sundown or before sunrise;
6. The A-weighted sound level of small arms fire on the shooting range shall not exceed 90 dba for one hour out of a day, or shall not exceed 85 dba for eight hours out of a day measured at, or adjusted to, a distance of one hundred feet outside the real property boundary of the shooting range; and

7. The City Council is authorized to impose any additional restrictions and conditions in the Conditional Use Permit on the layout and design of any outdoor or indoor shooting range.

(2) General Office

In the RO and B-1 zoning districts, the total square footage for an individual office or combined square footage for an office complex shall not exceed 10,000 square feet.

(3) Parking, Off-Street, Parking Garage

Where a parking garage is provided, the design shall, to the maximum extent practicable, preserve leasable space for office, service and retail use on the street level of the structure. The Board of Zoning Adjustments may waive or modify this requirement through a Variance where it finds that the structure, or one or more street frontages of the structure, front on a street that is not suitable for pedestrian use.

(4) Visitor Accommodations

a. Bed and Breakfast

All Bed and Breakfasts in districts A, RM-10, RM-20, RM-25, RMH, RO, CBD, and CRD shall comply with the following standards and shall apply for and obtain Conditional Use Permits. The Conditional Use procedure is set forth in Sec. 23-6-1.

1. Declaration of Policy

Although residential zones are traditionally created to systematically and unilaterally exclude commercial uses normally allowed exclusively within a commercial or higher-end district classification, a possible exception to such prohibition is presented by a Bed and Breakfast. It is the purpose of this Section to provide standards for the establishment of Bed and Breakfasts, to allow for a more efficient use of historically-significant dwellings and other related residential buildings within the City, and to assist in the preservation, upkeep and enhancement of these structures and the neighborhoods wherein they lie, while at the same time discouraging commercial exploitation of said properties. These regulations enable owners of historic homes to maintain residential buildings in a manner that keeps them primarily residential in nature and architecturally intact, thereby allowing the property owner to more fully utilize the older, larger, and generally costlier-to-maintain residential building(s) in question. It is the intention of this Section to promote Bed and Breakfasts compatible with the surrounding area by averting adverse impacts, such as commercialization of residential areas and excessive demand upon on-street parking.

2. Monitoring

- i. All Bed and Breakfasts must maintain a guest register. The register shall be made available for inspection by City Officials upon request. Said guest register must include the names and home addresses of transient guests, transient guests' license plate

numbers, dates of stay, and the unit number/name for each transient guest.

- ii. The Building Official and the Fire Marshal of the City are hereby authorized to enter, examine and survey any premises in the City that is operated as a Bed and Breakfast for the purpose of enforcing the provisions of this Section. This Section shall not restrict or limit the right of entry vested in any other person under any other provisions of law.

3. Standards

- i. Bed and Breakfasts shall be required to obtain a Certificate of Occupancy, Certificate of Zoning Compliance and Tax Privilege License, as well as comply with this Section and all other appropriate codes and ordinances. The Certificate of Occupancy, Certificate of Zoning Compliance, and Tax Privilege License shall not be transferred to a subsequent owner, and any change in ownership shall require new applications for all such certificates, permits, and licenses.
- ii. A certificate from the State or County Health Department shall be required as a condition precedent to issuance of the permits, certificates and licenses set forth in Subsection a above.
- iii. Each Bed and Breakfast shall be staffed by either a resident owner or resident manager while transient guests are registered.
- iv. Individual kitchens or kitchenettes shall not be permitted.
- v. Only transient guests shall be served a meal, which shall consist of breakfast only.
- vi. Exterior sign(s) advertising the Bed and Breakfast shall be permitted and the total area of all signs shall not exceed 12 square feet. Each sign shall be no more than eight feet in height and shall have a minimum setback from all property lines of five feet. Signs shall have exterior illumination only. Exterior signs and their illumination must comply with the sign regulations in Article 17. Displaying the name or address of the owners may be permitted. Signs shall not include the words "hotel" or "motel". All banners or flags used for advertisement or for Bed and Breakfast identification purposes are prohibited.
- vii. Parking for Bed and Breakfast transient guests shall be provided on site at a ratio of one parking space per unit plus two parking spaces per facility for the resident owner/manager; provided, however, that the parking shall be located in side or rear yard areas of the principal structure located on the lot. Parking and all structures shall occupy no more than 60 percent of the lot upon which the Bed and Breakfast is located. Transient guests shall not utilize on-street parking. Parking space dimensions must meet applicable City standards. Pavers instead of asphalt or concrete

shall be employed wherever parking spaces are to be constructed; however, existing parking surfaces will be allowed to remain.

- viii. Exterior alterations (except for general maintenance activities) and additions shall be prohibited.
- ix. Except as provided herein, nothing in this Subsection shall be construed to permit any commercial or residential use not otherwise allowed by the specific district classification in which the Bed and Breakfast is located. Uses permitted as Accessory Uses at other visitor accommodations are expressly not permitted as Accessory Uses at a Bed and Breakfast. If the Bed and Breakfast is located in a residential zoning district, no commercial uses shall be allowed. Commercial uses include, but are not limited to receptions, parties and special events. If the Bed and Breakfast is located in a commercial zoning district, consideration must be given by the owner to satisfactorily address noise, parking, deliveries, times of operation and other related issues that may adversely impact neighboring residences or residences in the immediate area.
- x. All lighting must be compatible with the residential quality of the neighborhood.
- xi. The Certificate of Occupancy shall specify the exact number of units for rent to transient guests, provided that a Bed and Breakfast shall have eight or fewer units for rent to transient guests, which units must be located only within existing building(s) and must comply with density regulations for the zoning district in which the Bed and Breakfast is located. Further, there shall be a bathroom, consisting of a sink, toilet and shower or bathtub, available per two guest units.
- xii. A Bed and Breakfast shall not be located within 500 linear feet from the property line of another Bed and Breakfast within residential zoning districts. The restriction of this Subsection may be waived by the City Council after an application for a waiver and a hearing before the Planning Commission and upon receipt of a report from the Planning Commission, if the City Council shall find that:
 - a) The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Chapter will be observed;
 - b) The proposed use will not enlarge or encourage the development of a blighted, downgraded, or commercial area;
 - c) The establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or non-residential;
 - d) All other provisions of this Chapter will be observed; and

xiii. No gift shops shall be permitted in Bed and Breakfast residentially zoned areas.

b. Timeshares and Condominiums

1. Conversion of an existing building, or portion thereof, to timeshare use shall require a Conditional Use permit and full compliance with the parking standards applicable to timeshares;
2. The maximum number of units per acre for a timeshare or condominium shall be 30, and shall comply with District Dimensional Standards identified in Table 23-12-1-A. The permitted Floor Area Ratio for Accessory Uses is one. No part of the lot may be considered in computing both the allowable area devoted to units and Accessory Uses.
3. As part of a timeshare project's Conditional Use application, a timeshare plan must be submitted that includes operational and maintenance procedures, including but not limited to, open space and facility maintenance, solid waste collection, storage and disposal, and property owner covenants.
4. A timeshare building or condominium with 100 or more rooms may have a restaurant as an Accessory Use; a restaurant may be permitted as a second Principal Use on the same property as a smaller timeshare or condominium, subject to all of the other conditions applicable to the use and the district in which it is located, including separate parking requirements.
5. A timeshare or condominium with 200 or more units may have a bar as an Accessory Use, subject to all of the other conditions applicable to the use and the district in which it is located, including separate parking requirements.
6. A timeshare or condominium with 300 or more units may have a nightclub or other live entertainment as an Accessory Use.
7. For timeshare structures with more than four units, management shall provide solid waste dumpster-style containers, the size and number of which shall be based on the number of units, as more fully detailed in the City's Standards and Specifications Manual. Said containers shall be centrally-located and screened from view of residents and adjoining property. Solid waste shall be collected and disposed of in full compliance with local, state and federal regulations and policies governing solid waste collection so as to protect and preserve the public health and safety. Solid waste stored between regularly-scheduled collection times shall be completely contained within approved containers, with lids, so as to minimize odors and debris around the collection site. Management shall be responsible for keeping the solid waste collection site(s) well maintained and litter free.
8. All signage associated with a timeshare structure shall comply with the provisions of Article 17.

(5) Vehicle Sales and Service, Gas Station, Self Service

- a. The Principal Use of a self-service gasoline station in any district in which it is permitted shall be the sale of fuel with incidental sale of convenience items. No vehicle repairs shall be permitted.
- b. All lighting, including lighting for canopies, shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties. No source of illumination shall be allowed if such source of illumination would be visible from a residentially zoned district to the extent that it interferes with the residential use of that area.
- c. An eight-foot high visual barrier or screen, not less than ninety-five percent opaque, shall be provided between the gas station and any adjacent residential district.

(c) Industrial and Manufacturing**(1) Industrial Production and Manufacturing, Extraction Industry**

- a. Prior to approval of a Conditional Use Permit for any resource extraction use, the applicant shall show proof of a valid permit from the State of Mississippi issued within six months of the Conditional Use Permit application date;
- b. Such use shall be located on a parcel with a minimum of five acres;
- c. The use shall be setback at least 100 feet from road rights-of-way and property lines bordering undeveloped parcels. A minimum 200-foot setback shall be required from property lines abutting developed parcels; and
- d. A minimum buffer of 50 feet shall be planted and maintained within the specified setback area along all interior property lines.

(2) Warehouse and Storage

- a. Junkyard
 1. Junkyards shall be screened from view of abutting residential districts, designated landmarks, and AHO districts, and street rights-of-way by an opaque fence, to provide a buffer, in any district in which a junkyard is permitted. The enclosure shall have a minimum height of eight feet, except as otherwise specified in this Chapter.
 2. Above ground storage of 250 gallons or less of hazardous substances shall be allowed subject to approval of the Fire Department.
 3. No junkyard may discharge into the storm water, sewer or sewage treatment facilities any waste that cannot be adequately treated by biological means or that otherwise violates this Code.
 4. All runoff and liquid waste generated on-site shall pass either through an onsite retention facility or cleaning and filtration system prior to being discharged into the storm water sewer or sewage treatment facilities.

5. All drainage improvements shall be clearly marked on the project drainage plan.
6. All outdoor speakers and paging systems shall be located a minimum of 100 feet from the nearest residential property line and shall not be directed toward neighboring property.
7. Outdoor lighting shall be shielded in a manner that prevents a direct line between its luminary and any designated landmark, AHO district or any residentially zoned, planned or developed parcel. Within 50 feet of a residential district or within 50 feet of the lot line of a lot containing a residential use, lighting shall be installed no higher than 20 feet above the ground directly below the light fixture.
8. All onsite equipment, machinery, storage, facilities, and other appurtenances shall be located a minimum of ten feet from residential and AHO districts and designated landmarks, and from the property lines of sites containing existing or proposed residential, school, licensed daycare, public, and semi-public uses.
9. In addition to the eight-foot high opaque fence, a landscaped buffer of a minimum width of six feet shall be located along all property lines abutting a residential district. The buffer shall be clearly indicated on the landscape plans and plantings shall comply with all applicable provisions of Article 16, Landscaping, Screening and Buffers.

b. Self-Storage Facility

1. A self-storage facility shall be situated upon a lot of record with a minimum size of 22,000 square feet;
2. The site shall have primary access to a collector street.
3. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district.

(d) Water-Oriented Facilities

All Other Water-Oriented Uses:

- (1) The Planning Commission may impose additional conditions and/or standards such as lighting or buffering for all other water oriented uses, based on specific locational requirements.

Sec. 23-11-17 Temporary Uses

(a) General

Temporary Uses are subject to the General Conditions set out in Subsection (b), below, and subject to any specific conditions applicable to such use and are allowed only in such districts where such use is permitted, subject to all parking, site development and other standards in this Chapter. Temporary signs are addressed in Sec. 23-17-20. A permit is required for all Temporary Uses identified in this Article.

(b) General Conditions

An application for a Temporary Use Permit shall be approved for a Temporary Use only where the Director of Community Development finds:

- (1) The applicant provides written assurances that the Temporary Use will be removed on or before the date of expiration of the Temporary Use.
- (2) Where not otherwise specifically defined, temporary shall mean not more than 30 calendar days.

(c) Uses

Notwithstanding any other yard area or setback requirements under this Chapter, it shall be permissible to erect a temporary structure for a period not to exceed ten days under the following specific conditions:

- (1) The structure shall not be used for any purpose otherwise permitted in the zoning district in which it is located.
- (2) No portion of the temporary structure, including guy wires or supports, shall be erected closer than ten feet to the front lot line, and the structure or portion thereof shall not obstruct any public sidewalk.

(d) Temporary Construction Dumpster

If the Building Official requires a temporary construction dumpster, then it shall be maintained at the site from a time beginning no more than three days after the issuance of the Building Permit and ending no sooner than the date of issuance of a Certificate of Occupancy.

(e) Construction Site Temporary Trailer

- (1) Construction site temporary trailers shall comply with all building-related codes.
 - (2) Construction site temporary trailers may remain on site only for the duration of project development.
- (f) Temporary announcement signs, including contractor's signs on a construction site, shall not exceed 32 square feet in area, indicating the names of persons associated with or events conducted upon the premises.

(g) Temporary Office

- (1) Temporary offices shall comply with all building-related codes and shall be restricted to activities for which a Pre-Application Conference has been completed for a permanent structure. A Building Permit must be secured prior to issuance of a Temporary Use Permit.
- (2) The placement of temporary offices on any lot shall not exceed six months.

(h) Seasonal Vendor

Seasonal and/or festival-related sales of items such as Christmas trees, pumpkins, festival food sales, seasonal seafood or produce sales are permitted provided that the sales activity does not last longer than 30 days and all other applicable codes, including sanitation and electrical codes, are met.

Sec. 23-11-18 Additional Performance Standards

The following uses are subject to additional performance standards as set forth in this Section, in addition to any specific conditions applicable to such use (whether such conditions are generally applicable to the use or only in the zoning district where it is proposed), and are subject to all parking, landscaping, site development, and other standard requirements of this Chapter.

(a) Industry Performance Standards

In the I-1, I-2 and WF Districts, any industrial use that may be objectionable because of emission of dust, smoke, odor, gas, excessive glare, light, noise or vibration, shall comply with the following performance standards:

- (1) A description in writing of the plans and specifications shall be submitted to the Director of Community Development, in sufficient detail to determine the location and nature of such uses, and to demonstrate that such use is not a nuisance.
- (2) No use shall be operated so as to produce ground vibration noticeable without instruments at the lot line of the premises on which the use is located.
- (3) No use, activity or process shall be conducted which produces electromagnetic interference with normal radio or television reception in any residential or commercial district.
- (4) All uses producing humidity in the form of steam or moist air, or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat or glare is not perceptible at or beyond the boundary of the district in which the use is located.

(b) Recreational Vehicle Parks

The following requirements shall apply to all Recreational Vehicle Parks.

(1) Park size and density

- a. Minimum park site area shall be two acres.
- b. Minimum of ten recreational vehicle sites shall be provided.
- c. Maximum density shall be 24 vehicle sites per acre.

(2) Recreational vehicle sites

- a. Minimum vehicle site area is 1,000 square feet.
- b. Minimum vehicle site width is 24 feet.
- c. Minimum separation of vehicles from each other and from other structures is eight feet.
- d. Each site shall contain a stabilized parking pad of shell, marl, gravel or other suitable material.

(3) Traffic circulation

- a. All Recreational Vehicle Parks shall abut a main public street and have direct access from such street.

- b. Entrance driveways shall be located not less than 120 feet to the intersection of public streets and sidewalks, complying with specifications set out in Article 14, must be constructed along at least one side of said entrance driveway.
- c. Streets in Recreational Vehicle Parks shall be private, but shall be hard surfaced. The streets shall meet the following minimum stabilized travelway width requirements:
 - 1. One-way, with no parking, 11 feet.
 - 2. One-way with parking on one side, or two-way with no parking, 22 feet.
 - 3. Two-way with parking on one side, 30 feet.
 - 4. Two-way with parking on both sides, 38 feet.
- d. Turnarounds shall be provided for all dead-end roads over 100 feet in length. The minimum radius of a required turnaround shall be 80 feet.
- e. At least one parking space shall be provided at each recreational vehicle site. Each parking space shall be composed of stabilized compacted material such as shell, marl, gravel, paving or other suitable material. Each parking space shall be at least nine feet wide and 20 feet long, exclusive of maneuvering area.

(4) Accessory Uses

Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a travel trailer park and campground are permitted as Accessory Uses to the park. In addition, stores, restaurants, beauty parlors, barbershops and other convenience establishments shall be permitted as Accessory Uses in recreational vehicle parks subject to the following restrictions:

- a. Such establishments and the parking areas primarily related to their operation shall not occupy more than five percent of the gross area of the park.
- b. Such establishments shall be restricted in their use to occupants of the park.
- c. Such establishments shall present no visible evidence from any street outside the park of their commercial character that would attract customers other than occupants of the park.
- d. The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within a park.

(5) Open space and recreational area

A minimum of five percent of the gross Recreational Vehicle Park area shall be set aside and developed as common use areas for open or enclosed recreation facilities. No required buffer area, street, storage area, recreational vehicle site or utility site shall be included in meeting recreational purposes.

(6) Screening

Each Recreational Vehicle Park shall be landscaped along the perimeter of the property line, which area shall be used for no other purposes. The Recreational Vehicle Park shall be enclosed by a fence, wall, landscape screening or earth mounds, or by other design approved by the DRC, to complement the landscape and ensure compatibility with the adjacent environment.

(7) Permanent occupancy in a recreational vehicle prohibited

- a. No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy in a recreational vehicle extending beyond five months in any 12-month period shall be presumed to be permanent occupancy.
- b. Any action toward removal of wheels of a recreational vehicle except for temporary purposes or to attach the vehicle to the ground for stabilizing purposes is hereby prohibited.
- c. A recreational vehicle left in one location over a long period of time shall be removed from its site from the 1st day of February through the 29th day of February each year or for some other period of at least four weeks. If the owner of a recreational vehicle chooses to move it during some period other than that specified, it shall be the responsibility of the owner of the recreational vehicle to provide to the manager of the recreational vehicle park and to the Community Development Director a sworn affidavit from another person, specifying the actual period during which it was removed from the site. This provision shall not apply to any recreational vehicle renting or leasing a site for a period of less than six months, as shown by the records of the park manager.

(8) Utilities

- a. Privies, septic tanks, underground absorption fields, sewage lagoons, the use of "honey wagons," package-type treatment facilities and other types of private wastewater treatment systems are strictly prohibited.
- b. Recreational vehicle park utilities and facilities shall be provided in accordance with the appropriate City and County codes and ordinances and State regulations. Drainage must be accomplished in compliance with Article 14, as it pertains to drainage.

(9) Lighting

Adequate lighting shall be provided for all streets, walkways, driveways, buildings and other facilities. Exterior illumination shall be provided as follows:

- a. Streets.
An average illumination level of at least 0.6 foot-candle and a minimum level of 0.1 foot-candle shall be maintained.
- b. Service buildings
Illumination levels of at least five foot-candles shall be maintained at the entrance.

(10) Refuse disposal

- a. Storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents or other nuisances.
- b. Durable watertight refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than 300 feet from any camp or picnic site unless provided at the campsite. For parks exceeding 20 spaces, dumpsters shall be required at a rate of four cubic yards per 20 spaces; otherwise, refuse containers shall be provided at the rate of eight cubic feet (60 gallons) for each five campsites or equivalent thereof if containers are provided at individual campsites. Refuse shall be picked up at least twice weekly. Said dumpsters shall be set back at least 50 feet from any external street line or right-of-way and shall be screened by a fence, landscaping, or a combination thereof, from any public rights-of-way adjoining residential areas, and shall be provided and maintained in compliance with the Mississippi State Department of Health regulations.
- c. All solid waste generated by a recreational vehicle park shall be stored and disposed of in accordance with the Mississippi Department of Environmental Quality and all other applicable regulations governing solid waste management and the codes and ordinances of the City governing solid waste, including the City's Standards and Specifications Manual.

(c) Mobile Home Parks and Manufactured Home Parks

The following requirements shall apply to all Mobile Home Parks and Manufactured Home Parks:

(1) Dimensional and density requirements

- a. Minimum park area: 10 acres.
- b. Minimum park width: 100 feet at entrance and exits and 200 feet at the portion used for manufactured home spaces.
- c. Minimum mobile/manufactured home space width: 40 feet.
- d. Minimum mobile/manufactured home space area: 3,600 square feet for each space.
- e. Maximum density: Ten mobile/manufactured home units for each gross acre of park.
- f. Maximum impervious surface coverage: 40 percent.
- g. Minimum yard requirements:
 1. No mobile/manufactured home, carport, or other structure shall be placed or erected closer than 15 feet to the pavement line at any internal roadway/driveway.
 2. No mobile/manufactured home shall be placed or erected closer than five feet to any side or rear manufactured home space plot line;

provided, however, roof projections, overhangs, rain gutters and air conditioners may project up to eighteen inches into any required setback area.

- h. Maximum height of all structures is 25 feet.

(2) Roadways

- a. The minimum right-of-way for internal roadways/driveways shall be 36 feet.
- b. The minimum pavement width for internal roadways/driveways shall be 20 feet.
- c. For divided roadways, the minimum pavement width for each roadway shall be 16 feet, and the minimum median width shall be eight feet.
- d. All roadways/driveways shall be paved with a minimum of four inches of lime rock base and compacted to 100 percent of maximum density, and one inch of asphalt topping--DOT Type I, 1,800 lbs. H.F.
- e. All streets in a Mobile/Manufactured Home Park shall be private.

(3) Drainage

Each Mobile/Manufactured Home Park shall be located on a well-drained site and shall comply with the City's Standards and Specifications Manual and other applicable engineering standards for drainage.

(4) Parking and carports

- a. Each mobile/manufactured home site shall contain a concrete slab not less than ten by twenty feet in dimension for carport or patio; such slab shall not be required until after the manufactured home is in position.
- b. Each mobile/manufactured home space shall be provided with one paved off-street parking space per mobile/manufactured home space. One additional off-street parking space shall be provided for each 200 square feet of non-storage floor area of office and laundry facilities in close proximity thereto.

(5) Foundation and Tie-Down

Each mobile/manufactured home shall be placed on a foundation or tied down as required by the Building Code and other applicable regulatory agency requirements.

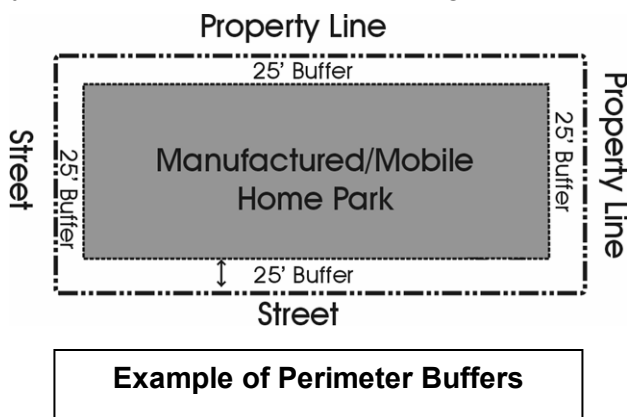
(6) Utilities and Services

- a. Each mobile/manufactured home space shall be connected to a central water and sewer system. No individual water supply or sewage disposal system shall be permitted in any Mobile/Manufactured Home Park.
- b. All utilities distribution and collection systems, including those for water, sewer, electricity, telephone, gas, and television cable, shall be underground. Electric power shall be serviced by individual meters.

- c. Each Mobile/Manufactured Home Park shall be provided with an active recreational area having a minimum area of two hundred square feet for each manufactured home space. These areas shall be consolidated into usable areas with a minimum dimension of not less than 40 feet. No manufactured home space, required buffer area, street right-of-way, storage area, utility site, or utility easement shall be counted as recreational area in meeting this requirement. Recreational areas and facilities shall be owned and operated by the park management.
- d. Each Mobile/Manufactured Home Park shall be provided with a management office and those service buildings as are necessary to provide facilities for mail distribution; storage space for supplies, maintenance, and materials and equipment; and laundry facilities equipped with washing machines and dryers for park residents. Adequate lighting shall be provided for safe internal circulation in accordance with the same standards for Recreational Vehicle Parks (Sec. 23-11-17).
- e. Park management shall be strictly responsible for internal trash and solid waste collection. Central park collection points shall be screened from public view from without or within the park.

(7) Perimeter walls and buffers

- a. Each Mobile/Manufactured Home Park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a fence, evergreen hedge, or other approved landscape feature to the maximum height permitted in this Chapter.
- b. A 25-foot wide landscaped buffer area shall be provided along streets and all property lines, and shall include suitable ground cover.



- c. The DRC may require open space be set aside and maintained for use by Park residents.

(8) Street and space identification

Mobile/Manufactured home spaces shall be numbered or otherwise adequately described and the number or other description shall be posted at the entrance and the proper space so that it can be clearly read from each street on which the space fronts or abuts.

(9) Occupancy date

No space in a Mobile/Manufactured Home Park shall be occupied until at least forty spaces are completed and ready for occupancy.

a. Development application

An application for a permit to develop a Manufactured or Mobile Home Park shall be accompanied by a site plan in triplicate, which is prepared by a registered land surveyor, engineer or architect licensed in the State of Mississippi and drawn to scale with the following information:

1. The location and legal description of the proposed development and the name and address of the applicant and owner.
2. The plans and proposed use of all building, improvements (including the location, size, number, and description of all manufactured home spaces) and the descriptions of all drives, lot numbers, and facilities, including recreational facilities, to be constructed within the Manufactured or Mobile Home Park.
3. The location of all points of ingress and egress to the Subject Park, internal circulation patterns and location of all off-street parking.
4. The location and details of materials and construction of all walls, fences and hedges for buffering purposes and all landscaping to be provided.

b. DCR review

No permit for the development of a Manufactured or Mobile Home Park shall be issued without the review and approval of the site plan by the DRC.

c. Other agency notification

A copy of the site plan shall be filed with the Fire Marshal for use in connection with his official duties. In addition, a copy of the site plan shall be posted conspicuously at each entrance to the Manufactured or Mobile Home Park and shall be placed under glass or in weather-resistant containers for the use of emergency vehicles in locating manufactured and/or mobile homes within the park. A change in driveway or space designation or location shall be reported to the Fire Marshal, accompanied by a revised plan and shall be entered on the plans posted at the entrances to the park.

(d) Telecommunications Towers and Antennas

In addition to the requirements of Sec. 23-4-11, Telecommunications Towers and Antennas shall be subject to the following minimum standards:

(1) Applicability of Regulations

In districts where telecommunications antennas are permitted by right subject to listed standards (P#) or are allowed as Conditional Uses (C#), if there is already a lawful telecommunications tower on the site, an additional antenna may be allowed as an Accessory Use if installed on that tower. In districts where telecommunications antennas are allowed as Accessory Uses (A#), an antenna is allowed as an Accessory Use affixed to an existing tower, building or other

structure, subject to the criteria set forth in this Section and applicable dimensional requirements of this Chapter.

(2) Rooftop, building or structurally mounted antennas and their associated attachments and accessories

- a. Said structure shall be at least 40 feet in height before a tower or antenna may be erected upon, or attached to, it;
- b. The site plan/area map included in the application shall also contain a drawing and a description of the proposed antenna including, but not limited to, colors and screening devices. This description shall be subject to administrative approval for consistency with the definition of stealth facility;
- c. Said attachment structure may not be one designated by the AHRC as a historic structure or landmark or be in a designated Architectural/Historic Overlay District unless the AHRC approves such arrangement;
- d. The addition of a tower or antenna to an existing structure shall not cause the height of said structure to increase by more than 20 percent or to the maximum height allowed in that zoning district, whichever is less;
- e. Towers or antennas erected upon, or attached to, existing structures shall not be subject to standard setback requirements;
- f. So long as the arrangement is deemed safe by the Building Official, all Accessory Buildings and other structures to be located on the same property as a tower or antenna under this Subsection shall be located on the roof of the structure whenever possible. If the accessory equipment, buildings and other structures are able to be safely located on the roof of the structure, the area of said equipment, Accessory Buildings and other structures shall not occupy more than 25 percent of the total roof area;
- g. The addition of any related equipment or Accessory Building to an existing structure shall not cause the height of said structure to increase by more than 15 percent or to the maximum height allowed in that zoning district, whichever is less;
- h. No commercial advertising shall be allowed on a tower or antenna, unless such antenna is actually located on an existing, approved sign. Towers may have safety or warning signs in appropriate places;
- i. No signals, lights or illumination shall be permitted on a tower or antenna, unless required by the FAA. Should lighting be required by state or federal law, the lighting shall be placed on the tower and designed in such a way as to minimize the glare on adjacent residential properties;
- j. Light fixtures may be attached if it is part of the design incorporated into the tower structure to be used for the illumination of athletic fields, parking lots, streets or other similar areas. Lighting of the Accessory Buildings for basic security purposes is permissible but may not result in unnecessary glare on adjacent properties;

- k. Each location shall use colors, screens, and other methods to reasonably disguise the tower or antenna, the equipment, and the Accessory Buildings so that the entire apparatus will be a stealth facility;
- l. Towers or antennas should not be constructed so as to interfere with the flight zones of civilian or military airports.
- m. Subject to the requirements of this Chapter, more than one tower or antenna may be attached to, or placed upon, the same structure.

(3) Free-Standing New Towers

In addition to the information required by Sec. 23-4-11, each application for a freestanding tower shall include:

- a. A certified report from a qualified professional structural or electrical engineer, licensed to practice in Mississippi, that:
 - 1. Describes tower height and design, including cross section and elevation;
 - 2. Describes height for all potential mounting positions for antennas and potential co-located antennas and minimum separation distances between antennas;
 - 3. Describes the tower's capacity, including number and type of antennas that can be accommodated; and
 - 4. Includes other information necessary to evaluate the request.
- b. An affidavit of intent committing the site owner, his successors and assigns and the operator and his successors and assigns to allow the shared use of the tower and to offer a potential additional user reasonable terms and conditions for co-location. Failure to follow through with this commitment constitutes a violation of this Chapter and may result in the revocation of the permit associated with the site in violation hereof.
- c. Proof of bonding.
- d. A Planning Commission hearing shall be held in order to determine the reasonableness of the proposed terms and conditions.
- e. In addition to the requirements of this Article, freestanding new towers and their associated attachments and accessories under this Subsection are subject to the following minimum standards:
 - 1. No free-standing tower shall exceed 180 feet in height;
 - 2. Setbacks:
 - i. The towers shall be setback from the property line in all directions a distance at least equal to the height of the tower if the site is in one of the following districts: A; RM-10; RM-20; RM-25; RMH; or RO.

- ii. The tower shall be setback from the property line in all directions the distance required in the underlying district if the site is in one of the following districts: B-1; B-2; B-3; B-4; I-1; I-2; WF; or CRD.
 - iii. The tower shall be setback from any residential district at least the height of the tower.
3. One freestanding tower shall not be located closer than one mile from another freestanding tower.
4. Any proposed tower shall be designed, and shall have the capacity in all respects, to accommodate both the applicant's antenna and at least two comparable antennas if the tower is over 120 feet in height or for at least one comparable antenna if the tower is over 70 feet in height but less than 120 feet in height. Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
5. With the exception of necessary electric and telephone service and connection lines approved by the City, no part of any tower or antenna, nor any lines, cable, equipment, wires or braces in connection with either, shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
6. All signal and remote control conductors of low energy between a tower or antenna and a structure, or between towers, shall be hidden from plain view and shall be underground whenever possible. If impossible to bury underground, said conductor shall be at least eight feet above the ground at all points.
7. All towers or antennas shall conform to the requirements of the Occupational Safety and Health Administration (OSHA).
8. Towers shall be of a monopole design.
9. The use of guyed or lattice towers is prohibited.
10. Every freestanding tower shall be protected from trespassers in order to discourage the climbing of the tower by unauthorized persons.
11. Towers shall be constructed of galvanized metal and shall be maintained in good repair and appearance.
12. Towers shall be constructed so that if a failure does occur, the tower will collapse into itself and will not fall onto structures near the site.
13. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site, unless repairs to the tower or antenna are being made.
14. No commercial advertising shall be allowed on a tower or antenna. Towers may have safety or warning signs in appropriate places.
15. No tower shall have a platform, crow's nest or like structure around it, or attached to it, except while under construction or repair.

16. No signals, lights or other illumination shall be permitted on the tower or antenna, unless required by the FAA. Any lighting required by state or federal law shall be placed on the tower and designed in such a way as to minimize the glare on adjacent residential properties.
 17. Light fixtures may be attached to the tower if lighting is part of the design incorporated into the tower structure to be used for the illumination of athletic fields, parking lots, streets or other similar areas.
 18. Lighting of the Accessory Buildings for basic security purposes is permissible but may not result in unnecessary glare on adjacent properties.
 19. Towers or antennas shall not be constructed so as to interfere with the flight zones of civilian or military airports.
 20. All Accessory Buildings or structures shall meet all building design standards as listed in this Chapter, shall require a Building Permit issued by the Building Official and shall conform with the height restrictions and setbacks established for the site's district.
 21. Towers or antennas shall be designed to reasonably blend into the surrounding environment through the use of neutral colors (such as gray), camouflage and architecture, unless the FAA or other federal or state authorities require otherwise.
 22. All buildings, structures, and equipment accessory to a tower or antenna shall be designed to blend in with the surrounding environment through the use of color, camouflage, and architecture.
 23. Subject to setback requirements, an eight foot privacy fence or wall, as measured from the finished grade of the site, shall be constructed around the perimeter of any tower site.
 24. Landscaping consistent with the surrounding greenery shall be installed around the entire perimeter of any fence or wall surrounding the site in order to shield the tower, antenna, and any Accessory Building, structure or equipment from public view except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. The governing authority may require additional screening or otherwise require design modifications to insure that the attractiveness and the aesthetic quality of the area are not adversely impacted by the site.
 25. The freestanding tower site may not be situated in a designated Architectural/Historic Overlay District unless the AHRC approves such an arrangement.
- f. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing tower or other structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following (the claimed "hardship" may not be created by the applicant):

1. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements;
2. Existing towers or structures are not of sufficient height, and could not be extended to become sufficient in height, to meet the applicant's engineering requirements;
3. Existing towers or structures do not have sufficient structural capacity to support the applicant's proposed antenna and related equipment; and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;
4. The proposed antenna would cause electromagnetic interference with an existing antenna on the tower or structure, or the antenna on the existing tower or structure would cause interference with the proposed antenna; and reconfiguration would not resolve the interference problem;
5. The applicant demonstrates that there are other limiting factors, not including the provisions of this Article, that render existing towers or structures unsuitable for its proposed antenna.

(4) Inspections

- a. All towers or antennas may be inspected at any time by the Building Official in order to determine compliance with original construction standards. Deviation from the original construction for which a permit is obtained constitutes a violation of this Article.
- b. Notice of violations will be sent by registered mail to the tower or antenna operator who will have 30 days from the date the notification is issued to make adjustments or repairs. The operator shall notify the Building Official in writing that the adjustments or repairs have been made, and, as soon as reasonably possible thereafter, another inspection will be made by the Building Official to assess compliance. The operator shall then be notified of the results of the second inspection.

(5) Indemnification and Insurance

Before a tower or antenna is erected, the operator of the tower or antenna must file with the Department of Administration a written indemnification of the City and proof of liability insurance sufficient to respond to claims up to \$1,000,000 in the aggregate which may arise from operation of telecommunications facilities within the City, both subject to the approval of the City Attorney.

(6) Abandoned or Unused Facilities

- a. All abandoned or unused telecommunication tower or antenna facilities shall be removed by the tower or antenna operator within 90 days of the cessation of use unless ownership and use thereof has been transferred to another person in compliance with this Section. A tower shall be considered abandoned if use has been discontinued for 180 consecutive days. The Director of Community Development may extend this time period or waive

this requirement if it is shown by the operator that the facility has not been abandoned.

- b. Before a permit is issued, the applicant shall present a bond to the City Attorney in the amount of \$20,000 which shall be available for use by the City for the removal of the tower or antenna should said tower ever be abandoned. The bond shall contain the following endorsement: "It is hereby understood and agreed that this instrument may not be canceled nor any intention not to renew be exercised until 60 days after receipt by the City, by registered mail, of written notice of such intent."

(7) Transfer of Use

Approved towers or antennas may be transferred to successors and assigns of the approved party, subject to all of the conditions that apply to initial approval.

(8) Safety Requirements

The owner/operator shall at all times employ at least ordinary care and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(e) Dockside Gaming Establishments

(1) Review Criteria

In reviewing a Master Plan application for a Dockside Gaming Establishment, the Planning Commission and the City Council shall consider:

- a. The compatibility of the proposed on-site and off-site development with its surroundings;
- b. Adequacy of provision for traffic flow onto and off the site, to and from remote parking areas, and around and on the site;
- c. Adequacy and accessibility of parking;
- d. Adequacy of the storm water management plans to handle storm water from the site with no net increase in the storm water impact on the City storm water system;
- e. Adequacy of the public water system, including any auxiliary pumps or storage facilities to be included in the project, to provide for the domestic water and fire protection needs of the proposed project;
- f. Adequacy of emergency access to the project;
- g. Adequacy of the public wastewater system to handle the net increase in wastewater generation from the project;
- h. Provision of adequate buffers to protect residentially-zoned areas and historic properties adjoining or across the street from the site from significant impacts from the lighting and signage from the property;
- i. Adequacy of the setback of the proposed buildings to maintain appropriate scale and proportion to adjoining residential areas; and

- j. Design that ensures that Accessory Uses have access primarily from interior spaces and corridors and do not serve as alternative Principal Uses.

(2) Master Plan Review Required

Approval of a Dockside Gaming Establishment shall be subject to the subsequent approval of a detailed site plan in accordance with Sec. 23-4-4, based on the standards contained in this Section, modified as follows:

- a. The site plan shall be subject to final review and approval by City Council;
- b. In addition to other materials required as part of the site plan submission, the site plan shall include:
 - 1. The location of boats, barges, vessels, piers, buildings, parking lots, landscaping, etc.;
 - 2. Photographs, artists renderings, or other visual documents that will assist the City in establishing compatibility;
 - 3. Information relative to the number, length, and width of boats, barges or vessels; the total number of employees contemplated; the number of visitors expected daily, monthly, yearly; peak traffic times and days; hours of operation;
 - 4. If off-site parking lots will be employed, leases or contracts committing specific parking spaces to the Dockside Gaming facility coupled with an acceptable shuttle bus or other appropriate plan to transport guests and employees to and from the Dockside Gaming facility must be included. Bona fide contracts attesting to all parking and shuttle arrangements must be provided for the duration of the Dockside Gaming Establishment's existence;
 - 5. Expected access routes to and from the Dockside Gaming operations, both onsite and offsite; width of roads and expected traffic volumes;
 - 6. Road improvements and traffic controls necessary to accommodate Dockside Gaming Establishments and ancillary uses;
 - 7. Expected infrastructure improvements such as water, natural gas, electricity, drainage, and sanitary sewerage collection, e.g., location of improvements, size of pipes, etc.;
 - 8. Requirements for onsite security, fire protection, etc.;
 - 9. Plan demonstrating the capability of the boat, barge, vessel or cruise vessel to be detached from the dock and moved to a specified safe harbor or other acceptable destination in the event of hurricane or other catastrophic occurrence, as determined by the civil defense director for the county, or other governmental official so authorized to proclaim a state of emergency;
 - 10. Evidence of site control, i.e., ownership or contractual lease, for all lands included within the applicant's proposal, necessary for the full and complete implementation of the proposed development;

11. Landscaped buffer areas of sufficient length and width as necessary to protect adjoining uses from any adverse impact from noise, traffic, lights, etc., from a Dockside Gaming operation; and
12. A legally binding agreement from the applicant that:
 - i. All permanent improvements to be constructed shall be to the standards of the latest editions of the building and related codes adopted by the City.
 - ii. Water system improvements necessitated by any Dockside Gaming operation and ancillary facilities shall be designed and constructed in accordance with the standards and requirements of the City and at the sole expense of the applicant and at no cost to the City.
 - iii. Sanitary sewer system improvements necessitated by the Dockside Gaming operation and ancillary facilities shall be designed and constructed in accordance with the standards and requirements of the City and at the sole expense of the applicant and at no cost to the City.
 - iv. A fire suppression system shall be installed in compliance with the adopted fire codes of the City and in accordance with requirements of the fire department and other agencies, as deemed appropriate.
 - v. New access roads, or alternatively, improving, upgrading, and/or widening of existing roads, shall be designed and constructed in accordance with the standards and requirements of the City and at the sole expense of the applicants and at no cost to the City.
 - vi. The applicants shall dispose of garbage, trash, and other solid waste in a manner consistent with applicable federal, state, and local laws. Solid waste containers are to be located and screened from view of roadway and water and shall comply with all other applicable provisions of this Chapter regarding solid waste containers.
13. Whenever a pier is to be utilized as a means of ingress or egress to a Dockside Gaming Establishment, the following regulations shall apply:
 - i. The pier shall extend to within 50 feet of the farthest tip of the boat, barge, vessel or cruise vessel;
 - ii. Each pier shall have a standard fire hydrant within 100 feet of the entrance of such pier. Each fire hydrant shall be supplied by a water main of at least eight inches diameter in size. A dry standpipe system of at least four inches in size shall run the entire length of such pier. The length of the pier shall determine whether or not appropriate scheduling of pipe is required. Each standpipe shall have a standard, clappered 2 x 2½ NST Siamese fire department connection located at or near the egress to the pier and shall be appropriately marked. Each standpipe shall have a

minimum of two gated 2 1/2 NST male connections along the standpipe for use by fire department personnel. More gated outlets shall be required if determined by the fire department, depending on the length of such pier. In any event, the distance between gated outlets shall not exceed 100 feet. All construction and design shall be at the sole expense of the applicants and at no cost to the City; and

- iii. Other requirements as may be deemed necessary, appropriate and in the interest of the public health, safety, and welfare.

- 14. Completion of the improvements set forth as stated shall be a condition before a Certificate of Occupancy shall be issued for any use, and no vessel, building or facility will be occupied until such improvements are constructed and operational.

- c. In addition, for accessory restaurants and bars in Dockside Gaming Establishments and casinos, see Sec. 23-11-14(f).

- d. Amendment to Master Plan

The procedure for obtaining approval of an amendment to the site plan shall be the same procedure as that required for the approval of the original site plan. Amendments are required before any construction takes place. (Sec. 23-4-5).

(f) Regulated Businesses

(1) Applicability -- General

Many uses are allowed only as Regulated Businesses subject to specific conditions or standards. These uses shall be allowed only in accordance with applicable conditions set out in this Article and with the separation requirements identified in Table 23-11-18-A; Chapter 12 of this Code regulates the licensing and monitoring of Regulated Businesses.

(2) Applicability of Separation Standards from New Uses

- a. The purpose of this Subsection (f)(2) is to recognize two factors that are important in the balancing of the rights of those who conduct uses listed in Subsections (f)(3) through (f)(13) and the rights of those who conduct the uses from which they must be separated:
 - 1. Some protected uses may be established on a very temporary basis in old storefronts or other transitory premises. Because one effect of these separation standards is to limit the number of sites available on which the uses listed in Subsections (f)(3) through (f)(13) can be conducted, the establishment of temporary protected uses in such locations may further restrict the number of locations in which such uses are allowed to the extent that the regulation may not be fair to those conducting such uses and, in some cases, may even raise Constitutional concerns;
 - 2. If an operator of one of the uses protected by the separation requirements decides to move to a location nearer one of the uses

listed in Subsections (f)(3) through (f)(13) than the separation requirements set out in the table, the operator of that use has apparently determined that the concerns of the City in establishing these criteria do not apply to it. Under those circumstances, it is neither appropriate nor necessary to limit the future operation or expansion of one or more of the uses listed in Subsections (f)(3) through (f)(13) based on the free choice of the operator of the protected use.

3. If the City Council approves the rezoning of any lot of record, any Regulated Business approved for operations by the City prior to the adoption of said Zoning District Map Amendment shall not be required to comply with the separation requirements set out in Table 23-11-18-A as the separation pertains specifically and exclusively to the rezoned area.
- b. The separation requirements set forth in Table 23-11-18-A shall be applied to an application for a Conditional Use Permit, Site Plan, Certificate of Zoning Compliance, Building Permit, or Certificate of Occupancy for any of the uses listed in the next Subsection. A Building Permit or Certificate of Occupancy for remodeling that involves a reduction, no expansion or an expansion of less than 5 percent of the gross floor area of the use shall not be subject to the application of these standards. An application for approval of a Site Plan, Building Permit or Certificate of Occupancy that would allow an expansion of the use by more than 5 percent of its gross floor area shall be subject to the application of the separation requirements.
- c. The separation requirements shall be applied to such applications for any of the uses listed in Subsections (f)(3) through (f)(13) below.
- d. The separation requirements shall be applied to require that the proposed use be located at least the specified distance away from any of the other uses listed, except as follows:
 1. If the existing use from which the separation requirement is to be measured has existed in that location for less than 1 year, the separation requirement from that use shall be applied only if the Director of Community Development determines that the holder of the business license for the premises or other active user owns the property.
 2. If the application is for an expansion of an existing use listed in Subsections (f)(3) through (f)(13), the separation requirements in the table shall not be applied to require its separation from any use established after the later of September __, 2003, or the date of initial establishment of the use listed in Subsections (f)(3) through (f)(13).

(3) Check Cashing / Title Loan

A check cashing business, a title loan business, a pawn shop, or a buy-sell shop may be co-located with one other such business in the same building and considered a single principal use. The separation standards of Table 23-11-18-A below shall apply to the location of any third such use or to the location of any other such use outside the same building.

(4) Day Labor Employment Service

A day labor employment service must provide a waiting room and restrooms for its worker clients from 6 a.m. to 4 p.m. or closing, whichever is later, each business day.

(5) Escort Bureau or Escort Service (Service-Oriented)

Only a service-oriented escort bureau is allowed. As defined and as further restricted by a separate Business Licensing Ordinance, such a bureau is essentially an office use. No entertainment, including continuing encounters between escorts and clients, may occur on the premises. An escort service may not be located on the same premises as a sex shop, lingerie modeling studio, sexually-oriented cabaret, sexually-oriented motion picture theater, sexually-oriented media store, sexually-oriented video arcade, or tattoo and body-piercing parlor.

(6) Lingerie Modeling Studio

This use shall not be located on any site where 25 percent of the block on which the site is located or 25 percent of the half-block facing the site across the street is zoned as an A or R district and is actually developed for such use or another use permitted in such district, such as a place of worship or other institutional use.

(7) Pawn Shop/ Buy-Sell Store

- a. A check cashing business, a title loan business, a pawn shop, or a buy-sell shop may be co-located with one other such business in the same building and considered a single principal use. The separation standards of Table 23-11-18-A shall apply to the location of any third such use or to the location of any other such use outside the same building.
- b. When located in a B-2 zoning district, a pawn shop or buy-sell store shall be subject to the following additional standards:
 1. The minimum lot size shall be 20,000 square feet;
 2. The business shall not be located in a shopping center or any other parcel with multiple principal uses, except in accordance with subsection 7(a) of this Section;
 3. There shall be no outdoor product display;
 4. Outside storage shall be screened from adjacent properties (including those across an alley or across a street) by a 20-foot buffer meeting all of the standards set out in Sec. 23-16-9(a);
 5. The Conditional Use Permit may be conditioned on standards to ensure that the building materials and color are consistent with those of nearby buildings.

(8) Sex Shop

No sex shop shall be located on the same block as any property zoned A or R-District.

(9) Sexually-Oriented Cabaret

No sexually oriented cabaret shall be located on the same block as any property zoned A or R District.

(10) Sexually-Oriented Media Store

- a. No sexually-oriented media store shall be located on the same block as any property zoned in the A or R Districts.
- b. Two such businesses, but not more than two, can be located on the same premises and considered a single Principal Use.

(11) Sexually-Oriented Cinema/Sexually-Oriented Motion Picture Theater

No sexually-oriented cinema or sexually-oriented motion picture theater shall be located on the same block as any property zoned in the A or R Districts.

(12) Sexually-Oriented Video Arcade

No sexually-oriented video arcade shall be located on the same block as any property zoned A or R District.

(13) Tattoo and Body Piercing Parlor

No tattoo and body piercing parlor shall be located on the same block as any property zoned in the A or R Districts.

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Table 23-11-18-A Required Spacing Between Certain Uses

(measured from property line to property line in feet)

Use type	Check cash / title loan	Day Labor Business	Escort Service	Lingerie modeling	Pawn / Buy-Sell	Sex shop	Sexually-oriented cabaret	Sexually-oriented media store	Sexually-Oriented Cinema	Sexually-Oriented Video Arcade	Tattoo / Body Piercing	"A" or "R" district	Keesler Air Force Base	Facilities Frequented by 6-18 Year Olds	Bars/Lounges/Brewpubs /Nightclubs	Historic Districts/Landmarks	Place of Worship	Dockside Gaming Establishment	Listed Standards (in 23-11-18 (f) above)
Bars/Lounges/Brewpubs/Nightclubs	500	500	1000	500	500	500	500	500	500	1000	500	200	500	1000	500		1500		Sec. 23-11-5
Check Cash / Title Loan	500	500			1000							200	500		500	500	1500	1000	(3)
Day Labor Employment Service	500	500	1000	500	500							500		1000	500	500	1500		(4)
Escort Service		1000	1000	1000		500	1000	500	1000	1000	500	500	500	1000	1000	1000	1500	1000	(5)
Lingerie Modeling		500	1000	500		500	500	500	500	1000	500	500	500	1000	500	500	1500	500	(6)
Pawn / Buy-Sell	1000	500			1000							200	500		500	500	1500	1000	(7)
Sex Shop			1000	500		500	500	500	500	1000		500	500	1000	500	500	1500	500	(8)
Sexually-Oriented Cabaret			500	500		500	500	500	500	1000	500	500	500	1000	500	500	1500	500	(9)
Sexually-Oriented Media				500		500	500	500	500	500		500	500	1000	500	500	1500	500	(10)
Sexually-Oriented Cinema			1000	500		500	500	500	500	1000	500	500	500	1000	500	500	1500	500	(11)
Sexually-Oriented Video Arcades*			1000	1000		1000	1000	500	1000	2000	1000	500	1000	1000	1000	500	1500	1000	(12)
Tattoo / Body piercing			500	500			500		500	1000	500	200	500	1000	500	500	1500		(13)

* Sex-oriented video arcades existing on the effective date of this Chapter may continue to exist as lawful, nonconforming uses, subject to a separate Regulated Business licensing ordinance adopted December 4, 2001 as Article 12, Chapter XI of the City Code. No new sex-oriented video arcades shall be permitted.

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(g) Corridor Redevelopment District

In addition to the regulations in this Chapter, development and redevelopment within the Caillavet Corridor Redevelopment District shall comply with the design standards set forth in Appendix B and further detailed in the Manual. Any deviations are only with the approval of the Biloxi City Council.

(h) Forestry and Commercial Timbering

Forestry and commercial timbering shall be permitted, subject to the requirements of Sec. 23-4-16, which shall be modified as follows for forestry and commercial timbering in the districts where permitted:

- (1)** The minimum lot or site area for forestry and commercial timbering shall be five acres;
- (2)** In the A District, the only tree site plan required shall be a general reforestation plan; and
- (3)** In any other district, the Conditional Use Permit shall be conditioned on approval and implementation of a tree site plan in accordance with Sec. 23-4-16(f).

(i) Zoning Overlay District Incorporating Federal Aviation Administration Air Navigation Obstruction Standards

Reserved.

(j) Noise Abatement and Notice of Airport Noise and Accident Potential Overlay District

Reserved.

Sec. 23-11-19 Accessory Buildings**(a) Applicability**

The standards and conditions in this Section shall apply to all Accessory Buildings. See Sec. 23-11-20 for regulations applicable to other Accessory Structures.

(b) General Standards

- (1)** In order to have a permitted Accessory Building, a lawful principal building must exist on the same premises. If the Principal Use is destroyed or removed, the Accessory Building shall no longer be allowed.
- (2)** Except as otherwise provided, Accessory Buildings are subject to all height, setback and yard requirements applicable to the property under this Chapter.
- (3)** An Accessory Building on a site other than a single-family residential lot shall be allowed only if it is shown on and is consistent with a Site Plan approved by the Planning staff or DRC in accordance with Sec. 23-4-3 or Sec. 23-4-4.

(c) Specific Standards**(1) Location in side yard**

Except for Accessory Buildings located on corner lots, as detailed in Subsection (4) below, an Accessory Building may be built in a required side yard but not within three feet of the nearest side lot line.

(2) Location in rear yard

Accessory Buildings may be built in required rear yards, but such Accessory Buildings shall not occupy more than 40 percent of the required rear yard area; provided that, in any case Accessory Buildings shall not be located closer than three feet to either side lot line or the rear lot line. On through lots, an Accessory Building may be built in a required rear yard if no part of such Accessory Building or Structure is less than three feet from the nearest interior side lot line and no portion of such building or structure is located in either required front yard.

(3) Location in front yard

Fences may be erected along the boundaries of the front yard area provided such fences do not exceed four feet in height (Sec. 23-16-11(i)).

(4) Corner lots

On corner lots, the required side yard setback of Accessory Structures shall be the same setback as imposed for principal structures in that zoning district. Where a lot adjoining the rear of a corner lot fronts on the side street, no part of any Accessory Building or Structure on the corner lot shall be located closer than 15 feet from the common lot line as extended from the front yard line of the lot in the rear. On corner lots, where a lot adjoining the rear of the corner lot fronts onto the side street, fence height shall not exceed four feet within a required setback area or three feet when located within the Clear Visibility Triangle.

(5) Other Locational Restrictions

- a. No Accessory Building shall be allowed within the Clear Visibility Triangle required by Sec. 23-12-6.
- b. No Accessory Building shall be allowed in any area designated as a fire lane or emergency access route on an approved site plan.
- c. No Accessory Building shall be allowed in any area designated as a required parking area on an approved site plan.
- d. Accessory Buildings shall be subject to the Residential Protection Standards set forth in Sec. 23-12-8.

(6) Height

Except as otherwise provided in this Chapter, Accessory Buildings permitted by this Chapter shall not exceed 16 feet in height.

(7) Projection into side yard from rear yard

Accessory Buildings may project from the required rear yard into a required side yard on or approximately parallel to an interior side lot line but shall not extend into the area within three feet of the nearest interior side lot line.

(8) Area; number

The combined gross area of all Accessory Buildings, structures, uses or portions thereof, located in required side and rear yards shall not exceed 40 percent of the required rear yard area, nor shall more than one Accessory Building cover any required side yard.

Sec. 23-11-20 Accessory Structures**(a) Applicability**

The standards and conditions in this Section shall apply to all Accessory Structures other than Accessory Buildings; Accessory Buildings are subject to the previous section, Sec. 23-11-19.

(b) General Standards

- (1)** In order to have a permitted Accessory Structure, a lawful principal building must exist on the same premises. If the Principal Use is destroyed or removed, the Accessory Structure shall no longer be allowed.
- (2)** Except as otherwise provided, Accessory Buildings or structures are subject to all height, setback and yard requirements applicable to the property under this Chapter.
- (3)** An Accessory Structure on a site other than a single-family residential lot shall be allowed only if it is shown on and is consistent with a Site Plan approved by the Planning staff or DRC in accordance with Sec. 23-4-3 or Sec. 23-4-4.

(c) Specific Standards**(1) Location in side yard**

Except for Accessory Structures located on corner lots, as detailed in Subsection (4) below, an Accessory Structure may be built in a required side yard.

(2) Location in rear yard

Accessory Structures may be built in required rear yards, but Accessory Buildings and Structures cumulatively shall not occupy more than 40 percent of the required rear yard area.

(3) Location in front yard

Fences may be erected along the boundaries of the front yard area provided such fences do not exceed four feet in height (Sec. 23-16-11(i)). Flagpoles may be erected in the front yard. No other Accessory Structures may be located in the front yard.

(4) Other Locational Restrictions

- a. No Accessory Structure taller than three feet shall be allowed within the Clear Visibility Triangle required by Sec. 23-12-6.
- b. No Accessory Structure shall be allowed in any area designated as a fire lane or emergency access route on an approved site plan.
- c. No Accessory Structure occupying space shall be allowed in any area designated as a required parking area on an approved site plan. This shall not restrict the location of flagpoles, fences, benches or parking covers in designated parking areas if such Accessory Structures are designated on the site plan.
- d. Accessory Structures shall be subject to the Residential Protection Standards set forth in Sec. 23-12-8.

(5) Height

- a. A fence located in a required front yard may not exceed four feet in height or, for any portion of the fence located in the Clear Visibility Triangle, three feet in height;
- b. Any other fence located in an R zoning district shall not exceed eight feet in height. Gateways or other decorative features of the fence may extend to eight feet for a distance not greater than five percent of the length of the fence;
- c. Any fence located in any other zoning district shall not exceed eight feet in height;
- d. A flagpole may be 20 feet in height in an R zoning district and 30 feet in height in any other zoning district;
- e. Except as otherwise specifically provided in this Chapter, the maximum height of any other Accessory Structure shall be 12 feet or the distance of such Accessory Structure to the nearest side lot line, whichever is less;

(6) Projection into side yard from rear yard

Accessory Structures may project from the required rear yard into a required side yard on or approximately parallel to an interior side lot line.

(7) Area; number

The combined gross area of all Accessory Buildings, Structures, uses or portions thereof, located in required side and rear yards shall not exceed 40 percent of the required rear yard area, nor shall more than one Accessory Building cover any required side yard.

(8) Gas station Pump Island

Gas station pumps and pump islands, with or without canopies, may occupy the required yards; provided, however, that pumps, pump islands and structural supports for canopies are not less than 25 feet from street right-of-way lines and canopies are not less than 15 feet from street right-of-way lines. The height of any pump canopy shall not be greater than 24 feet, the distance from the edge of the canopy to the nearest lot line on any side, or the maximum height allowed for a principal structure in the applicable zoning district, whichever is less.

(9) Swimming pool

Accessory swimming pools, open or screened, may occupy a required rear or side yard provided the water's edge is not located closer than six feet to a rear or interior side lot line. Every swimming pool shall be protected by a safety fence or barrier approved by the Building Official. A walk space at least three feet in width shall be provided on two sides or 50 percent of the exterior of the pool, whichever is greater, between the pool walls and the protective fences or barrier walls. In no instance shall the walk or enclosure be closer than three feet from the property line.

ARTICLE 12. DENSITY, INTENSITY AND DIMENSIONAL STANDARDS

Article 12 Index

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Sec. 23-12-1 District Dimensional Standards

Density, intensity and dimensional standards for the residential and non-residential districts shall be in accordance with Table 23-12-1-A.

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Table 23-12-1-A District Dimensional Standards Table

District		DENSITY		LOT SIZE		Max. Height (ft.) (a)(b)	Max. FAR	Max. Impervious Surface (%)	MINIMUM YARD SETBACKS				
		Min. Lot Area per Dwelling Unit (sq. ft.)		Min. Width (ft.)	Min. Depth (ft.)				Front (ft.)	Side (ft.)	Both Sides (ft.)	Rear Depth (%) (c)	Max. Req'd Rear (ft.)
A	Agricultural	43,560		125	-	35	-	40	40	10	20	20	25
RE&RER	Residential Estate	20,000		100	150	35	-	40	40	10	20	20	25
RS-10	Single-Family Residential	10,000		80	120	35	-	60	30	10	20	20	25
RS-7.5	Single-Family Residential	7,500		60	100	35	-	60	25	7	14	20	25
RS-5	Single-Family Residential	5,000		50	100	35	-	55	20	5	10	20	25
RD	Duplex or Two-Family	7,500		75	100	35	NA	60	25	7	14	20	25
RMH	Residential Manufactured Home-Single Lot	5,000		50	100	35	NA	40	25	7	14	20	25
RMH	Residential Manufactured / Mobile Home Park	Minimum park size: 15 acres. Maximum number of sites per acre: 10.		300	NA	35	NA	40	25	10	20	20	25
RM-10	Multiple-Family Low Density	10 units per Acre		50	100	35	NA	60	40	Minimum 5 feet or 10 percent of lot width, not to exceed a maximum single side yard of 20 feet.		20 or max. of 25 feet	25
RM-20	Multiple-Family Medium Density	20 units per Acre		50	100	45 or 4 stories, whichever is greater	NA	60	25	Minimum 5 feet or 10 percent of lot width, not to exceed a maximum single side yard of 20 feet.		20	25

District		DENSITY		LOT SIZE		Max. Height (ft.) (a)(b)	Max. FAR	Max. Impervious Surface (%)	MINIMUM YARD SETBACKS				
		Min. Lot Area per Dwelling Unit (sq. ft.)		Min. Width (ft.)	Min. Depth (ft.)				Front (ft.)	Side (ft.)	Both Sides (ft.)	Rear Depth (%) (c)	Max. Req'd Rear (ft.)
RM-25	Multiple-Family High Density	25 units per Acre		50	100	80 or 8 stories, whichever is greater	NA	60	20	Minimum 5 feet or 10 percent of lot width, not to exceed a maximum single side yard of 20 feet.		20	25
RO	Residential Office	Same as RM-10		50	100	35	.25	60	25	5	10	10	25
B-1	Neighborhood Business	Same as RM-10		50	100	35	.25	60	25	5	10	20	25
B-2	Community Business	Same as RM-20		50	100	50	.50	60	25	5	10	10	10
B-3	Hospitality Business	30 units per Acre		75	100	95	2.00	60	40	10	20	10	10
B-3	Hospitality Business (with Master Plan)	30 units per Acre		50	100	175	2.00	60	40	10	20	10	10
B-4	General commercial	Same as RM-25		50	100	75	1.00	60	40	10	20	10	10
B-5	High Volume Business	Same as RM-25		100	100	80	1.00	70	40	25	50	10	10
CBD	Central Business District	Same as RM-10		-	-	75	5.00	100	-	Addressed in text			
SB	Sand Beach	-		-	-	16	-	-	-	-	-	-	-
CRD	Corridor Redevelopment	30 units per Acre		See CRD Design and Development Standards					-	-	-		25
WF	Waterfront	30 units per Acre		100	100	175	-	80	25	(d)	(d)	(d)	-
WF	Waterfront (with Master Plan)	30 units per Acre		100	100	220	-	80	25	(d)	(d)	-	-
I-1 & I-2	Light & Heavy industrial	-		100	100	75	-	80	40	-	-	-	-

- (1) (a) Different height restrictions are imposed for signage; (b) In all RM, B, WF and I districts, if property adjoins or is across the street from any designated landmark, RER, RE, RD, RO or RS District, or AHO District, provisions of Sec. 23-12-4 may limit the height or require increased setback of building in this district; (c) 25 foot maximum; (d) A minimum of a five-foot setback on each side shall be required for structures up to 35 feet in height. For each additional

three feet of height above 35 feet, one additional foot of total side yard setback, up to a maximum of 40 feet total, shall be required but, if provided, such yard shall not be less than three feet in width paralleling the side lot line.

Sec. 23-12-2 Measurements, Computations and Exceptions**(a) Power, heating or refrigeration equipment**

- (1) Power, heating or refrigerating plants, apparatus or machinery that are accessory to Permitted Uses shall be permitted only if placed and operated so as to comply with existing ordinances and not cause serious annoyance or injury to occupants of adjoining premises.
- (2) Power, heating, and refrigeration equipment shall not be permitted in the front yard.

(b) Railroad and utility facilities

Existing railroads and utilities may continue to be operated and maintained in residential and commercial districts, but no new railroad or utility structure other than the usual poles, transformers and other similar appurtenances, wires, underground utilities, electric substations, and gas pressure regulating and metering stations shall be established in such districts except when so authorized by the DRC or Planning Commission.

Sec. 23-12-3 Lot Area**(a) Use of existing lots not meeting minimum requirements**

Where a lot has less area than the minimum requirements for the district within which the lot is located and has continuously been a lot of record, prior to and since the passage of this Chapter, that lot may be used only for single-family dwelling purposes or for any non-dwelling purpose permitted in the district within which such lot is located.

(b) Dormitories, fraternities and sororities

Requirements for lot area per unit do not apply to dormitories, fraternities, sororities and other similar living quarters which are accessory to a Permitted Use and which have no cooking facilities in individual rooms or apartments.

(c) Rental units

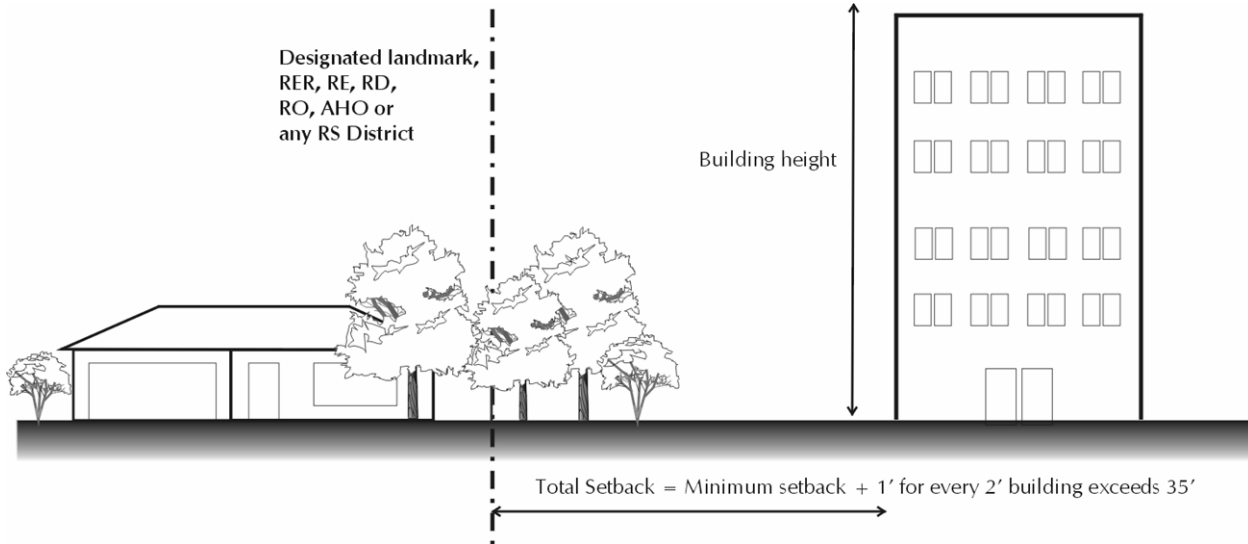
Requirements for lot area per unit do not apply to rental units in a hotel, motel, dwelling units without culinary facilities, or rooms in a rooming house.

Sec. 23-12-4 Building and Structure Height**(a) Height Limit on Projects Adjoining Certain Zoning Districts and Historic Properties****(1) Applicability**

The height limitations set out in this Section shall apply to any structure constructed in any zoning district on a parcel adjoining, or separated only by an alley or a public street from, a designated landmark or a parcel of land zoned in the RER, RE, RD, RO Districts, in any RS Zoning District, or in a AHO District.

(2) Height Limit Related to Setback

Any structure to which this Section is applicable shall be set back from the minimum setback or yard line adjoining a designated landmark, an RER, RE, RD, RO or any RS zoning district, or a AHO District by an additional one foot for every two feet in height by which the building exceeds 35 feet.

**(b) Height, Setback and Related Standards for Waterfront District Projects**

- (1) Subject to the provisions of the Air Navigation Obstruction Standards, identified in Article 20, the maximum height of a building in the Waterfront District shall be 175 feet, except that the height may be increased up to 220 feet, subject to the other standards and conditions set forth in this paragraph (b) and the project Master Plan.
- (2) The standards of sub-paragraphs (3) and (4) of this paragraph (b) and the residential protection standards of Sec. 23-12-8 shall apply to buildings in the WF district.
- (3) A minimum of a five-foot setback on each side shall be required for structures up to 35 feet in height.
- (4) For each additional three feet of height above 35 feet, one additional foot of total side yard setback, up to a maximum of 40 feet total, shall be required but, if provided, such yard shall not be less than three feet in width paralleling the side lot line.

(c) Exemptions

The height limitations of this Chapter shall not apply to:

- (1) Public monuments;
- (2) Public water towers; or
- (3) Public utilities towers, poles, and terminal facilities.

(d) Public buildings; places of worship

Public and semipublic or public service buildings, hospitals, institutions, or schools, when permitted in any district, may be erected to a height not exceeding 60 feet, and places of worship, where permitted in any district, may be erected to a height not exceeding 75 feet, when the required side and rear yards are each increased by at least one foot for every two feet of additional building height above the height limit of the district.

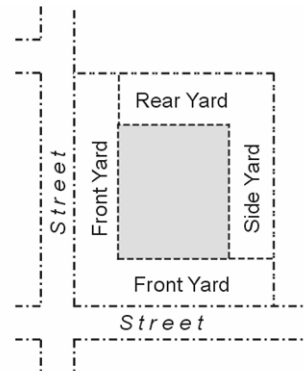
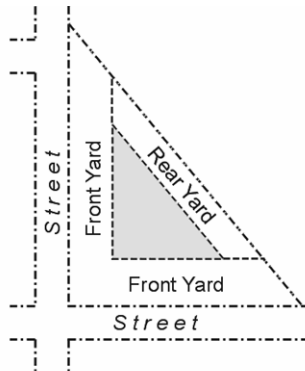
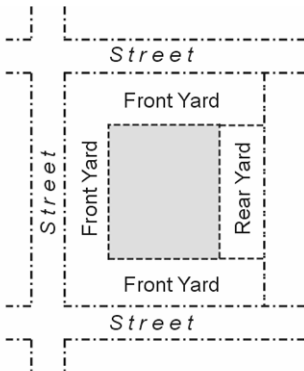
(e) Accessory buildings

An Accessory Building may be up to 16 feet in height.

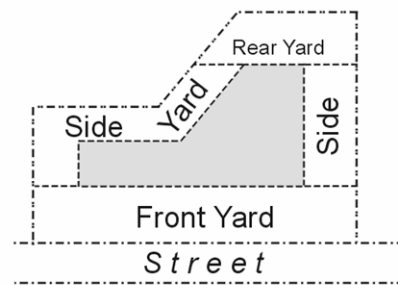
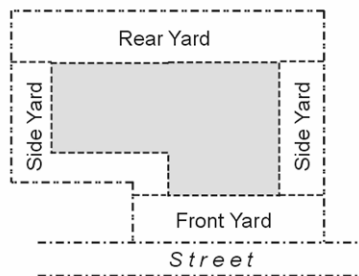
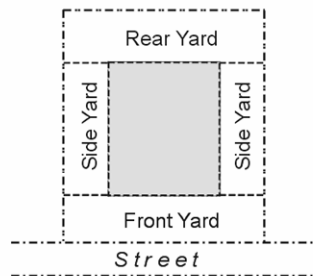
(f) Accessory Structures - Boat Houses and Piers

A boathouse or pier may be up to 20 feet in height, measured from mean high tide.

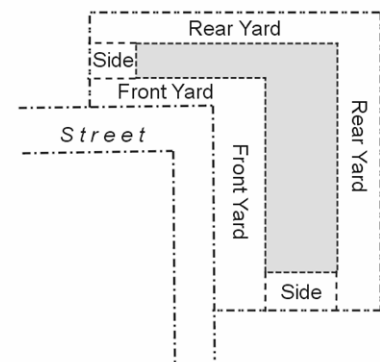
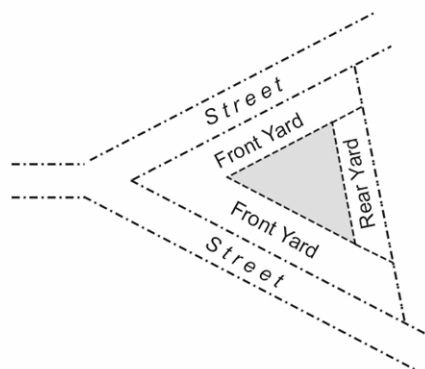
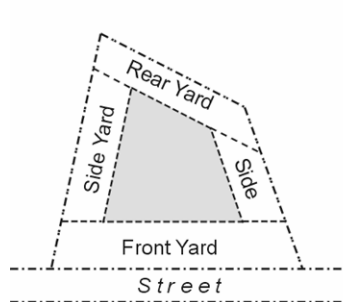
Examples of Specific Yard Configurations



CORNER LOT EXAMPLES



INTERIOR LOT EXAMPLES



ODD-SHAPED LOT EXAMPLES

Sec. 23-12-5 Yards

- (a) Every part of a required yard area shall be open to the sky except as follows:
- (1) Accessory buildings are allowed where specifically permitted in a rear or side yard under this Chapter. No Accessory Use shall be permitted in front yard areas, or three feet from property lines on corner lots within the Clear Visibility Triangle, except as provided for herein.
 - (2) A roof, gutter, eave, fixed awning, marquee or canopy, attached to a building but having no other support, may project no more than five feet into a required front, side or rear yard if a minimum distance of two feet remains open to the sky between the farthest projection and the lot lines.
 - (3) Notwithstanding the provisions of Subsection (a)(2) of this Section, a canopy or marquee shall be permitted to extend from the entrance door to the street line of any place of worship, school, college, hospital, public building, or educational, religious or philanthropic institution in any district, or from the entrance door of any principal building in multiple-family residential, commercial, and industrial districts. Where a sidewalk and curb exist, the canopy or marquee may extend to within 18 inches of the curb line. Such canopies or marquees shall not exceed 15 feet in width or 12 feet in height or be screened or enclosed in any manner and shall provide an unobstructed, clear space between the grade and the bottom of the valance of at least seven feet.
 - (4) Movable awnings may be placed over doors or windows in any required yard, but such awnings shall not project closer than two feet to any lot line or be vertically supported.
 - (5) Boat houses and piers may be allowed in rear yards.
 - (6) No more than one detached Accessory Building or Structure shall be allowed in the side or rear yard and that building or structure shall not be located closer than three feet from a side or rear property line.
- (b) For corner lots, the Final Plat must identify the front side. The side street will normally be the street along which the corner lot has its largest dimension, but the Director of Community Development and Building Official shall be guided by the pattern of development in the vicinity of the lot in question in determining which of the two streets is the side street.
- (c) More than one principal building may be located upon a lot of record in the following instances:
- (1) Institutional buildings, consistent with an approved Site Plan;
 - (2) Public or semipublic buildings, consistent with an approved Site Plan;
 - (3) Apartment complexes, consistent with an approved Site Plan;
 - (4) RV and Manufactured and/or Mobile Home Parks, consistent with an approved Site Plan;
 - (5) Retail and office complexes where an approved Site Plan shows more than one principal building;

- (6) Nursing homes, consistent with an approved Site Plan; and
- (7) This provision shall not be construed to allow the location or construction of any principal building or portion of a principal building outside the buildable area of the lot.

(d) Specific yard requirements

For the purposes of this Section, lot coverage means that portion of the lot that is covered by buildings, Accessory Buildings and structures, including all other created improvements on the ground that are more impervious than the natural surface, such as paving, patios, and driveways.

(1) Front yard; miscellaneous requirements

- a. Depth to be measured from established right-of-way line. Where a right-of-way has been established by the City Council for the future widening or opening of a street upon which a lot abuts, then the depth of a front or side yard shall be measured from such established right-of-way line to the building line.
- b. Through lots. Except as otherwise provided in this Chapter, the required front yard shall be provided along each street of any through lot.
- c. Corner lots generally. On every corner lot there shall be provided on the side street a yard equal in depth to one-half the required front yard depth on the side street.
- d. Exception for improved blocks. Where 50 percent or more of the street frontage between two intersecting streets or, where no intervening streets exist, 50 percent or more of the street frontage within 300 feet of the property in question is improved with buildings that have a front yard that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established except as otherwise provided; however, a front yard depth of more than 50 percent in excess of the depth of the required front yard in the district in which the yard is located shall not be required. Where 40 percent or more of the street frontage is improved with buildings that have no front yard, no front yard shall be required for the remainder of the street frontage. This Subsection shall not apply to any frontage, regardless of district, that borders or abuts U.S. Highway 90 or Beach Boulevard, State Highway 67 and other major transportation corridors as identified in the City's Major Thoroughfare Plan.
- e. Accessory buildings on lots fronting on Beach Boulevard (U.S. Highway 90) or State Highway 67. In any district that fronts, borders or abuts on Beach Boulevard or State Highway 67, Accessory Buildings or permitted Accessory Uses shall not be built in any required front yard area.
- f. Corner lots fronting on Beach Boulevard (U.S. Highway 90) or State Highway 67. In any district that fronts, borders or abuts on Beach Boulevard or State Highway 67, the required setback along the side street shall be 15 feet. All corner lots fronting, bordering or abutting Beach Boulevard or State Highway 67 shall be deemed fronting to the highway and the same is true

for other major transportation corridors as identified in the City's Major Thoroughfare Plan.

- g. Dumpsters. No permanent dumpster shall be placed or stored in the front yard setback.
- h. Fences. Fences may be erected along the boundaries of the front yard area provided such fences do not exceed four feet in height, subject to the restrictions identified in Subsection (4), below.
- i. Flagpoles
Flagpoles located in residential districts shall be limited to no more than 20 feet in height and may be located in the front yard, but shall be setback a minimum distance of an amount equal to the height of the flagpole from the front property line and ten feet from the side property lines.

(2) Side yards

- a. Where a building in a commercial district is subject to the height and area requirements applicable to residential development under Sec. 23-12-1, the side yard requirements for residential development shall be applied only to the ground floor where the ground floor has more than 25 percent of its area used for dwelling, provided further that no floor shall have an area that is larger than the area of the ground floor. All floors shall be subject to side yards required by this Chapter for commercial buildings adjacent to residential districts.
- b. For the purpose of the side yard and lot frontage regulations, a two-family, three-family or four-family dwelling, a group of townhouses, a multiple-family dwelling, an electric substation, telephone exchanges or telephone repeater structures for public utility purposes shall be considered as one building occupying one lot.
- c. A carport attached to the principal building may be constructed in a required side yard, provided that no support structure of such carport is less than three feet from the side lot line and that every part of the projection of such carport is at least two feet from the side lot line, and said carport shall, at a minimum, meet the front yard setback required for the principal structure or support structure. A carport attached to the principal building shall be unenclosed on three sides.
- d. A carport, detached from the principal building, may be constructed in a required side yard and may be attached to an enclosed Accessory Building, provided that no wall of such Accessory Building extends into the front yard beyond the front wall of the principal structure or that no wall or support structure is less than three feet from the side lot line, that the combined length of such carport and Accessory Building does not exceed 40 feet and that the height of such carport or Accessory Building does not exceed 16 feet. A detached carport shall be unenclosed on the street side and on both sides approximately paralleling the side lot lines.
- e. Where a side yard is not required, but is provided, such yard shall not be less than three feet in width paralleling the side lot line.

(3) Rear yard

- a. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard, are permitted for a distance of not more than five feet.
- b. Where a rear yard is not required but is provided, such yard shall not be less than three feet in width paralleling the rear lot line.

(4) Fences, Side and Rear Yard Areas and on Corner Lots

- a. The maximum height of fences allowed along the boundaries of the side or rear yard on the south side of U.S. Highway 90 shall not exceed six feet in height, except that decorative features may extend up to eight feet in height along not more than five percent of the length of the fence.
- b. On corner lots, where a lot adjoining the rear of the corner lot fronts onto the side street, fence height shall not exceed four feet within a required setback area or three feet when located within the Clear Visibility Triangle (Sec. 23-12-6).
- c. Chain link or wire-type fences shall be prohibited on the south side of U.S. Highway 90 and within the front yard setback on the north side of U.S. Highway 90. Except as otherwise provided, fences constructed along the south side of U.S. Highway 90 may be of any type or design, provided that vision of the waterfront will not be substantially impaired or obstructed as a result of construction of the fence, as determined by the Planning Commission.

(5) Maximum impervious coverage of overall lot area.

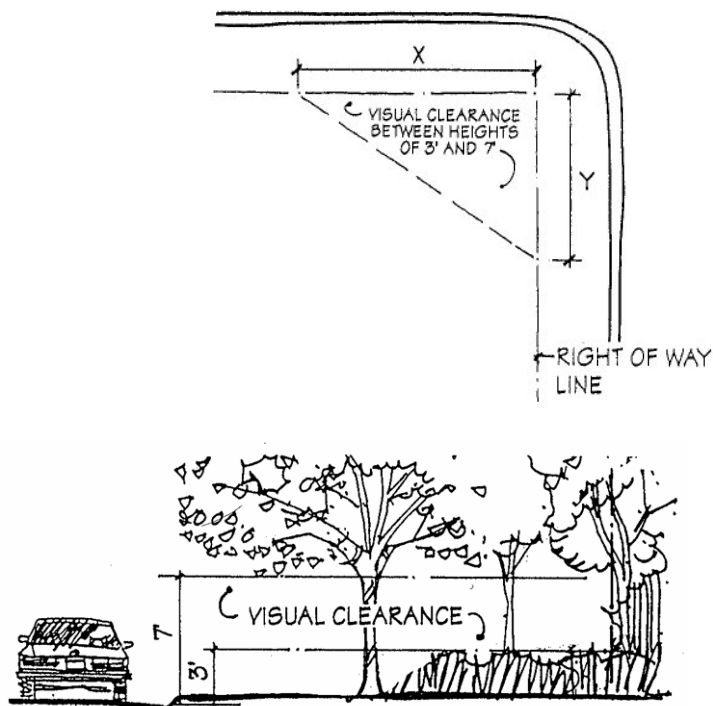
- a. All impervious surfaces created by structures, driveways, and any other improvements cumulatively shall not occupy more than:
 - 1. sixty (60%) percent of the overall surface area of a lot zoned RS-10;
 - 2. sixty (60%) percent of the overall surface area of a lot zoned RS-7.5;
 - 3. fifty-five (55%) percent of the overall surface area of a lot zoned RS-5; provided, however, the above permissible percentages shall be increased by 5% for any lot on which at least 50% of the portion of the non-structural impervious surface area which is paved (such as driveways, sidewalks, and patios) is paved with porous paving material. The determination of whether any material qualifies as a "porous paving material" for purposes of this section shall be made by the DRC based upon the ability of the proposed material to absorb or retain water.
- b. The permissible impervious surface coverage permitted (after consideration of the effect of the main structure on a lot) for a lot zoned RS-5 or RS-7.5 shall be equitably distributed between front and rear yard areas unless a

deviation is authorized by the DRC in accordance with the following parameters:

If the property is located in a neighborhood or subdivision where more than 60 percent of the improved lots in the same block are configured such that the percentage of impervious surface coverage is skewed to either the front yard or the back yard, the distribution between front and back yard coverage may be permitted to either conform to the average coverage ratios for that block, or to exceed those ratios by not more than 15% for a front or rear yard. It is the intent of this adjustment to permit the existing character of neighborhoods and subdivisions to be preserved, while permitting additional development in accordance with that character.

Sec. 23-12-6 Clear Visibility Triangle

When any public right-of-way or access way intersects a public right-of-way or when the subject property abuts the intersection of two or more public rights-of-way, no fence, wall, hedge or other structure or planting shall be erected, placed or maintained at a level between three feet and seven feet above the street grade and within the clear visibility triangles as defined in Subsections (a) and (b) below. Within the clear visibility triangle, unobstructed cross-visibility shall be provided. However, trees having limbs and having foliage trimmed in such a manner that no limbs or foliage extend into the unobstructed cross-visibility area shall be allowed, provided they are located so as not to create a traffic hazard.



(a) Corner Lot

On a corner lot, the clear visibility triangle shall be formed by the intersecting street lines and a straight line joining the street lines at points which are 30 feet from the point of intersection measured along the street lines.

(b) Access way

For an access way other than a single-family residential driveway, the clear visibility triangle shall be formed by the intersecting lines of the access way and the public right-of-way, and a straight line joining those two lines at points which are 15 feet distant from the point of intersection as reflected in the illustration provided. The clear visibility triangle shall be formed on both sides of the access way on the subject property.

Sec. 23-12-7 Supplemental Standards

The following regulations shall apply to townhouses, condominiums and Visitor Accommodations including timeshares in any district where they are permitted:

(a) Townhouses**(1) Lot area**

Townhouse structures shall comply with the minimum lot requirements contained in Table 23-12-1-A, but each dwelling unit within such structure need not be located on a lot complying with minimum lot area and lot area per family requirements in the table, provided the average for all dwelling units equals or exceeds minimum requirements and provided no lot is created with a lot area less than 1,800 square feet.

(2) Lot frontage

Lot frontage, measured at a building line, for individual dwelling units of a townhouse may be not less than 18 feet. Lot width for end units shall be adequate to provide the required front and side yard.

(3) Side yards

For the purpose of the side yard regulations, a townhouse building shall be considered as one building on one lot, with side yards required for end units only, in accordance with Table 23-12-1-A. The side yard adjacent to a single-family residential district shall not be less than 15 feet.

(4) Accessory buildings

A detached garage, carport or other Accessory Building shall be permitted in the required rear yard on a lot occupied by a townhouse.

(5) Number of units per structure

Unless otherwise restricted, not more than eight dwelling units shall be included in any one-townhouse structure.

(6) Variation of facades

Facades of dwelling units in a townhouse shall be varied by changed front yards of not less than three feet and variation of materials or design so that no more than three abutting units will have the same front yard depth and the same or essentially the same architectural treatment of facades and rooflines.

(7) Maintenance of common areas

Provisions satisfactory to the Planning Commission shall be made to ensure that nonpublic areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants shall be maintained in a satisfactory manner without expense to the general taxpayer.

(8) Off-street parking

Required off-street parking of two spaces per dwelling unit must be provided on the lot in the rear yard or within 150 feet of the lot or in any other permitted location.

(9) Compliance with Procedures

Townhouses shall meet the requirements of the subdivision procedures in Sec. 23-4-6.

(b) Condominiums**(1) General Rule**

Condominiums shall be treated as multi-family dwelling units except as provided in this Section.

(2) Special Rule for Certain Projects

Any condominium project which has any two of the following characteristics shall be considered and regulated as a Visitor Accommodation, subject to minimum lot size and parking requirements, as well as to other applicable provisions of this Chapter relating to Visitor Accommodations:

- a. restaurant on the premises;
- b. management office on the premises handling rentals for individual unit owners where typical rentals are for less than 30 days each;
- c. maid service offered by the management, whether included in management fee or as a separate fee; or
- d. acceptance of credit cards for rentals.

(3) Conversion

Conversion of an existing multi-family building to a condominium project shall require approval of a new site plan and conformance with all other applicable requirements of this Chapter as well as approval by the Biloxi City Council.

(c) Visitor Accommodations

See Sec. 23-11-14(e)(2)b.1 for the minimum lot area requirements for hotels and related uses and Sec. 23-11-16(b)(4)b for timeshare requirements.

Sec. 23-12-8 Protection Standards for Residential Districts**(a) Design and Operational Compatibility Standards—Discretionary Approvals**

As a condition of approval of any Conditional Use Permit, Temporary Use Permit, Map Amendment, site plan or other discretionary approval of any nonresidential use located within 500 feet of any residential district or the CBD, the City Council, Development Review Committee, Planning Commission or other review body may impose conditions that are necessary to reduce or minimize any potentially adverse impacts on residential property or the CBD, including, but not necessarily limited to, the following:

- (1)** Location on a site of activities that generate potential adverse impacts on adjacent uses such as noises and glare;
- (2)** Placement and buffering of trash receptacles;
- (3)** Location of loading and delivery areas;

- (4) Lighting location, intensity, and hours of illumination;
- (5) Placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;
- (6) Additional landscaping and buffering;
- (7) Height restrictions to preserve light and privacy and views of significant features from public property and rights-of-way;
- (8) Preservation of natural lighting and solar access;
- (9) Ventilation and control of odors and fumes; and
- (10) Paving or other surface treatment for dust control.

ARTICLE 13. PLANNED UNIT DEVELOPMENTS

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Sec. 23-13-1 Purpose

- (a) The Planned Unit Development is a special overlay that provides an alternate approach to conventional land use controls. As a type of development and as a regulatory process, the PUD offers increased design flexibility for a large site and is subject to special review procedures. Once the Planned Unit Development is approved, it becomes an overlay for the property it represents. The PUD designation shall be applied as an overlay to any one or more conventional districts, except the A, RMH, SB and I Districts, which shall delineate segments of the PUD for the purpose of establishing the Permitted Uses and residential density. The PUD shall be designated by a special symbol for its boundaries on the Zoning District Map. The housing types, minimum lot requirements, maximum height, minimum yard requirements and accessory signs shall be determined by the requirements and procedures set forth in this Article, which shall prevail over conflicting requirements of this Chapter. An approved PUD designation shall be subject to the conditions imposed thereon. In addition, the PUD shall be subject to the regulations of the district(s) in which it is located not in conflict with any of the imposed conditions.

- (b) The purpose of the Planned Unit Development designation is to provide a means for developing open space in larger developments, to take advantage of natural features of the landscape in this design, to improve the quality of the urban environment and to reduce the costs of developing and providing public resources and utilities. The owners of any tract of land containing at least ten acres may submit a plan for the use and development of the entire tract for residential, compatible business, and related uses as a single and unified project. The basic control of development intensity shall be the requirements of one or more of the residential districts. The cluster development concept may be used under the Planned Unit Development regulations. The Planned Unit Development shall be an overlay district providing broader latitude of design to achieve the stated goals.

- (c) The Planned Unit Development allows a development to be planned and built as a unit and which, as a result, permits variations in many of the traditional controls

related to density, land use, setbacks, open space, and other design elements, and the timing and sequencing of the development. PUD, therefore, is both a type of development and a regulatory process. As a development type, PUD permits: flexibility in site design that allows buildings to be clustered; mixtures of housing types such as detached houses, townhouses, or garden apartments; combining housing with such other ancillary uses as neighborhood shopping centers; better design and arrangement of open space; and retention of such natural features as flood plains or steep slopes. PUD offers greater opportunities for providing mixed-income housing.

Sec. 23-13-2 Specific Goals

The PUD District will be applied where it will help to accomplish the following specific purposes:

- (a) Encourage diversified living environments, and accommodate a mixture of land uses that otherwise would not be allowed together on the same site;
- (b) Permit flexibility within the development with respect to area and density standards to best utilize the physical features of a particular tract of land;
- (c) Provide and preserve meaningful open space, particularly where it is necessary or desirable for such common areas to be shared by more than one owner;
- (d) Encourage a more efficient use of land, public services, and natural resources than is generally achieved through conventional development;
- (e) Provide a smooth transition from surrounding densities, intensities, and uses with those proposed in the PUD; and
- (f) Provide amenities beyond the minimum requirements of conventional development.

Sec. 23-13-3 Application of District

The requirements of this Section shall apply to all proposed PUDs. The review and approval of PUDs shall be coordinated with the review and approval of any Subdivision Plat and/or site plan required. An application for PUD approval and any required application for Preliminary Subdivision Plat and/or site plan approval shall be filed simultaneously and coordinated.

Sec. 23-13-4 Permitted Uses

At the time of recommending approval of a PUD, the Planning Commission shall designate a list of Permitted Use groups and categories for the PUD, subject to the following conditions:

- (a) The Permitted Use groups or categories shall not include any Permitted Use groups not allowed in the districts applicable to the property prior to the PUD, except that a residential PUD may include the B-1 Neighborhood Business use group regardless of the district that previously applied, as noted in Sec. 23-9-2(m); if such business uses, however, do not front on a collector or arterial street, no exterior sign or other advertising device will be permitted.
- (b) Where there is more than one zoning district applicable to the property subject to a PUD application, the Permitted Uses in the PUD shall be proportional to the respective land areas contained in each underlying zoning district.
- (c) The City Council, after considering the recommendations of the Planning Commission, may do any of the following:

- (1) Eliminate from a proposed PUD one or more use groups or categories permitted in the districts applicable to the property prior to the application of the PUD;
- (2) Impose limitations on the quantity or intensity of one or more use groups or use categories;
- (3) Impose restrictions on the locations of particular use groups or categories;
- (4) Allow Accessory Uses not permitted in the districts applicable to the property prior to the application of the PUD, provided that such Accessory Uses will:
 - a. Directly contribute to the purposes and goals set out in Sec. 23-11-12(a);
 - b. Occupy not more than five percent of the land area of the planned development.
- (5) Remand to the PUD application to the Planning Commission; or
- (6) Approve or deny the PUD application

Sec. 23-13-5 Minimum District Size With Specific Concerns

Minimum area for a PUD district shall be ten (10) contiguous acres. In designated redevelopment areas and tax abatement districts, the City Council may reduce the minimum area required for a PUD by up to 50%.

Sec. 23-13-6 Recreational and Open Space Requirements

- (a) A PUD shall provide appropriate open space as recommended by the DRC and as approved by the Planning Commission to serve as a buffer between a PUD and the surrounding neighborhood when deemed necessary by the DRC and approved by the Planning Commission for a smooth transition.
- (b) Each PUD shall provide at least 20 percent of the total development proposed for passive or active recreational purposes, suitable for the proposed development, and shall be developed in accordance with the standards of this Chapter and be contiguous except where otherwise deemed appropriate.
- (c) Any required open space which is not dedicated to the City shall be conveyed to a property owners' association via covenants to which the City is a party and shall be subject to an agreement between that party and the City for maintenance and operation of the required open space, with appropriate restrictions recorded in the deed to the property which restrict the use of such land and facilities to open space and recreational uses, as shown on the PUD's Subdivision Final Plat.
- (d) Any proposed dedication of open space or recreational property to the City within a PUD must be appropriately documented to the DRC in writing prior to action by the Planning Commission. If open space or recreational property within a PUD is dedicated to the City, public access to the property must be maintained.

Sec. 23-13-7 Minimum Lot Size

The minimum area and width of residential lots established within a PUD shall not be less than two-thirds of the requirement of the district in which the lot is located. In no case shall a single-

family residential lot be created with an area of less than 5,000 square feet or a lot frontage of less than 35 feet.

Sec. 23-13-8 Buffer Areas

All landscape buffer areas installed in the PUD, pursuant to the requirements of Article 16 of this Chapter, shall be conveyed to a property owners' association for the purpose of ongoing maintenance of the buffer area. Such landscape buffer areas shall not be platted into individual building lots or as part of an individual building lot, unless the lot into which the buffer area is platted exceeds 10,000 square feet.

Sec. 23-13-9 Minimum Off-Street Parking

Off-street parking shall meet the minimum requirements of this Chapter. Design and improvements of such parking shall also conform to this Chapter and other applicable regulations. Innovative design, arrangement and improvements of streets and driveways shall be considered by the DRC, and may be approved as long as they're designed and implemented in compliance with the City's Standards and Specifications Manual.

Sec. 23-13-10 Streets and Street Connections

- (a) The City Council may approve a PUD with private streets, provided that such streets shall conform to the minimum design widths and other design specifications as set forth in this Chapter and in the City's Standards and Specifications Manual and shall be constructed in accordance with the City's Standard Details and Specifications applicable to public streets.
- (b) If a PUD is approved with private streets, then such streets shall be subject to reciprocal easements providing full rights of access to all property owners, their servants and guests; the applicant shall also provide a fiscally sound mechanism for the ongoing maintenance of the streets. The reciprocal easements shall provide for full access to all public vehicles conducting official business, including emergency vehicles. Easements must be provided at a minimum width to allow access for emergency vehicles, in compliance with the City's Standards and Specifications Manual. To the extent that the easements limit access to delivery or service vehicles, that fact shall be clearly disclosed on the face of the plat and on all sales documents for the project. The instruments providing for the protection of rights-of-way and maintenance of the streets shall be subject to review and approval by the City Council; approval of the project may be made contingent on changes to the instruments to address issues of access and maintenance. The applicant shall provide the City with an executed, recorded copy of such instruments prior to final approval of a plat for all or any portion of the project.

Sec. 23-13-11 Sidewalks and Pedestrian Connections

Sidewalk standards shall not be waived for a PUD but may be replaced by equivalent, alternative pedestrian/bicycle connections, which shall link with the sidewalk and pedestrian circulation system of the City.

Sec. 23-13-12 Residential Density Bonuses

In approving an application for a PUD, if the City Council finds that an increase in density will not have an adverse impact on the public health, safety, and welfare of the City, the City Council

may grant a maximum density bonus of up to 25 percent in compliance with Article 12 of this Chapter, if the minimum City standards for the following features are exceeded:

- (a) The quality and quantity of on-site pedestrian facilities (Sec. 23-13-11): up to a 5 percent bonus;
- (b) The quality and quantity of recreational and open space (Sec. 23-13-6): up to a 5 percent bonus;
- (c) Multiple use of storm water impoundments (Sec. 23-14-9): up to a 5 percent bonus;
- (d) Preservation of water features, water views and public water access: up to a 5 percent bonus;
- (e) Preservation of trees (Sec. 23-16-11): up to a 5 percent bonus;
- (f) Energy conservation: up to a 5 percent bonus; and
- (g) Other miscellaneous on-site improvements: up to a total of 5 percent bonus.

Sec. 23-13-13 Development Standards and Improvement Requirements

- (a) Unless approved as an exception by the City Council as a part of the approval of a PUD, all development within a PUD shall conform to the applicable development standards and improvement requirements of this Chapter for underlying district(s) and any applicable overlay district in which the PUD is located.
- (b) The City Council may, as a part of the approval of a PUD, approve the following exceptions to development standards, provided that the City Council determines that other proposed improvements and buffers will perform as well as or better than those required by minimum standards set out in this Chapter:
 - (1) Lot dimensions;
 - (2) Setbacks;
 - (3) Parking;
 - (4) Interior landscaping; and/or
 - (5) Buffering.

Sec. 23-13-14 Additional Standards for PUDs Containing Residential and Nonresidential Uses

Non-residential uses in PUDs containing both residential and nonresidential uses shall be designed, located, and oriented on the site so that such uses are directly accessible to residents of the PUD. For the purposes of this Section, directly accessible shall mean pedestrian/bicycle and automobile access by way of improved sidewalks or paths and streets that do not involve leaving the PUD or using a major thoroughfare. "Directly accessible" does not necessarily mean that nonresidential uses need to be located in a particular location but that the siting of such uses considers the accessibility of the residential component of the PUD to the nonresidential use.

Sec. 23-13-15 Phasing of Development

- (a) In the case of a phased PUD where a majority of the PUD is residential, construction of the nonresidential portions of the PUD, phase or section, shall be designed and phased to ensure that the impacts of the development upon the surrounding community and properties will not be detrimental or a deterrent to further residential development of the community and adjacent properties. Impact of the nonresidential portion includes, but is not limited to, the visual impact and perception of the nonresidential development. Construction of the nonresidential development which is part of the PUD shall commence no earlier than such time as the Building Official has determined that Building Permits have been issued for 25 percent of the dwelling units in the PUD, or that phase of the PUD of which the residential development is part, unless another schedule which fulfills the intent of this Section has been approved by the City Council as part of the PUD's Subdivision Final Plat.
- (b) In the case of a phased PUD in which a majority of the PUD is non-residential, construction of the residential portions of the PUD, phase or Section, shall be designed and phased to ensure that the impacts of the nonresidential development upon the surrounding community and properties will not be detrimental or a deterrent to further residential development of the community and adjacent properties. Impact of the nonresidential portion includes but is not limited to the visual impact and perception of the residential development. Construction of the residential development which is part of the PUD shall commence no earlier than such time as the Building Official has determined that Building Permits have been issued for 25 percent of the total floor area of the nonresidential uses in the PUD, or that phase of the PUD of which the residential development is part.
- (c) All public open space accepted by the City shall be dedicated and completed before the Final Plat is filed and recreational amenities completed before Certificates of Occupancy are issued for more than 50 percent of the dwelling units in the PUD or, if the approved PUD Subdivision Final Plat divides the PUD into phases, in that phase of the PUD in which the amenity is located.

Sec. 23-13-16 Effect

Approval of a PUD plan shall create a special PUD Overlay District for the affected property. The provisions of the PUD plan shall, to the extent inconsistent with otherwise applicable regulations for the underlying district and any applicable Architectural/Historic Overlay District, supercede such regulations. The entire PUD plan, including the related Master Property Development Plan, shall be construed as a single, interrelated approval. Failure of the applicant to conform to the provisions of the PUD plan, including the Master Property Development Plan, shall provide grounds for the City to vacate the plan approval, subjecting undeveloped portions of the property to the regulations of the underlying district.

ARTICLE 14. DEVELOPMENT DESIGN AND IMPROVEMENTS

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Sec. 23-14-1 Applicability and Overview

The design and construction standards set forth in this Article apply to all subdivisions and to all developments requiring Site Plan Review and approval as herein indicated.

- (a) All development shall comply with the City's Standards and Specifications Manual hereafter referred to as "the Manual", which may be reviewed in the Department of Community Development, Engineering Division Office, Fire Department Main Office, and at City Hall during regular business hours. In compliance with the City's Public Records regulations, hard copies of the Manual are available for purchase.
- (b) Any updates made to the Manual, prior to site plan approval, shall be incorporated into all subject projects' design drawings and specifications.
- (c) Every developer shall be required to install at his own expense, or to have installed by the appropriate public utility, all applicable improvements required by this Chapter.
- (d) If the developer proposes to install a street, utilities, and/or drainage ways within an existing or proposed City right-of-way or easement, the City reserves the right to participate in the cost of improvements that will better serve the area. Means of participation shall be as described in the Manual. If improvements are to be installed in a proposed right-of-way, the developer shall provide the City with the appropriate an easement allowing the City to participate in the project.
- (e) Additional design guidelines and standards shall apply to development in AHO and Corridor Redevelopment Districts as well as development on Landmarks and Landmark Sites.

Sec. 23-14-2 Conformance to Applicable Rules and Regulations

In addition to the requirements established herein, any development shall comply with all applicable laws, ordinances, resolutions, rules, or regulations, including, but not limited to the following:

- (a) All applicable provisions of Mississippi law, regulations, or policy;
- (b) This Chapter of the ordinance; all other Chapters of the ordinance; the Manual; Building, Housing, and Life Safety Codes; and all other applicable laws, codes, or regulations adopted by the City of Biloxi;
- (c) Americans with Disabilities Accessibility Guidelines (ADAG);
- (d) All requirements of the Mississippi State Department of Health regarding restaurants, waste disposal, and potable water wells;
- (e) All requirements of the Mississippi Department of Transportation (MDOT) regarding projects that encompass or are adjacent to roadways or properties maintained by MDOT;
- (f) All requirements of the Harrison County Wastewater and Solid Waste Management District regarding restaurants and developments tapping into a sewer line owned by the District;
- (g) All requirements of the Mississippi Department of Environmental Quality, Mississippi Department of Marine Resources, the Army Corp of Engineers, and any other government agencies;
- (h) The Comprehensive Plan; and
- (i) Duly adopted standards, plans, and regulations to achieve specific goals of the City.

The developer shall supply the City with documentation of approval from applicable government entities. If the developer claims that certain rules and regulations of other government entities do not apply to the proposed project, the City may require documentation from the government entity stating the inapplicability. Plat approval or site plan approval may be withheld if a project is not in conformity with these provisions.

Sec. 23-14-3 Subdivision General Guidelines and Layout

Subdivision general guidelines and layout shall apply to major, as well as minor subdivisions where appropriate.

(a) Overall

- (1) Layout of the development shall be based on complete site analysis. Streets and lots shall be designed and situated to minimize alteration of natural and historic site features to be preserved.
- (2) The subdivision layout shall consider the practicality and economic feasibility of development of individual lots including the environmental characteristics, size of the site and the requirements of this Chapter.

- (3) Unique and fragile elements including, but not limited to wetlands, significant stands of trees and individual trees of significant size, shall be preserved where practical, with development reserved for environmentally stable areas.
- (4) Open space and recreational areas shall be planned in accordance with this Chapter.
- (5) The proposed development shall be coordinated with all existing and officially approved plans for the surrounding community.
- (6) The applicable set back requirements, protective or restrictive covenants, if any, and all other proposed development parameters potentially affecting impervious surface coverage shall create a neighborhood pattern which is consistent with the requirements of Sec. 23-12-5(d)(5). In the event the proposed resulting neighborhood pattern is not consistent with that Section, then an application for waiver from such provision must accompany or be incorporated within the submission for approval of the subdivision.

(b) Blocks

- (1) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, waterways, limiting topographical conditions, size of property or for approved through lots.
- (2) Blocks shall be laid out to provide a functional street pattern that provides for connection of local streets between separate subdivisions and discourages through traffic on local streets.
- (3) Block lengths shall not exceed 1,600 feet nor be less than 200 feet or four lot widths whichever is greater, except as the Planning Commission deems necessary to secure efficient use of land or desired features of the street pattern. Blocks along arterial or collector streets shall not be less than 1,000 feet in length.
- (4) All subdivisions with 50 lots or more shall have a minimum of two forms of ingress/egress. Ingress/egress points shall be separated by a minimum of two hundred feet (200') or one block length whichever is greater.
- (5) In all applications, a buffer area at least 25 feet in depth shall be required adjacent to railroad rights-of-way or arterials. This area shall be properly designated on the plat. Vehicular traffic shall not traverse any buffer area.
- (6) The Planning Commission shall have authority to disapprove street lot patterns that may, in its judgment, result in hazards to the general health, safety, and welfare of the citizens of the City.
- (7) Entrance streets into a subdivision shall be collector or arterial streets.
- (8) The lengths, widths, and shapes of blocks shall be determined based on the following:
 - a. Zoning requirements as to lot sizes;

- b. Needs for convenient access, circulation, control, and safety of vehicular and pedestrian traffic;
- c. Relationship to existing utilities;
- d. Layout of public water system with regard to eliminating stagnant water, providing adequate fire flow, placement of fire hydrants, and meeting minimum pressure requirements. The City Engineer, Planning Commission, or City Council may reject the subdivision layout if a different layout is available that would minimize the City's maintenance responsibilities;
- e. Layout of public sanitary sewer system with regard to utilizing gravity sewer system, wherever possible and minimizing the use of sewer force mains. The City Engineer, Planning Commission, or City Council may reject the subdivision layout if a different layout is available that would minimize the City's maintenance responsibilities;
- f. Layout of public storm drainage system with regard to utilizing natural outfalls adjacent to the land being subdivided, and minimizing the use of existing public storm drainage systems for the new development. The City Engineer, Planning Commission, or City Council may reject the subdivision layout if a different layout is available that would minimize the City's maintenance responsibilities;
- g. Location of existing and proposed easements; and
- h. Limitations and opportunities of topography.

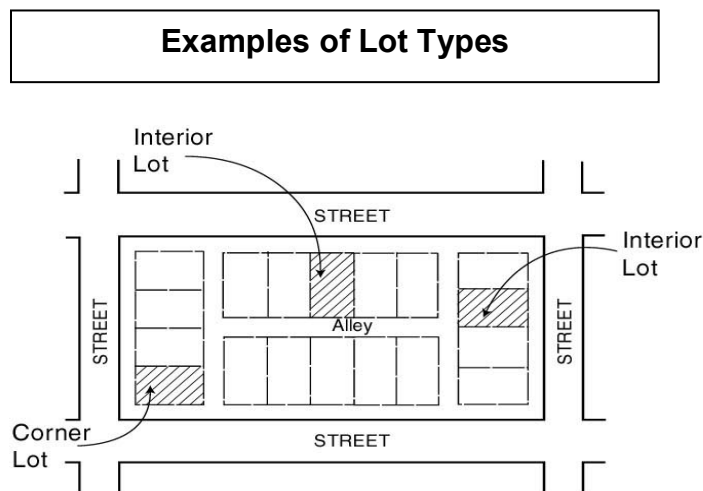
(c) Lots, General

- (1) Every lot within a subdivision shall be buildable in accordance with this Chapter.
- (2) Insofar as deemed practical by the DRC during its review process, side lot lines shall be perpendicular or radial to street lines.
- (3) Each lot shall be designed and implemented in compliance with the Manual to be accessible to and abut upon a dedicated public right-of-way. The minimum frontage on said right-of-way shall be at least 35 feet, or the minimum width required for the applicable district, whichever is greater, except a detached single-family lot in a cul-de-sac shall not be created with a lot frontage of less than 25 feet.
- (4) Lot area shall comply with the minimum standards of this Chapter.
- (5) The lot arrangement shall be such that there will be no difficulties as foreseeable by the DRC, Planning Commission, or City Council, with regard to topography, flood hazards, preservation of protected trees or other conditions in providing a building site and yard area of the size required by this Chapter.
- (6) Each lot shall be situated so that storm water may be easily directed away from buildings in subsequent site-specific development. Lots shall be configured so that buildings and general flood sensitive site facilities shall not be located in drainage ways.

- (7) Flag lots in residential areas are highly discouraged. In commercial districts flag lots are prohibited.
- (8) Creation of through lots (street abutment front and rear) shall be avoided except where necessary to provide access to residential development from other than arterial, or to overcome specific disadvantages of topography and orientation. Through lots shall meet front yard setbacks on both streets. Where a lot has frontage on two streets, the plat shall establish building lines for each street and shall clearly designate the front yard.
- (9) Dimensions of the corner lots shall be large enough to allow for the minimum required street intersection radii and for erection of buildings as stipulated by the side yard requirements of this Chapter.
- (10) Residential lots shall not front arterials. When property is divided along an existing street, the Planning Commission may require that lots not utilize arterial or collector streets for access. Where driveway access from arterial or collector streets is deemed necessary by the Planning Commission, the Planning Commission may require that lots be served by combined driveways (usually one driveway entrance shared by two lots), or by a private access drive serving more than two lots in order to limit driveway entrances and potential traffic hazards. If necessary, shared maintenance arrangements shall be incorporated into the subdivision deeds.
- (11) Residential lots not served by a public central sanitary sewage service collection system shall be sized in accordance with the requirements of the Mississippi Department of Health (MDH). Prior to Preliminary Plat approval for the subdivision not served by a public central sanitary sewage service collection system, the developer shall provide to the City an approval letter from MDH approving the Preliminary Plat.
- (12) Commercial lots not served by a public central sanitary sewage service collection system shall be sized in accordance with the requirements of MDH and the Mississippi Department of Environmental Quality (MDEQ) based on their anticipated use. If the exact use of each lot is not known at the time of the subdivision of land, the lots shall be sized with regard to the anticipated future business use, the surrounding businesses, and the zoning classification district. In addition the lot sizes shall be described in the Sanitary Sewer Narrative submitted as a part the Preliminary Plat process. The developer shall provide the City with a compliance letter(s), as appropriate, from MDH and MDEQ with regard to sanitary sewage collection. In any case, commercial lots not served by a public central sanitary sewage service collection system shall be no less than one and one-half (1 ½) acres in size.
- (13) Except in the A, RE, and RER zoning district classifications, the proposed lot area shall not exceed three times the minimum lot size required by this Chapter for the district within which the proposed subdivision is located. Exceptions may be made when land proposed for division contains flood plain, wetlands, or terrain otherwise unsuitable for development.
- (14) Lot depth shall not be greater than three and one-half (3 ½) times the lot width at the front setback line stipulated in this Chapter. This provision shall not apply to residential lots greater than two acres in size nor property within commercial or

industrial districts. On the recommendation of the DRC, the Planning Commission or the City Council, as applicable, through its action on the Preliminary Plat, may waive or adjust this provision for lots lying partially within the floodplain. Any such adjustment shall be incorporated into the final action on the Preliminary Plat and any preliminary recommendation regarding such adjustment shall be only a recommendation, subject to the approval of the body with the final approval authority for the Preliminary Plat involved.

- (15) Existing and proposed easements shall be located on lot lines unless, in cases involving unusual topography and on the recommendation of the DRC, the Planning Commission or the City Council, as applicable, approves a different location through its action on the Preliminary Plat. Any such adjustment shall be incorporated into the final action on the Preliminary Plat and any preliminary recommendation regarding such adjustment shall be only a recommendation, subject to the approval of the body with the final approval authority for the Preliminary Plat involved.
- (16) Private driveways shall be no longer than one hundred and fifty feet (150') in length unless a means for vehicular turn around is available or the driveway continues through to a public street as approved by the Fire Marshall.
- (17) Fire protection and access of fire protection vehicles shall be in accordance with the Manual.



(d) Lots – Waterfront

- (1) If a tract proposed for subdivision contains a water body which is not public trust tidelands subject to the jurisdiction and stewardship of the State of Mississippi or other cognizant agencies, the following shall apply:
 - a. Lot lines shall be so drawn as to distribute the entire ownership and costs associated with maintenance of the water body among the adjacent lots.
 - b. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a public responsibility. If the water body is

indicated as “open space” on the plat, maintenance shall be borne by the property owners of the subdivision through covenants so that maintenance of the water body shall not be or become a public responsibility.

- c. Where a watercourse separates a buildable area of a lot from the street by which it has access, provisions shall be made by the subdivision developer for installation of a culvert or other drainage device of a design approved by the City Engineer, and no Building Permit shall be issued for a structure on that portion of such lot.
- (2) If a tract being subdivided contains a water body, or portion thereof, which is public trust tidelands subject to the jurisdiction and stewardship of the State of Mississippi, the developer shall submit written documentation from the Mississippi Secretary of State verifying compliance with all applicable requirements.
- (3) The rights of lot owners to waterfront access shall be addressed in the covenants and Final Plat so as to assure that all waterfront property owners enjoy such access.
- (4) If access to the water body shall be provided to all property owners in a subdivision, public access easement(s), open space(s), or other approved methods shall be identified on the Final Plat. Subdivision covenants shall address the rights of property owners as to public access, as well as maintenance of the water body.

Sec. 23-14-4 Single Lot Development General Guidelines

- (a) Any lot proposed for development shall abut a dedicated public street, or a private street approved by the City in accordance with Article 13, Planned Unit Developments, of this Chapter.
- (b) If the City has adopted a Capital Improvements Program or other formal document indicating the intent of the City to widen any public street on which the lot abuts, the Director of Community Development, with the advice of the City Engineer, may require that the applicable setback along such street shall be measured from the right-of-way line shown on such adopted plan or program. If the Community Development Director imposes such a requirement, it shall be imposed through a separate letter directed to the property owner and, if not the property owner, his legal representative. If the City fails to acquire the additional right-of-way within one year of the date of such letter, then the property owner may petition the City Council for relief. If the Community Development Director fails to require the setback from the proposed right-of-way and allows the applicant to set back any proposed building from the existing right-of-way, then the property owner and applicant shall have no rights under this Subsection.

Sec. 23-14-5 Wetlands and Easements

(a) Wetlands

- (1) All existing wetlands shall be shown on the Preliminary and Final Plats for subdivisions and on the site plan for single lot development. Wetlands to be filled or required to be mitigated shall be identified on the plat or site plan as such.

- (2) The DRC may require the developer to have a wetlands delineation performed for the proposed property if any lands are suspected to be wetlands, but not shown on the Preliminary Plat or site plan.
- (3) The developer shall, in consultation with the U.S. Army Corps of Engineers, determine whether permits are needed for disturbance of wetlands or for discharge of waters into the public waters and shall secure such permit(s) prior to approval of a Final Plat. Copies of all applications shall be provided to the DRC. Every Preliminary Plat is conditioned upon the developer obtaining such permits, regardless of whether such condition is stated at the time of plat approval.
- (4) If a wetlands permit requires that the developer mitigate the loss of wetlands, the developer shall comply with mitigation requirements through acquisition of wetlands: 1) if available, in the City of Biloxi; 2) if not available in the City and if practicable, elsewhere in Harrison County; or, 3) if other efforts fail, elsewhere in Mississippi.
- (5) A Public Works Permit for subdivision construction or a Building Permit for single lot development construction containing wetlands to be filled or otherwise modified shall not be issued until a wetlands permit is approved by the U.S. Army Corps of Engineers and documentation provided to the City of same.

(b) Easements

- (1) The developer shall provide the DRC with copies of all recorded easements as required by the City with regard to adjacent properties. Unless otherwise approved by the City Engineer, all required easements shall be perpetual.
- (2) Total width of any easements unless abutting a City right-of-way shall be no less than fifteen feet (15'), but the City Engineer may require additional width if 15 feet is not adequate for proper access and maintenance of the proposed utility or drainage way. If easements run along property lines, then each lot may have an easement of less than fifteen feet (15'), but the total combined continuous width shall not be less than fifteen feet (15').

Sec. 23-14-6 Right-of-Way and Street General Guidelines and Layout

(a) Right-of-Way and Street Dedication

- (1) For any improvements to be accepted by the City, the developer shall dedicate, at no cost to the City, rights-of-way for streets and utilities as shown in Table 23-14-6-A and install all applicable required improvements in accordance with this Section of the Ordinance. The cost of all improvements and dedication of rights-of-way and improvements shall be borne by the developer, in compliance with the Manual. The rights-of-way to be dedicated to the City shall contain the following required improvements: street, curb and gutter, streetlights, utilities, traffic signs, and landscaping in accordance with this Chapter of the ordinance. Sidewalks shall be installed in accordance with Sec. 23-14-7.
- (2) Subdivisions that extend existing streets shall dedicate additional right-of-way to meet the minimum street width requirements set out in this Section from each side of the centerline.

- (3) When the subdivision is located on only one side of the centerline of an existing street, the developer shall dedicate to the City additional right-of-way to comply with existing street design regulations.
- (4) Rights-of-way and streets built to City standards may only be accepted for dedication by the City for dedication if:
 - a. Rights-of-way and roadways are shown on an approved Subdivision Plat;
 - b. A new roadway is built within an existing City right-of-way, conforms to this Chapter and the Manual and has been inspected by the City Engineer throughout the entire construction phase; or
 - c. A new roadway is built within a proposed right-of-way that improves the City's traffic flow and complies with the Comprehensive Plan.

(b) Right-of-Way Widths

- (1) The following are the standard right-of-way widths for City streets:

Table 23-14-6-A Right-of-Way Dedication

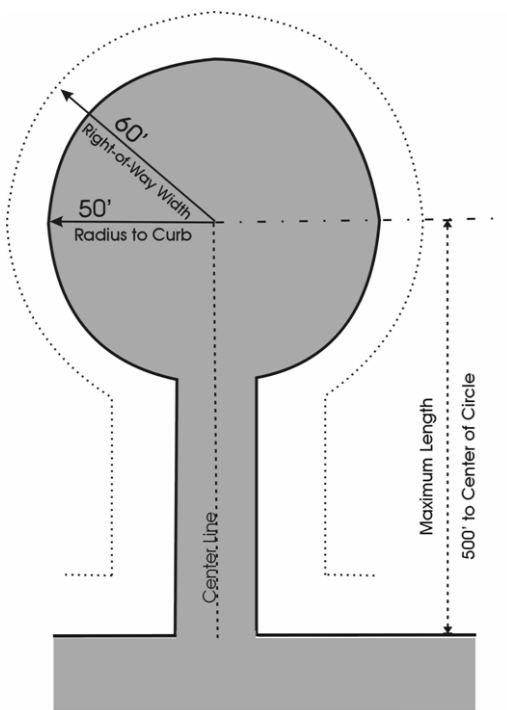
Street type	Minimum Width In Feet
Major arterial	100
Minor arterial	80
Collector street	60
Local street	50
Cul-de-sac (radius)	60

(c) Street Layout and Standards

- (1) Any street to be dedicated to the City as a public street or in the opinion of the City Engineer has the potential of being donated to the City in the future shall improve streets to the following paved widths:

Table 23-14-6-B Paved Street Widths

Street type	Width in Feet
Major arterial, back of curb to back of curb	64
Minor arterial, back of curb to back of curb	52
Collector street, back of curb to back of curb	40
Local street, back of curb to back of curb	28
Cul-de-sac, back of curb to back of curb	100
Cul-de-sac, radius to back of curb	50



- (2) All streets shall be designed and built in conformance with the approved construction plans and the Manual.
- (3) Street grades, where feasible, shall not exceed the following:

Table 23-14-6-C Maximum Street Grades

Street type	Maximum Grade
Arterial	4%
Collector	5%
All Other	8%

- (4) Vertical curve requirements shall conform to the Manual.
- (5) The location of all streets and rights-of-way shall conform to the Major Thoroughfare Plan.
- (6) The proposed street system shall extend existing streets at the same or greater width, but in no case less than the required minimum width in accordance with this Section.
- (7) The City may participate in the construction of a street, if the street is designated on the Major Thoroughfare Plan as an arterial or collector. The developer shall be responsible for the cost of construction of the street up to collector standards. Right-of-way to meet the width of an arterial shall be dedicated to the City at no cost.
- (8) Streets shall not be paved until all underground utilities and other appurtenances are in place and approved by the City Engineer.

- (9)** Street intersections shall be at right angles, unless approved otherwise, and in no case shall an intersection or street curve be at an angle less than 75 degrees.
- (10)** Median divided drives or roads shall be permitted provided that no median may be located within 25 feet from the back of curb of the intersecting roadway.
- (11)** The property line radius and curb line radius at street intersections shall not be less than 25 feet; where the angle of street intersection is less than 90 degrees, the Planning Commission may require a greater radius.
- (12)** Street jogs with centerline offsets of less than 125 feet shall not be permitted. There shall be no jogs on collector or arterial streets.
- (13)** Cul-de-sac streets or courts, designed to have one end permanently closed, shall be no more than 500 feet long. No stub streets shall be allowed unless specifically authorized by the City Council. There shall be provided at the closed end a turnaround having an outside right-of-way diameter in accordance with the cul-de-sac requirements of this Section.
- (14)** Alleys shall not be allowed.
- (15)** When a proposed subdivision's lots front upon an existing paved street other than an arterial street that does not meet the minimum requirements of a street/right-of-way as listed in this Section of the ordinance, the developer shall install or cause to have installed all improvements to upgrade the street/right-of-way to conform to City standards. Improvements shall include, but are not limited to curb and gutter, street lights, sidewalks, paving width, traffic signage, underground drainage, and underground utilities. The applicant shall install all required improvements at no cost to the City or put a cash deposit, or other security satisfactory to the City, in escrow with the City to cover future street improvement projects in compliance with the Manual.

Sec. 23-14-7 Sidewalks, Curb and Gutter, Streetlights, Fire Hydrants and Traffic Signs

(a) Sidewalks

- (1)** Every single lot development shall install or cause to have installed a sidewalk within the right-of-way area adjoining the property to be developed, unless an existing sidewalk meeting the City's standards is in place or approval is granted otherwise by the City Engineer. The sidewalk shall extend the entire length of the property and shall be installed in accordance with the Manual.
- (2)** For new subdivisions, sidewalks shall be installed on both sides of all streets, bridges, and around cul-de-sacs. The subdivision developer shall have the option to install all sidewalks within the subdivision or convey the responsibility to the individual property owners within the subdivisions. The subdivision developer in any case shall be responsible for installing sidewalks along all public area properties or other areas along the street that are not adjacent to individual lots prior to Final Plat. If the developer chooses to convey the sidewalk responsibility to the individual property owners, a provision shall be included on the Final Plat, as well as within the subdivision covenants where applicable, that sidewalks will be installed for every lot prior to occupancy of any structure, provided that, five

years from approval of the subdivision Final Plat by the City Council, the owners of any lots for which sidewalks have not been installed shall be required to do so at their own expense at that time.

- (3) If sidewalks are not installed as prescribed in this Subsection, the Department of Public Works shall be authorized to cause to have the sidewalk installed, the cost of which shall become a special assessment against the affected property. Subsequent to the expiration of the five-year period for subdivisions, no Building Permits may be issued for any lot for which a sidewalk has not been installed as provided in this Subsection.
- (4) The Planning Commission may require additional sidewalks and wider sidewalks near commercial areas, schools and other places of public assembly.
- (5) Sidewalks, where required, shall be included within the dedicated non-traffic way portion of the right-of-way or easement of all streets.

(b) Curb & Gutter

Curb and gutter shall be installed on both sides of all streets. Curbs and gutters shall be designed and installed in accordance with the Manual.

(c) Streetlights

- (1) Streetlights shall be installed along new subdivision lots by the subdivision developer.
- (2) Streetlights shall be installed along all single lot developments by the developer if the lot is located in an area requiring street lighting as shown on the City's Street Lighting Plan.
- (3) Streetlights shall be installed within the City right-of-way where directed by the City Engineer and conform to the City's Street Lighting Plan, the Manual and all applicable electrical codes.

(d) Fire Hydrants

Fire hydrants shall be required for all developments in accordance with the Manual.

(e) Traffic Signs (Subdivisions)

Street name and traffic signs shall be required in all subdivisions and installed by the developer. Such signs and posts shall conform to the requirements specified in the Manual and the latest edition of "The Manual of Uniform Traffic Control Devices." The developer may install decorative signage if approved by the City Engineer. If decorative signage is installed, the maintenance of the decorative signs shall be subject to a maintenance agreement between the City and the developer and/or the property owners' association. The City shall not be responsible for replacing damaged/missing decorative signs with the same. Traffic signs on private property are regulated under Article 17, Signs.

Sec. 23-14-8 Survey Monuments, Pins, and Benchmarks

- (a) Monuments shall be of concrete at least four inches in diameter or square, three feet long, with a flat top. Tops of monuments shall have an indented cross or metal pin to identify properly the location of the point, and shall be set flush with the finished grade.

Monuments shall be set on all outside corners of the subdivision. The monuments shall directly correspond to the Subdivision Final Plat, with one corner monument designated as the point of beginning; said point of beginning shall be related by distance and bearing to an established section, township, and range corner that is no smaller than one quarter of one quarter (1/4 of 1/4) section.

- (b) All lot corners shall be marked with metal pins not less than one-half inch in diameter and 24 inches long.
- (c) Permanent benchmarks, based on mean sea level, shall be set not more than 1,000 feet apart along all street lines. Elevations on fire hydrants, manhole rings and spikes in utility poles will not be acceptable. The developer shall designate on the Final Plat a complete description of all benchmarks, including the location, the type of mark and the elevation. At least one permanent benchmark shall be required for a subdivision of four or more lots. The City Engineer may require additional permanent benchmarks. Surveying system to be used for benchmark layout shall be in accordance with the Manual.

Sec. 23-14-9 Drainage Facilities and Flood Prevention

- (a) Drainage facilities and flood prevention measures for all developments shall be in accordance with this Chapter, Chapter 8 "Drainage and Flood Damage Prevention" of the Biloxi Code of Ordinances, and the Manual. All drainage utilities shall be installed underground. Surface drainage shall be limited to the requirements of Chapter 8 and the Manual.
- (b) All drainage facilities shall be designed to serve the entire drainage area of the project site. The City may, at its option, elect to participate in the cost of any drainage system, which is required to serve a drainage basin greater than the area to be subdivided.
- (c) If the development's surface drainage cannot be accommodated in accordance with Chapter 8 and the Manual, the developer shall install or have installed a system appropriate in size and location.
- (d) Storm water runoff from developments shall discharge to an approved outfall.

Sec. 23-14-10 Potable/Fire Protection Water and Sanitary Sewer

- (a) Potable/fire protection water and sanitary sewer service and/or systems for all developments shall be in accordance with this Chapter, Chapter 22 "Water and Sewer" of the Biloxi Code of Ordinances, and the Manual. All utilities shall be installed underground.
- (b) Subdivision developers shall install or have installed a system of water mains and sewer mains of approved size and location connected to the City systems. If City systems are not available as indicated in Chapter 22 and the Manual, the developer shall install water and sanitary sewer infrastructure for future tie-in by the City, unless approved otherwise by the City Engineer.

Sec. 23-14-11 Utilities by Private Utility Companies (Subdivisions)

- (a) The developer shall install or cause to be installed all utilities provided by private utility companies such as, but not limited to, power, gas, telecommunication and television cable prior to Final Plat approval.
- (b) All utilities shall be installed underground.
- (c) All utilities shall be installed prior to final inspection and acceptance of sanitary and storm drain utilities by the City.
- (d) The subdivision developer shall be responsible for all improvements until Final Plat approval.
- (e) Prior to excavation activities, the developer shall be responsible for locating all existing underground utilities in the area being disturbed that have not been accepted by the City, so that existing utilities will not be disturbed. The developer shall post a construction sign at each entrance to the development providing utility companies with contact information to have existing utilities located prior to excavation.

Sec. 23-14-12 Solid Waste Disposal

All residential, commercial and industrial uses shall provide space to collect and dispose of solid waste in compliance with the Manual, screening requirements of this Chapter, and in accordance with Chapter 9 "Garbage, Trash, and Weeds" of the Biloxi Code of Ordinance.

Sec. 23-14-13 Fire Protection for Piers, Docks, and Wharves

Where a standpipe system is required for a pier, dock, or wharf, it shall be provide in accordance with the Standard Fire Prevention Code and NFPA 14 and located as follows:

- (a) A gated outlet to the standpipe system shall be located at the entrance to the pier, dock, or wharf.
- (b) A gated outlet to the standpipe system shall be located no more than fifty (50) linear feet from the farthest end of the pier, dock, or wharf and then gated outlets to the standpipe system shall be spaced no more than one hundred (100) linear feet thereafter for the entire length of a pier, dock, or wharf.
- (c) Where a pier, dock, or wharf has more than one branch, a standpipe shall be located no more than fifty (50) linear feet from the farthest end of each branch of the pier, dock, or wharf and then gated connections to the standpipe system shall be spaced no more than one hundred (100) linear feet thereafter for the entire length of a pier, dock or wharf.

Sec. 23-14-14 Public Areas

- (a) Public areas shall be any common area provided by the developer for use by the residents of a subdivision or the general public, excluding rights-of-ways.
- (b) Any public area that is not dedicated to the City shall be conveyed to a property owners' association via covenants for maintenance and operation, with appropriate restrictions recorded in the deed to the property restricting the use of such land and

facilities to open space and recreational use. The subdivision Final Plat shall depict public areas.

- (c) Any proposed dedication of public area(s) to the City must be appropriately documented to the DRC in writing, prior to action by the Planning Commission. If a public area is dedicated to the City, public access to the property must be maintained.
- (d) If public area(s) is dedicated to the City, but landscape maintenance or any other form of maintenance is to be performed by a property owners' association, the maintenance of the public area(s) shall be subject to a maintenance agreement between the City and the developer and/or the property owners' association.

Sec. 23-14-15 Landscaping and Tree Removal/Protection

All developments are subject to standards set forth in Article 16 Landscaping, Screening, Buffers, as to landscaping, screening, buffering and tree removal/protection requirements.

Sec. 23-14-16 Business Signs

All signs on private property in the City are subject to Article 17, which establishes standards for such signs.

Sec. 23-14-17 Phasing of Development

- (a) Developments to be constructed in phases shall be indicated as such on the site plan and/or Preliminary Plat submitted to DRC for review.
- (b) Numbering of phases shall be sequential and coincide with the construction order of the phases. The developer shall repeat the DRC review procedure if phasing or order of development changes.
- (c) If a development is to be constructed in phases, each phase to be constructed shall meet all requirements of this Chapter and the Manual, either as a stand-alone project or in conjunction with completed and accepted phases of the same project.
- (d) If approved as a part of the DRC review process, temporary measures may be installed for a particular phase of a subdivision in order to meet the requirements of this Chapter for the particular phase to stand alone, but where the temporary measure is not required when the subsequent phase is installed. Temporary measures shall only be allowed for up to one year from the date of Final Plat. All proposed temporary measures shall be shown on the site plan to be approved by the DRC.
- (e) The developer shall post a Guarantee of Improvements for any temporary measures installed. The amount to be posted shall be 100% of the estimated costs to bring a temporary measure into compliance as approved by the City Engineer.

Sec. 23-14-18 Construction of Development

- (a) Construction procedures and requirements for subdivisions and other improvements to be dedicated to the City shall be in accordance with this Chapter and the Manual.
- (b) Construction drawings and specifications for subdivisions and other improvements to be dedicated to the City shall be prepared by a professional engineer registered in the

State of Mississippi. The drawings and specifications shall be stamped and signed by the registered professional. The signature shall be original.

- (c) A Public Works Permit for subdivision construction shall not be issued until construction drawings are approved by the City Engineer. Any proposed changes to the construction drawings or specification shall be in accordance with the procedure identified in the Manual. Any proposed construction changes that will change the intent of the Preliminary Plat shall be resubmitted, reviewed and approved by the DRC and/or City Council prior to implementation of the change.
- (d) No DRC review shall commence, nor shall any Building Permit be issued for any single lot development within a subdivision, which has not received Final Plat approval.
- (e) A Final Plat shall not be approved by the City Council or recorded in the Court House until construction of all improvements are complete and a Certificate of Development Compliance has been issued, unless a Guarantee of Improvements has been issued in accordance with this Chapter and the Manual.
- (f) In lieu of completion of the improvements herein required prior to Final Plat approval, the developer shall post a Guarantee of Improvements satisfactory to the City and made payable to the City of Biloxi. The guarantee shall be in accordance with the Manual. The guarantee shall be in the amount of 100% of the cost of the remainder of the improvements to be installed as approved by the City Engineer.
- (g) Final Plat may only be granted prior to completion of improvements, in accordance with this Chapter, for non-residential subdivisions when approved by the City Council.
- (h) No building occupancy shall be permitted nor permanent municipal utility service furnished on any lot within a subdivision where the infrastructure improvements have not been accepted by the City, a CDC has not been received for the subdivision, and/or the Final Plat has not been accepted and recorded.
- (i) Testing, inspection, and submittal requirements for subdivision construction or construction of any other improvements to be dedicated in compliance with the Manual.

Sec. 23-14-19 Guarantee of Improvements

- (a) When required by this Chapter, the developer shall post a Guarantee of Improvements. The Guarantee of Improvements shall be posted with the City, reviewed, and accepted in accordance with the Manual.
- (b) A Guarantee of Improvements shall be posted when infrastructure improvements are not complete prior to Final Plat of a subdivision of land and may also be required of any contractor or developer performing work within an existing right-of-way. The Guarantee shall extend until a subsequent Guarantee of Improvements is approved and in effect for the warranty phase.
- (c) A Guarantee of Improvements shall be posted for warranty of infrastructure improvements whenever public infrastructure improvements are dedicated to the City. If all infrastructure improvements comply with the City's Standards, the guarantee shall be for a period of 24 months, from the date of Final Plat approval or date of

acceptance of infrastructure improvements, whichever occurs last. If a Variance was granted for one or more of the standards in the Manual, the Guarantee of Improvements for warranty shall extend for a period of 60 months from the date of Final Plat approval or date of acceptance of infrastructure improvements, whichever occurs last.

- (d) Whenever a performance bond, surety bond, or other approved form of guarantee is required by this ordinance to ensure the completion of improvements or the performance of specified conditions or requirements, it shall be considered a Guarantee of Improvements. The administrative officials or board charged with the administrative oversight of the Guarantee of Improvements may, in accordance with the circumstances requiring a Guarantee of Improvements, use their discretion in accepting either a performance bond, a letter of credit, a cash payment, or other suitable form of guarantee. A party aggrieved by a staff decision not to accept a particular form of Guarantee of Improvements may appeal that decision to the City Council.

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ARTICLE 15. OFF-STREET PARKING, LOADING AND ACCESS

Article 15 Index

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Sec. 23-15-1 Off-Street Parking, Loading and Access

(a) Purpose

It is the purpose of the following Sections to ensure that off-street parking, loading, and access demands associated with development will be met without adversely affecting local traffic patterns, nearby land uses, and surrounding neighborhoods. In recognition of the fact that different transportation access-based solutions are appropriate in different areas of the City and for different types of development, the standards set out in this Article allow flexibility in dealing with vehicle parking, loading and access issues.

(b) Off-Street Parking Required

- (1) All development shall provide permanent off-street parking in the minimum amount specified in Table 23-15-2-A.
- (2) Such off-street parking shall be provided in a parking garage or properly graded and improved surface area with the parking spaces composed of asphalt, concrete, or porous paving blocks.

(c) Expansion or Change of Existing Uses

- (1) Any expansion, enlargement or change in use of an existing structure shall provide additional off-street parking in compliance with the minimum off-street parking requirements applicable to the new use.
- (2) Additional off-street parking spaces shall be required to serve the enlarged or expanded area, provided that in all cases the number of spaces provided for the entire use (pre-existing and expansion) shall equal at least 85 percent of the minimum ratio established in Table 23-15-2-B.
- (3) Expansions subject to this requirement shall include enlargements in floor area, number of employees, number of dwellings, seating capacity or other similar type of expansions.

Sec. 23-15-2 Off-Street Parking Standards and Calculations**(a) Table 23-15-2-A: Off-street Parking Requirements**

Except as otherwise provided in this Article, off-street parking spaces shall be provided for all parcels upon which any of the following uses are hereafter established, in accordance with the following schedule:

Table 23-15-2-A Required Off-Street Parking

Use Category	Specific Use	Minimum Spaces
Square footages are based on gross floor area, unless otherwise indicated; minimum of three parking spaces for all uses except residential and as excepted in the CBD.		
Residential		
Household Living	Guest cottage	1 space per unit
	Manufactured Home	1 per lot
	Manufactured Home Park	1 per site
	Mobile Home	1 per lot
	Mobile Home Park	1 per site
	Multi-family	1 space per studio unit of 600 sq. ft. or less; 1.5 spaces per 601-800 sq. ft. unit; 2 spaces per 801-1,000 sq. ft. unit; 2.5 spaces per 1,001 or more sq. ft. unit.
	Duplex	1 per unit
	Residential above first floor	Same as Multi-family calculations
	Single-family attached or townhouse	1 per unit
	Single-family detached	1 per lot
Group Living	Zero Lot Line Single Family	1 per lot
	Nursing home	1 per 2 beds
	Convent or monastery	1 per 3 beds
	Group Living	1 per 2 beds plus 1 per 100 square ft. of assembly area
	Group Home	1 per 2 beds plus 1 per 100 square ft. of assembly area
Public and Civic Uses		
Community Service	Cemetery or mausoleum	1 per each 2 employees
	Public health center	1 per 250 sq. ft.
	Hospital	1 per 500 sq. ft.
	Library	1 per 500 sq. ft.
	Neighborhood center	1 per 250 sq. ft.
	Places of worship	1 per 30 sq. ft. of main auditorium
	Youth center	1 per 250 sq. ft.
	All other community service or uses	1 per 250 sq. ft.
Day Care	Home care center	1 off street for pickup/drop off
	Day care center	1 per each 2 employees
Educational Facilities	Business, industrial or trade school	8 per classroom
	College or university	10 per classroom
	Elementary, middle or junior high school	1 per teacher/employee plus 10 visitor spaces
	High school	1 per teacher/employee plus 1 per 3 students
Government Facilities	Government office or building	1 per 250 sq. ft.
Parks and Open Space	Parks and open space	Subsection (b) for standard
	Sand beach	Subsection (b) for standard
Transportation and Utilities	Transportation facilities	1 per 100 sq. ft. of passenger waiting area
	Utility substation	1 per 1,000 sq. ft.
	All other similar utilities	1 per each 3 employees
Commercial, Office, Retail Uses		
Eating and Drinking Establishments	Bar or lounge	1 per 100 sq. ft.
	Brewpub	1 per 150 sq. ft.
	Fast-food restaurant	1 per 150 sq. ft.
	High-turnover restaurant	1 per 150 sq. ft.
	Nightclub	1 per 100 sq. ft.
	Quality restaurant	1 per 150 sq. ft.

Use Category	Specific Use	Minimum Spaces
Entertainment Establishments	Cinema	1 per 4 permanent seats
	Clubhouse	1 per 250 sq. ft.
	Dockside Gaming	1 per 50 sq. ft. of casino floor area, plus 1 per each 2 employees on a maximum shift (Accessory Uses calculated pursuant to Table 23-15-2-B)
	Golf course	5 per hole
	Lodge	1 per 300 sq. ft.
	Riding Academy	1 per 5 stalls
	Shooting range	1 per 2 employees plus 1 per target lane
	Other Entertainment Establishments	See Subsection (b) for standard
	Tennis Court(s) or swimming pool	1 per 75 sq. ft.
Offices	Ballrooms, banquet halls, meeting rooms and auditoriums (not Accessory Uses)	
	General office	1 per 400 sq. ft.
	Massage therapy	1 per 300 sq. ft.
	Medical or dental office or clinic and/or lab	1 per 300 sq. ft.
	Professional office	1 per 400 sq. ft.
	Radio station	1 per 1,000 sq. ft.
Visitor Accommodations	Television station	1 per 500 sq. ft.
	Bed and Breakfast	1 per room plus 2 for office
	Hotel or motel, or extended stay	1 per room plus 2 for office
	Recreational vehicle park	1 per space plus 2 for office
Retail Sales and Service	Timeshare	Same as Multi-family calculations
	Animal care, training, or kennel	1 per 400 sq. ft.
	Art, music or dance studio	1 per 400 sq. ft.
	Bank, savings and loan, credit union	1 per 250 sq. ft.
	Beach vending	1 per stand
	Book or media shop	1 per 300 sq. ft.
	Convenience store	1 per 150 sq. ft. plus 1 per gasoline pump for convenience store with gasoline sales
	Dry cleaning business	1 per 200 sq. ft.
	Funeral home or mortuary	1 per 500 sq. ft.
	Furniture store	1 per 500 sq. ft.
	General retail	1 per 200 sq. ft.
	Health club or spa	1 per 250 sq. ft.
	Laundry	1 per 200 sq. ft.
	Personal services	1 per 200 sq. ft.
	Other retail or service	1 per 200 sq. ft.
Regulated Businesses	Check cashing or title loan	1 per 250 sq. ft.
	Day labor employment services	
	Escort Services	See Subsection (b) for standard
	Lingerie modeling studio	1 per 100 sq. ft.
	Pawn or Buy-Sell Shop	1 per 200 sq. ft.
	Sexually-oriented cabaret	1 per 100 sq. ft.
	Sexually-oriented cinema	1 per each 4 seats
	Sexually-oriented media shop	1 per 200 sq. ft.
	Sexually-oriented video	1 per 200 sq. ft.
	Sex shop	1 per 200 sq. ft.
Vehicle Sales and Service	Tattoo and body piercing parlor	1 per 200 sq. ft.
	Auto repair, minor	4 per bay
	Auto repair, major	4 per bay
	Auto sales, new or used	5, plus 1 per 1000 sq. ft. of indoor and outdoor storage and display area
	Body shop	4 per bay
	Car rental agency	1 per 500 sq. ft.
	Car wash	See Subsection (b) for standard
	Gas station, Full Service	1 per gasoline pump plus 2 spaces
	Gas station, Self Service	1 per gasoline pump plus 2 spaces
	Heavy truck repair/equipment dealer	4 per bay
	Boat, personal watercraft, motorcycle, scooter	1 per 500 sq. ft.
	Truck Stop	1 truck space per 10,000 sq. ft. of site area + 1 vehicle space per 200 sq. ft. of building area

Use Category	Specific Use	Minimum Spaces
Industrial and Manufacturing Uses		
Industrial Production and Manufacturing	Boat Manufacturing	1 per 1,000 sq. ft.
	Dry cleaning plant	1 per 1,000 sq. ft.
	Extraction Industries	See Subsection (b) for standard
	Hazardous materials processing	1 per 1,000 sq. ft.
	Research and development	1 per 1,000 sq. ft.
	Retail manufacturing	1 per 250 sq. ft.
	Other industry and manufacturing	1 per 1,000 sq. ft.
Warehouse and Storage	Self-storage facility	1 per 600 sq. ft.
	Warehouse	1 per 600 sq. ft.
Wholesale Trade	All wholesale uses	1 per 600 sq. ft.
Agriculture	Farming	None
	Livestock	None
	Retail plant nursery	1 per 1,000 sq. ft.
	All other agricultural uses	None
Water-Oriented Facilities	Boat repair	1 per 400 sq. ft.
	Boat launch ramp	Minimum of 20
	Fish camp	See Subsection (b) for standard
	Marina	1 per boat slip, 2 for office
	Seafood processing	1 per 1,000 sq. ft.
	Ship terminal	See Subsection (b) for standard
	Yacht club	See Subsection (b) for standard
	All other water-oriented uses	See Subsection (b) for standard
	Boat dry storage	1 per 3 units

(b) Requirement for Parking Study

The uses identified for this Section in Table 23-15-2-A have widely varying parking demand characteristics, making it difficult to specify a single off-street parking standard. Therefore, for those uses identified, the following requirements shall apply.

(1) Parking Study

Proposals for development or expansion of the uses identified in Table 23-15-2-B that require compliance with these standards must include a parking study that provides justification for the number of off-street parking spaces proposed. All parking studies must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Development Review Committee and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability shall be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

(2) Review by DRC

The DRC shall review the parking study and any other traffic engineering and planning data relevant to the establishment of an appropriate off-street parking standard for the proposed use. After reviewing the parking study, the DRC shall establish a minimum off-street parking standard for the proposed use.

(3) Appeals

Appeals of the DRC decisions may be taken to the Board of Zoning Adjustments in accordance with the procedures of Sec. 23-3-9(b)(3).

(c) Computing Parking and Loading Requirements

When calculating required off-street parking spaces, fractions of one-half or less will be rounded down to the next whole number and fractions of more than one-half will be rounded up to the next whole number.

- (1) Unless otherwise expressly stated, all square footage-based off-street parking and loading standards shall be computed on the basis of gross floor area.
- (2) Off-street parking requirements for a use not specifically listed in Table 23-15-2-A shall be the same as for a listed use with similar characteristics of parking demand generation, as determined by the Director of Community Development.

(d) Mixed-Use Facilities

- (1) Parcels or structures containing more than one use shall provide off-street parking in an amount equal to the total of the requirements for all uses, as described below. This includes:
 - a. Different uses contained entirely within and occupying the same building or parcel;
 - b. Principal buildings and Accessory Buildings located on the same parcel, but with two or more different types of uses; and
 - c. Joint occupation of principal buildings, Accessory Buildings or parcels by more than one use with the same or similar parking requirements.
- (2) Off-street parking spaces required to satisfy mixed-use projects shall equal the sum of the requirements of the various uses computed separately; provided that the following adjustments may be made, if applicable and as approved by the Director of Community Development:
 - a. Parking requirements for permitted accessory retail and service uses may be reduced up to the percentages in Table 23-15-2-B to accommodate said Accessory Uses, upon provision of appropriate documentation to the Director of Community Development establishing the accessory nature of said uses to the Principal Use on said parcel.
 - b. Permitted Accessory Uses included entirely within a multiple dwelling, hotel or motel containing 100 or more dwellings or suites.
 - c. Permitted Accessory Uses included entirely within a Dockside Gaming Establishment as set forth within an approved Master Plan.

Table 23-15-2-B Accessory Use Parking Adjustments

Type of Accessory Use	Allowed Reduction
Retail sales, offices and service establishments	35 percent
Restaurants and dining rooms	35 percent
Ballrooms, banquet halls, meeting rooms and auditoriums	35 percent

- (3) For the purposes of this Section, an Accessory Use or building to a Dockside Gaming Establishment shall be deemed to be located on the same parcel as the Principal Use or building, so long as such Accessory Use or building is contained within an approved Master Plan.

(e) Shared Parking

In order to accommodate developments or uses with different operating hours or peak business periods that seek to share off-street parking facilities, the Planning Commission may consider such developments or uses as a Conditional Use and may approve a lower number of parking spaces than required in Table 23-15-2-A, based on developer-submitted parking data such as a shared parking analysis, or appropriate standards from another source acceptable to the Director of Community Development.

- (1) Those wishing to use shared parking as a means of satisfying off-street parking requirements shall submit a shared parking analysis to the Director of Community Development that clearly demonstrates the feasibility of shared parking. The study shall address, at a minimum, the size and type of proposed development, composition of tenants, anticipated rate of parking turnover and anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces and shall demonstrate to the Director of Community Development's satisfaction that the plan is feasible and appropriate and will protect the public health, safety and welfare of the community.
- (2) Shared off-street parking spaces shall be located according to the standards identified in this Section. Shared parking may not be separated from the use it serves by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway, traffic control measures or bus service is provided.
- (3) Shared parking areas serving uses in nonresidential districts shall be located only in nonresidential districts. Shared parking areas serving uses located in residential or agricultural districts may be located in the same or less restrictive district.
- (4) A shared parking plan shall be enforced through a recorded covenant or agreement, a permanent parking easement, or written agreement among all owners of record, a copy of which shall be attached to the Certificate of Occupancy and cannot be altered without the approval of the City Council.

(f) Stacking Spaces Required

- (1) In developments where vehicles may be expected to wait (including, but not limited to drive-through restaurants, banks, and gated parking facilities), adequate stacking space shall be required as indicated in the following Table 23-15-2-C.

Table 23-15-2-C Required Stacking Spaces

Activity Type	Minimum Spaces	Measured From
Bank teller lane	4	Teller or Window
Automated teller machine	3	ATM Machine
Restaurant, fast food	6	Order Box
Restaurant, fast food	4	Order Box to Pick-Up Window
Car wash stall, automatic	4	Entrance
Car wash stall, self-service	3	Entrance
Gasoline pump island	2	Pump Island

(2) Valet-parked vehicles may be stacked with Planning Commission approval and as set forth below:

- a. No more than 20 percent of all required off-street parking spaces may be designated as valet-parked spaces;
- b. Valet-parked spaces shall not be stacked more than three spaces deep; and
- c. The design of valet-parked areas shall be approved as part of an overall project Master Plan.

(g) CBD Parking

There shall be no off-street parking requirements within the CBD.

(h) Persons with Physical Disabilities

A portion of all off-street parking spaces shall be specifically designated, located, and reserved for use by persons with physical disabilities.

(1) Required accessible spaces shall be determined from Table 23-15-2-D. Off-street parking spaces reserved for persons with disabilities shall be counted toward the fulfillment of the space requirements in Table 23-15A.

Table 23-15-2-D Required Accessible Spaces for Disabled

Total Parking Spaces Provided	Minimum Accessible Spaces	Minimum Van-Accessible Spaces	Minimum Car-Accessible Spaces
1-25	1	1	0
26-50	2	1	1
51-75	3	1	2
76-100	4	1	3
101-150	5	1	4
151-200	6	1	5
201-300	7	1	6
301-400	8	1	7
401-500	9	2	7
501-1,000	2% of total spaces	1 per 8 accessible spaces or fraction thereof	7 per 8 accessible spaces or fraction thereof
Over 1,000	20 + 1 per 100 spaces over 1,000		

- (2) All parking spaces reserved for persons with disabilities shall comply with the latest edition of the Americans with Disabilities Act Guidelines, and shall be located in the closest proximity to an accessible entrance.
 - (3) Van accessible parking spaces shall be nine feet wide by 19 feet long with an adjacent access aisle measuring nine feet wide by 19 feet long. Van accessible spaces shall have at least an eight foot wide access aisle located immediately abutting the designated parking space.
 - (4) All other accessible parking spaces shall be nine feet wide by 19 feet long with an adjacent access aisle measuring five feet wide by 19 feet long. Car accessible spaces shall have at least a five-foot wide access aisle located immediately abutting the designated parking space. Two accessible parking spaces may be permitted to share a common access aisle.
 - (5) All accessible spaces shall be marked as such and access aisles shall be shown on the site plan with diagonal striping.
 - (6) Built-up curb ramps shall be located so that they do not protrude into vehicular traffic lanes or into parking space access aisles.
 - (7) All signage for identifying handicapped parking spaces shall be provided and installed by the developer.
- (i) **Space Location and Orientation**
- (1) Off-street parking spaces for single-family and duplex dwellings shall be provided on the same parcel as the dwelling served.
 - (2) Off-street parking spaces for all other uses shall be oriented to and within a reasonable walking distance to the building or use that the spaces serve (as shown in Table 23-15-2-E) unless specific provision is made for shuttle service or other transit to and from the parking area. The BZA may grant a Variance from this provision after determining that strict enforcement of this provision would result in unnecessary hardship to the developer.

Table 23-15-2-E Maximum Walking Distances to Off-Street Parking

User	Maximum Walking Distance
Employee Parking	1,000 feet
Shoppers	700 feet
Guests – Hotel, Residential or Dockside Gaming	500 feet

- (3) Off-street parking areas and structures for Dockside Gaming facilities may be located within any commercial or industrial district that allows such use and that can properly accommodate the required spaces, when it is determined by the DRC that such off-street parking shall not be detrimental to the community by reason of noise, traffic, lights, smoke, or other factors adverse to the public health, safety, and welfare.

- (4) All off-street parking areas except for single family and two-family dwellings shall be designed so that vehicles can turn around within the parking area and enter the street in such a manner so as to completely eliminate the necessity of backing into the street.
- (5) Off-street parking shall not be located in a required front yard except as follows:
 - a. In the RO, B-2, B-3, B-4, B-5, WF, I-1, and I-2 Districts, required off-street parking spaces may be located in required front yards, provided the spaces are arranged so as to preclude backing onto a public street.
 - b. Driveway space for access to parking areas or drive-in service facilities may be located in required front yards.

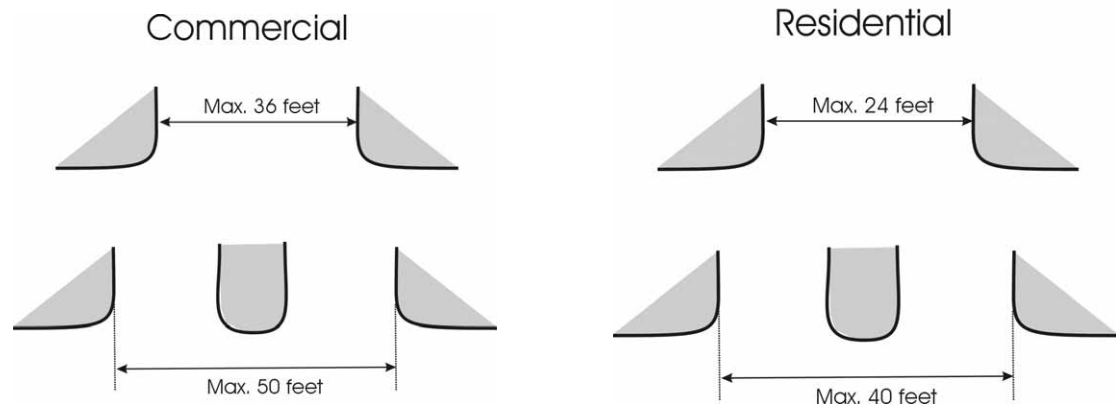
(j) Off-Site Parking

- (1) Off-site parking shall be permitted only if the zoning classification of such parcel designated for off-site parking is the same or less restrictive than the classification of the parcel for which the parking is being provided.
- (2) Off-site parking spaces shall be located a distance from the building or use served by the parking spaces that shall be no greater than those distances identified in Table 23-15-2-E.
- (3) When the use of off-site parking is permitted to satisfy parking requirements, one or more of the following shall apply:
 - a. Such parking area shall be secured by a recorded covenant or agreement through an encumbrance on the title of the subject property. Such agreement or covenant shall be duly recorded with the Chancery Clerk of the Second Judicial District of Harrison County, with a certified recorded copy furnished to the Director of Community Development, and cannot be altered without City Council approval.
 - b. If an off-site parking area is not under the same ownership as the Principal Use served, a written agreement shall be required. An attested copy of the agreement between the owners of record shall be submitted to the Director of Community Development. Recordation of the agreement with the Chancery Clerk of the Second Judicial District of Harrison County shall take place before issuance of a Certificate of Zoning Compliance, Building Permit or Certificate of Occupancy for any use served by the off-site parking.
- (4) Required off-street parking areas shall not be reduced in area or changed to any other use unless the Permitted Use for which they serve is discontinued or modified, except where an equivalent off-street parking area is provided and approved by the BZA.

(k) Space Access

- (1) Access to off-street parking spaces shall be designed so as not to obstruct the free flow of traffic.
 - a. Required parking spaces shall not have direct access to a public street. Access to required parking spaces shall be provided by on-site driveways.

- b. Off-street parking area driveway curb cuts shall not be more than 36 feet in width for commercial development and 24 feet for residential development unless entrances or exits include a median strip to separate traffic flow in opposite directions in which case the curb cut shall be 36 feet plus the width of the median strip, not to exceed 50 feet for commercial development, or 24 feet plus the width of the median strip, not to exceed 40 feet, for residential development.



- c. Curb cuts shall be allowed in accordance with Table 23-15-2-F.

Table 23-15-2-F Maximum Number of Driveways

Frontage Width	Maximum Number of Driveways
250 feet or less	1
251 to 1,500 feet	2
1,500 feet or more	3

- (2) On frontages of 250 feet or less, a pair of one-way driveways may be substituted only if the internal circulation on the site is compatible with the one-way driveways and wrong-way movements on the driveways are rendered impossible or extremely difficult for motorists.
- (3) Entrance and exit drives shall be located at least 100 feet from the edge of the right-of-way of any street intersection. If the subject lot has less than 100 feet of frontage, the DRC may alter these requirements. Suitable provisions will be made to prevent ingress or egress at other than the designated entrance or exit drives.

(I) Dimensional Standards

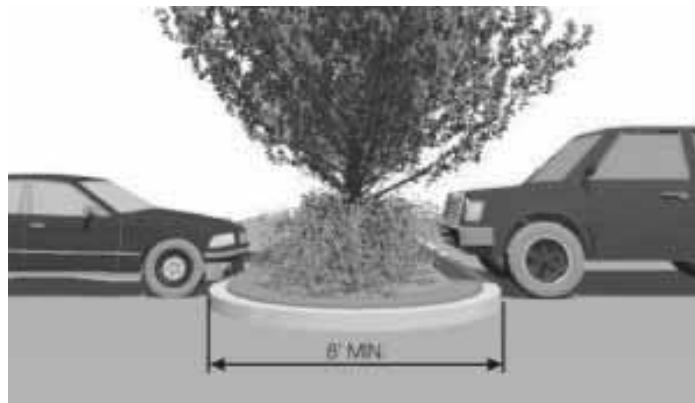
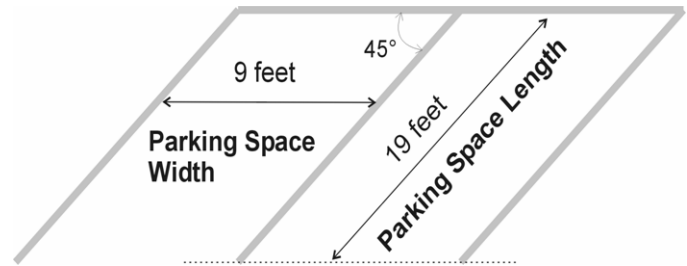
- (1) The minimum width and length of spaces shall be as shown in Table 23-15-2-G.

Table 23-15-2-G Minimum Space Dimensions

Space Type	Width	Length
90 degrees	9 feet	19 feet
60 degrees	9 feet	19 feet
45 degrees	9 feet	19 feet

(2) Width of Divider Median

Divider medians that form a continuous landscaped strip may be installed between abutting rows of parking spaces. The minimum width of divider medians shall be five feet if wheel stops or raised curbs prevent vehicle overhang of the median. If vehicle overhang is allowed, the minimum width shall be eight feet.

**Median Width Where Overhang is Allowed****(3) Minimum Aisle Widths**

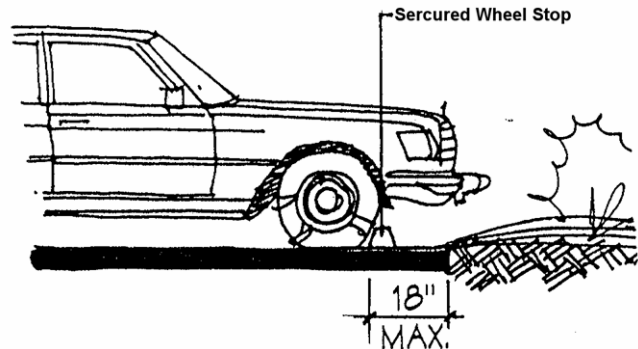
The minimum width of spaces, plus their access aisle, shall be as shown in Table 23-15-2-H. These standards apply to a single row of head-in parking or two rows of head-in parking sharing an aisle.

Table 23-15-2-H Minimum Aisle Widths

Parking Angle	Width: One Row Sharing Aisle	Width: Two Rows Sharing Aisle
90 degrees	41 feet	60 feet
60 degrees	39 feet	60 feet
45 degrees	32 feet	51 feet

(m) General Requirements

- (1) Secured wheel stops shall be provided in all parking spaces without curbing. The vehicle side of the wheel stop shall be no more than 18 inches from the end of the space.
- (2) Where sidewalks occur in off-street parking areas, parked vehicles shall not overhang or extend over the sidewalk. In these areas, wheel stops shall be provided even if curbing exists.
- (3) There shall be adequate provision for ingress and egress to all parking spaces to facilitate ease of mobility, ample clearance and safety of vehicles and pedestrians.
- (4) Off-street parking areas shall be drained to eliminate standing water and prevent damage to abutting property and public streets and alleys, and surfaced in accordance with applicable City specifications. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or occupant, and not used for the sale, storage, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.
- (5) Off-street parking areas shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device, or by a distance so that vehicles cannot protrude over publicly owned areas.
- (6) Landscaping, curbing or approved barriers shall be provided along parcel boundaries to control the entrance and exit of vehicles or pedestrians and along interior driveways.
- (7) All off-street parking areas, single family and two-family residences excepted, shall be marked by painted lines and/or curbs or other means to delineate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic movement operations.
- (8) Adequate lighting shall be provided for off-street parking areas. Lighting shall be arranged so as to eliminate direct view of fixture luminaries from adjacent and nearby residential properties. No lighting shall be arranged so that undiffused lighting is projected into public streets and rights-of-way creating hazards or safety concerns for drivers.
- (9) When any vehicular use area or off-street parking area is abutting or located less than 50 feet from a residential use or zoning district, and where such parking or vehicular use areas are not entirely screened visually from such parcel by an intervening building or structure, a continuous visual buffer with a minimum height of six feet shall be provided along the entire abutting or adjacent lot line in accordance with the applicable provisions of this Chapter, except in required front yard areas and for situations involving a Clear Visibility Triangle, where a lesser fence height will be required. This applies whether or not a perimeter-landscaped

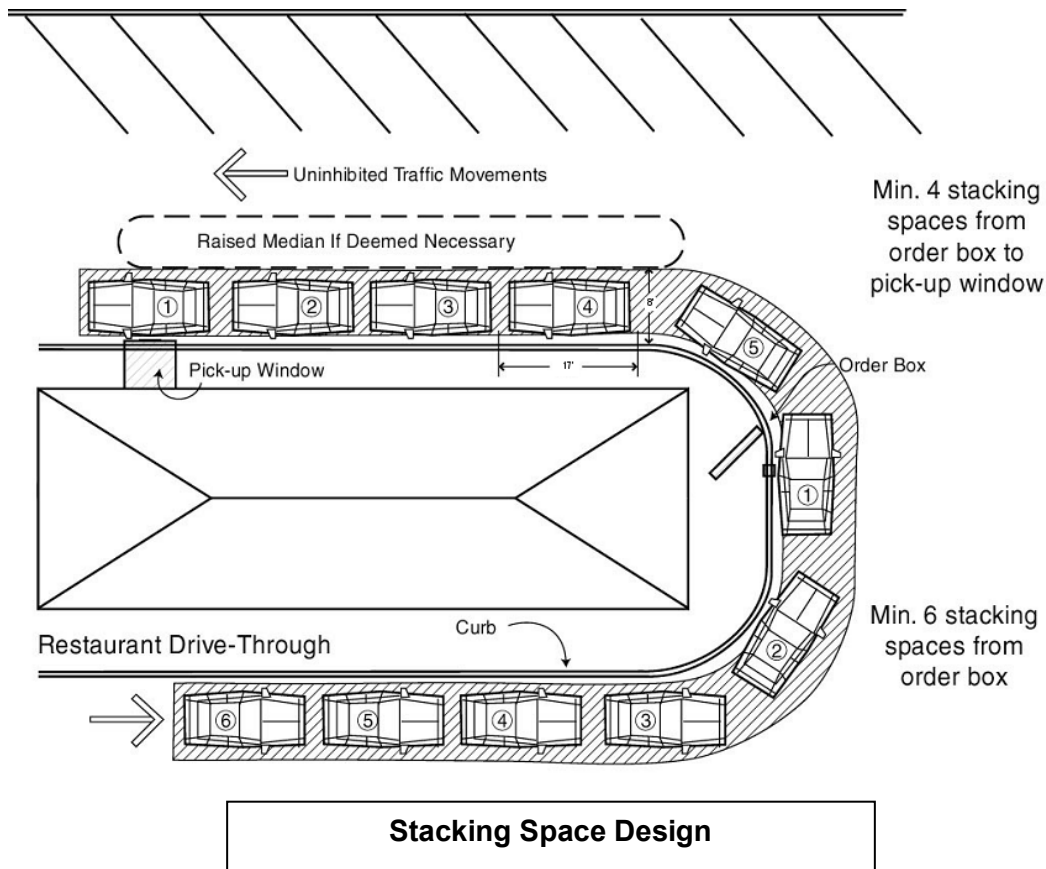


area is required. Such screen may consist of a masonry wall, wooden fence, compact evergreen hedge or foliage screening or a louvered wall or fence or any combination thereof; said screens shall be subject to applicable City permitting requirements.

- (10) Major projects that require 200 or more off-street parking spaces and that utilize commercial bus services may provide up to 20 percent of that requirement as bus parking spaces (i.e., minimum dimensions of 14 feet by 40 feet), with approval of the Development Review Committee. Each bus parking space shall be considered the equivalent of 15 vehicle parking spaces. The term “bus” shall not include camping and recreational equipment or recreational vehicles, as defined in Sec. 23-21-5.

(n) Stacking Space Design and Layout

- (1) Stacking spaces must be a minimum of eight feet by 17 feet in size and an aisle width of 20 feet shall be provided.
- (2) Stacking spaces may not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.
- (3) Stacking spaces may be required to be separated from other internal driveways by raised medians if necessary for traffic movement and safety.



Sec. 23-15-3 Off-Street Loading Requirements**(a) Required Area**

Every hospital, institution, hotel, convenience store, restaurant, bar, commercial or industrial building or use with 5,000 square feet or more of improved area shall provide at least one off-street loading space for each 5,000 square feet of floor area or portion thereof.

- (1) No required off-street loading space shall be used to satisfy off-street parking requirements.
- (2) Commercial or industrial uses that can demonstrate to the satisfaction of the DRC that they do not necessitate the use of trucks or other delivery vehicles may be exempt from off-street loading space requirements.

(b) Design standards**(1) Dimensions**

Required off-street loading spaces shall be not less than 360 square feet in area, and have a minimum width of 12 feet, a minimum depth of 30 feet and a vertical clearance of at least 14.5 feet. Required loading spaces for funeral homes may be reduced in size to ten feet by 25 feet.

(2) Drainage

Drainage shall be provided for off-street loading spaces to eliminate standing water and prevent damage to abutting property and public streets, and said spaces shall be surfaced in accordance with the Manual.

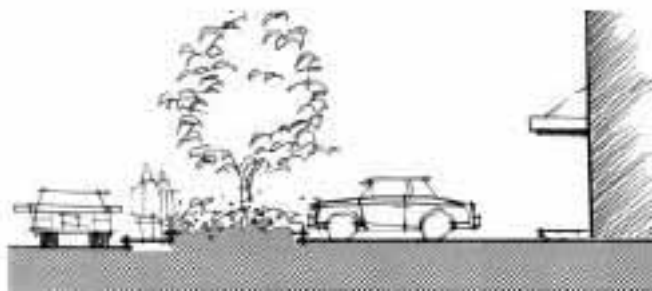
(3) Maintenance

Off-street loading spaces shall be maintained in a clean, orderly, and trash-free condition at the expense of owner or occupant, and not used for the sale, storage, repair, dismantling or servicing of vehicles, equipment, materials or supplies.

Sec. 23-15-4 Landscaping of Parking and Loading Areas

The following minimum landscaped areas shall be provided in all parking, loading, stacking, and other vehicular use areas. Criteria for these landscaped areas shall be those set forth in Sec. 23-16-8.

- (a) A three-foot landscape buffer (green space) is required around the perimeter of all vehicular use areas, including multistoried or covered parking garages.
- (b) A five-foot landscape buffer (green space) is required between the right-of-way line and the vehicular use areas including multistoried or covered parking garages.



- (c) One tree shall be planted within the landscape buffers for every 35 linear feet.
- (d) At least ten percent of the interior of the vehicular use area is required for landscaping (excluding the perimeter area).
- (e) A landscape island equivalent to a standard size parking space, planted with a tree, shall be created for every 20 contiguous parking spaces.
- (f) Each unused space over 24 square feet in size shall be landscaped and maintained in compliance with the provisions set forth in Article 16.

Sec. 23-15-5 Access for Persons with Disabilities

All new construction and development except construction of single-family homes on individual lots and mobile or manufactured homes in an approved Mobile Home Park or Manufactured Home Park shall meet at least the following accessibility standards for persons with disabilities, in addition to those standards imposed under the building codes:

- (a) All handicap accessible access routes and pathways shall be a minimum of 36 inches in width.
- (b) All changes in grade for access routes and pathways (building/street) shall be shown.
- (c) All changes in grade between one-quarter inch and one-half shall have a beveled change in level (2:1 max.). All changes in grade greater than one-half inch shall be ramped.
- (d) All ramp slopes shall be indicated.
- (e) The surface of all access routes and pathways for handicap accessibility shall be hard, smooth, stable, and slip-resistant.

Sec. 23-15-6 Access Standards

The following access standards shall apply to all development and construction except single-family homes on individual lots and mobile or manufactured homes in an approved Mobile Home Park or Manufactured Home Park.

- (a) Access ways shall be a maximum of 24 feet in width for residential and 36 feet in width for commercial unless approved otherwise by the Fire Marshal. The required width of all access roads shall not be obstructed in any manner at any time (including parking of vehicles). All "no parking" sign locations shall be shown on the site plan.
- (b) Access ways shall be capable of supporting loads imposed by expected fire apparatus.
- (c) Minimum vertical clearance for access ways shall be a minimum of 14 feet unless approved otherwise by the Fire Marshal.
- (d) All access ways shall have an adequate turning radius for the expected fire apparatus.

Sec. 23-15-7 Access Classification of Streets and Roads**(a) Major Thoroughfare Plan**

Streets and roads in the City of Biloxi shall be classified in accordance with an adopted Major Thoroughfare Plan, as recommended by the Planning Commission and adopted by the City Council.

(b) Classifications and Access Policies**(1) Arterial Roads**

These roads, as designated on the adopted Major Thoroughfare Plan, are capable of providing medium to high speeds and traffic volumes over medium to long distances. Direct access to abutting land is subordinate to providing service to through traffic.

- a. Private direct access to an arterial roadway shall be permitted only when the property in question has no other reasonable access to the public roadway network.
- b. The design and location of allowable private access points must comply with all applicable Sections of this Chapter.
- c. All private direct access points to arterial roads shall be designated as "Temporary".

(2) Collector Roads

These roads, as designated on the adopted Major Thoroughfare Plan, are capable of providing moderate travel speeds and traffic volumes and generally provide the linkage between arterial and local roads providing a reasonable balance between access and mobility needs within this classification.

- a. Generally, only one private access point shall be provided to an individual parcel from a Collector roadway unless it can be shown that additional access points would not be detrimental to the safety and operation of the roadway and are necessary for the approved use of the property.
- b. The design and location of allowable access points must comply with all applicable Sections of this Code and the Manual.

(3) Local Roads

These streets allow for low to medium travel speeds and traffic volumes and are linked to the roadway network through intersections with arterial and collector roads and other local roads. Access needs shall take priority over through traffic movement when the public health, welfare, and safety are not compromised.

(c) Default Assignments

- (1) Where a particular street has not been assigned to a classification on the Major Thoroughfare Plan, it shall be considered a collector street.
- (2) In order to minimize the potential for accidents and delay to through vehicles, all adjacent driveways onto arterial and collector roads must be separated by the

minimum distance measured from near edge to near edge of adjacent driveways as shown in Table 23-15-7-A according to the posted speed limit on the road.

Table 23-15-7-A Minimum Spacing of Adjacent Driveways

Posted Speed Limit	Minimum Spacing (feet)
20	85
25	105
30	125
35	150
40	185
45	230
50	275

(Source: Adapted from Access Management for Streets and Highways, Report IP-82-3, Federal Highway Administration, Washington, D.C., June, 1982.)

- (3) Additionally, the spacing of adjacent driveways shall be as uniform as possible between major intersections. Distances between adjacent one-way driveways with the inbound drive upstream from the outbound drive may be one-half the distances shown on Table 23-15-7-A provided that other requirements are satisfied.

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ARTICLE 16. LANDSCAPING, SCREENING, BUFFERS

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Sec. 23-16-1 Purpose

The purpose of this Article is to aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge and storm water runoff retardation, while at the same time aiding in noise, glare, and heat abatement; ensure that the local stock of native trees and vegetation is replenished; assist in providing adequate light and air and in preventing overcrowding of land; provide visual buffering and enhance the beautification of the City; safeguard and enhance property values and protect public and private investment; preserve and protect the unique identity and environment of the City and preserve the economic base attracted to the City by such factors; conserve energy; and protect the public health, safety, and general welfare.

Sec. 23-16-2 Applicability

(a) General

- (1) Except as otherwise provided in this Section, this Article shall apply to all land located in the City. Provision of required landscaping shall not serve as required retention/detention areas for any site.
- (2) A common development that includes more than one lot shall be treated as one lot for the purposes of satisfying this Article. Split ownership, planning in phases, construction in stages or multiple Building Permits for a project shall not prevent it from being a common development as referred to in this Subsection. Each phase of a phased project shall comply with the requirements of this Article.
- (3) This Article shall not apply to the following:
 - a. Building Permits for single-family or two-family residences where only one such structure is constructed per lot.
 - b. Building Permits for remodeling or renovation of less than 50 percent of the replacement cost of a structure, as long as the front and side exterior walls of the building remain in the same place.

- c. Building Permits for the restoration of a building when the restoration does not exceed 50 percent of the replacement cost of the building, when restoration is required as a result of fire or other natural causes and provided the permit is obtained within 12 months of the occurrence of the fire or other natural causes.

(b) Applicability to Existing Development

Any development in existence before adoption of this Article shall comply with the requirements set forth in this Article under any of the following circumstances:

- (1) A change in the use to which a vehicular use area is accessory requiring a 25 percent increase in the number of parking spaces.
- (2) Reconstruction or renovation of 50 percent or more of the replacement cost of any structure.
- (3) A cumulative increase in the gross floor area of a structure exceeding 25 percent of the original gross floor area.

Sec. 23-16-3 Landscaping for Public and Private Open Space

All public and private open spaces that are not dedicated to trees or shrubs shall be landscaped with grass, ground cover, or other appropriate landscape treatment.

Sec. 23-16-4 Public Works Permit and Tree Permit Requirement

No lot included under the provisions of this Article shall be cleared of landscape materials until a Public Works Permit has been issued. A Tree Permit is required for the removal, relocation or substantial alteration of a protected tree.

Sec. 23-16-5 Installation and Maintenance Standards

All landscaping materials required under this Article shall be of nursery stock quality and shall be installed in a sound workmanlike manner and according to accepted good planting procedures. All landscaping shall be adaptable to climate conditions of the area. All landscaping shall be maintained in good condition and in accord with all provisions of this Article as follows:

- (a) All landscaping shall present a healthy, neat, clean, orderly, disease-free, and pest-free appearance.
- (b) All landscaping soil and fill shall be generally free from weeds, and totally free from all refuse and debris at all times.
- (c) Landscaping elements such as walls and fences shall be repaired or replaced as needed to present a clean and neat appearance and to function as intended.
- (d) Any dead plant material or material which fails to show healthy growth must be removed within 60 days.
- (e) Replacement of removed plant material must take place within 30 days of removal.
- (f) Any replacement plant material must meet the size and other characteristics of newly planted material as required in this Article.

- (g) Maintenance of all landscaping is the responsibility of the owner, agent, and occupant, jointly or separately.
- (h) All required landscaping shall be irrigated by one of the following methods: (1) An underground sprinkling system; (2) A hose attachment within 150 feet of all landscaping.
- (i) Trees and large shrubs shall be adequately supported using metal stakes and wire guys. Such supports should be so designed that they will protect trees and shrubs from injury. Trees and shrubs shall be fastened to the supports with an acceptable commercial tree tie of plastic or hose-covered wire.
- (j) In no instance shall any landscaped area required by this Article be encroached upon by any type of vehicle, except that the front of a vehicle may encroach upon an interior landscaped area when the area is at least 3 1/2 feet in depth per abutting parking space and protected by wheel stops or curbing.
- (k) Maintenance pruning of trees is encouraged by the City when the primary objective is to maintain or improve tree health and structure, and includes hazard reduction pruning. Maintenance pruning does not require a Tree Permit.

Sec. 23-16-6 Landscaping and Sidewalks in Right-of-Way

- (a) Landowners may landscape areas within the non-paved street right-of-way abutting their land, with the understanding that:
 - (1) The City may at any time require such landscaping to be removed, and the City shall not be responsible or liable if any landscaping is removed.
 - (2) Such landscaping in the right-of-way shall not impede or obstruct visibility from any vehicle, and shall receive the prior approval of the City Engineer.
 - (3) Any underground sprinkler systems, planters or other structures or devices placed in the right-of-way shall require prior approval by the City Engineer.
- (b) Sidewalks shall be required for all developments included under the provisions of this Article.

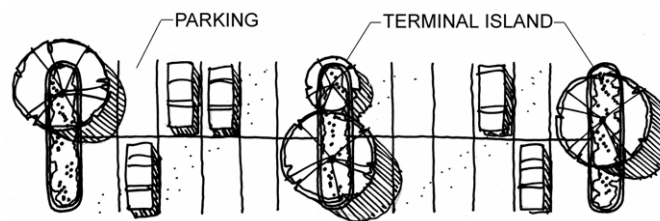
Sec. 23-16-7 Sidewalks on Private Property

Where developing properties abut public roads having insufficient public right-of-way to allow the placement of sidewalks within the right-of-way, landowners may place sidewalks on their property parallel and adjacent to the public road, in lieu of an equal amount of area from the total landscape area requirement. Upon completion of sidewalks built in compliance with the City's Standards and Specifications Manual, the City may accept responsibility for maintenance of all sidewalks adjacent and parallel to the public road through receipt of a maintenance easement, at the landowner's option. The public's use of a sidewalk on private property shall be considered to be pursuant to a revocable license.

Sec. 23-16-8 Interior Landscaping of Vehicular Use Areas

Landscaped areas in the interior of a vehicular use area shall be provided when the vehicular use area is over 5,000 square feet in size. The following conditions shall apply to the interior landscaped areas:

- (a) The total of all interior landscaped areas shall occupy at least ten percent of the vehicular use area.
- (b) Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving. Each unused space resulting from the design or layout of parking spaces that is over 24 square feet in size shall be landscaped. In no case shall more than 20 parking spaces be created without the inclusion of one landscaped island, at least nine feet wide for the length of the parking area, for each 20 contiguous parking spaces created.
- (c) The planting of one tree shall be required in accordance with the provisions of this Article for every 20 interior parking spaces.
- (d) All trees shall be planted in a permeable area of not less than five feet in width (minimum of 30 square feet), except that additional permeable area may be required to ensure adequate growth.
- (e) Multistoried or covered parking garages may be exempted from providing interior landscaping, so long as landscaping satisfactory to the DRC is provided as part of the parking garage.



Examples of Interior Landscaping of Vehicular Use Areas

Sec. 23-16-9 Buffering and Screening

(a) Major Developments

(1) General

- a. The purpose and intent of the Major Development Buffer Area Regulations is to maintain many of the environmental features and amenities of the City for present and future generations. Adherence to these regulations will improve the appearance and compatibility of land uses and other development within the City through the installation and maintenance of plantings and fencing for screening and aesthetic effects, thereby serving to protect and preserve the appearance, character, value, and safety of the total urban area and nearby properties. It is intended that these provisions shall constitute minimum requirements.

- b. Buffer areas require approval by the DRC. When the applicant wishes to ask for a Variance from these Buffer Area Regulations, an alternative Design Plan, which shall fulfill the intent of this Chapter, shall be submitted to the DRC, which will, upon review, make a recommendation regarding the submission, and then forward the submission and recommendation to the BZA.

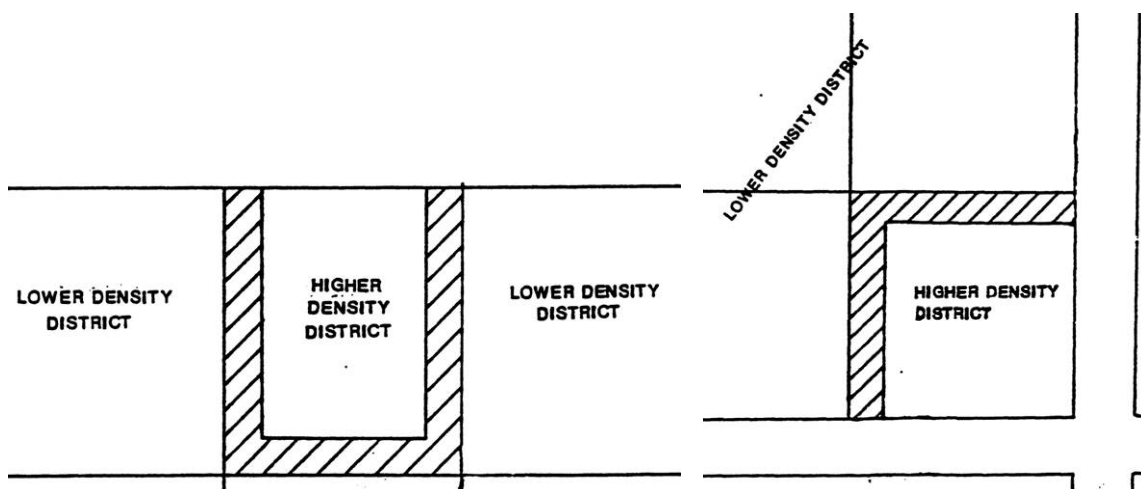
(2) Buffer Areas Relating to Abutting Properties

In Table 23-16-9-A below, when a district abuts a use indicated, a buffer area shall be provided as listed.

Table 23-16-9-A Buffer Areas Relating to Abutting Properties

Use District	Abutting Use District	Buffer area min. width (feet)
RM-10, RM-20, RM-25	A, RE, RER, RS10, RS7.5, RS5, RD, RO, RM-10, RM-20, RM-25	10
B-2	All Agricultural and Residential Districts and B-1	20
B-3	All Agricultural and Residential Districts and B-1	20
B-4	All Agricultural and Residential Districts and B-1	20
B-5	All Agricultural and Residential Districts and B-1	20
CRD	A, RE, RER, RS10, RS7.5, RS5, RD, RO	10
WF	All Districts	10
I-1 & I-2	All Districts	20

- a. A buffer area unbroken by vehicular access way, unless specifically authorized by the Development Review Committee, shall be located parallel to the property line.
- b. Drainage easements may be included in buffer areas to meet the requirements.
- c. A six-foot masonry wall or solid chain link fence or a fence of approved wood or natural decay resistance shall be placed along the outer perimeter of the buffer area.
- d. Trees and other vegetation shall be planted in the buffer so as to provide an 80 percent year-round visual screening at maturity. Maturity of planting shall be reached within two years. Staggered planting may be required to achieve this thicket effect.



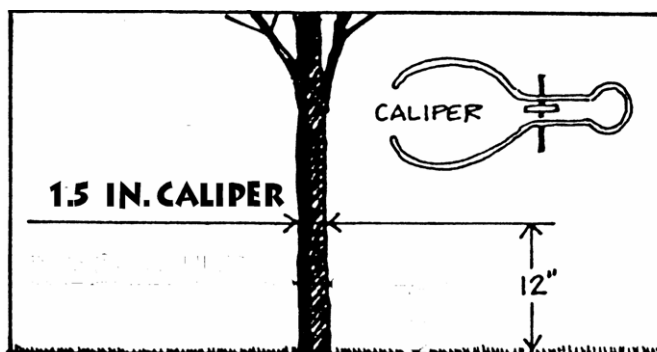
Location of Buffer Area Relative to Lower Density Zoning District

(3) Plant Standards

All required planting shall consist of any of the following or combination of materials such as, but not limited to, grafts, ground covers, shrubs, vines, hedges, or trees. In addition, nonliving durable materials may be used to complement, but not to be credited as plants. These materials include, but are not limited to, wood chips, loose rocks and pebbles, wood structures, walls, or fences, but excluding paving and sand. Plant materials used in conformance with provisions of this Chapter shall conform to the standards recommended by the American Society of Landscape Architects for Mississippi.

a. Trees

Trees shall be a minimum of seven feet in height at the time of planting and a minimum of 15 feet at maturity. Trees shall be a species recognized by the State of Mississippi Division of Forestry as being acceptable for this area. Trees shall be of a species achieving at maturity, an average spread of crown of greater than 15 feet and having trunk(s), which can be maintained with a minimum of six feet of clear wood trunk elevation. Trees having an average mature spread crown less than 15 feet may be substituted by grouping same so as to create the equivalent of a 15-foot crown spread. Trees species shall have a minimum of one and one-half-inch caliper measured 12 inches above ground. Trees of a species whose roots are



known to cause damage to public roadways, sewers, or other public works (unless the tree root system is completely contained within a barrier for which a minimum interior containing dimension shall be 30 feet square and a minimum dimension of five feet) shall not be accepted. Each such tree shall be planted in 30 square feet of planting area with a minimum dimension of at least five feet.

b. Ground Covers

Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance.

c. Lawn Grass

Grass areas shall be planted and grown as permanent lawns. Grass may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion and providing that in areas where other than solid sod or grass seed is used, grass seed shall be sown for immediate effect and protection until coverage is achieved.

(4) Installation and Maintenance

- a. All buffer areas shall be installed in a sound workman-like manner and according to accepted good planting procedures with the quality of plant material as herein described. All elements of buffer areas exclusive of plant material, except hedges, shall be installed so as to meet all other applicable ordinances and code requirements. Buffer areas shall require protection from encroachment.
- b. The owner shall be responsible for the maintenance of all buffer areas which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free from weeds, refuse, and debris.
- c. In the event that trees or other landscaped materials should die, such materials shall be replaced at the appropriate planting time as determined by the City Arborist. Such time shall not exceed nine months. Failure of the owner of the property to maintain the premises in good condition, as set forth herein, shall make him liable for the penalties as set forth in Article 19.
- d. No buffer area shall be abandoned, paved or otherwise employed.

(5) Clear Visibility at Intersections

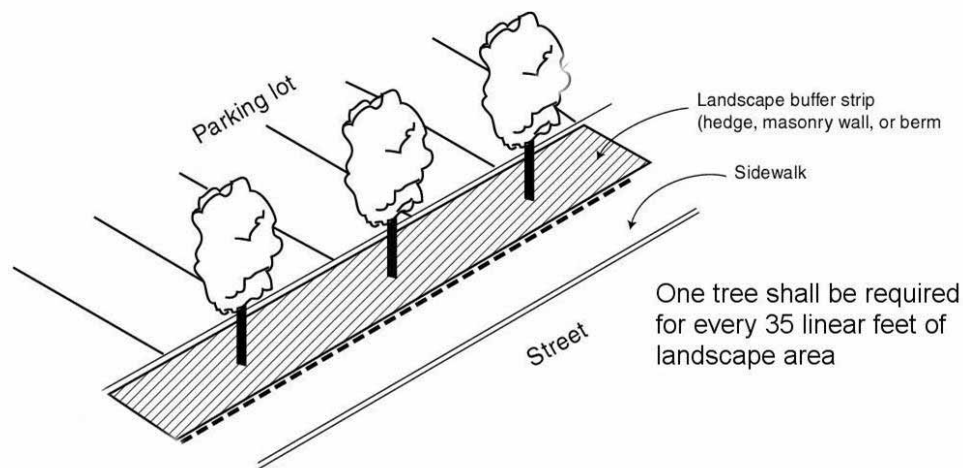
When any public right-of-way or access way intersects a public right-of-way or when the subject property abuts the intersection of two or more public rights-of-way, no fence, wall, hedge or other structure or planting shall be erected, placed or maintained at a level between three feet and seven feet above the street grade and within the clear visibility triangles as defined in Sec. 23-12-6. Within the clear visibility triangle, unobstructed cross-visibility shall be provided. However, trees having limbs and having foliage trimmed in such a manner that no limbs or foliage extend into the unobstructed cross-visibility area shall be allowed, provided they are located so as not to create a traffic hazard.

(6) Credit for Existing Plant Material

If the owner(s) can demonstrate that healthy plant material exists on a site prior to its development for the purposes of buffer area, the application of the landscape standards may be adjusted by the BZA to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this Chapter.

(b) Vehicular Use Area Buffers**(1) Perimeter Landscaping**

Not less than a five-foot landscaped buffer, free from any vehicular encroachments shall be installed around the perimeter of all vehicular use areas, except as provided in Subsection (2) below. The planting of one tree shall be required, in accordance with the provisions of this Article, for every 35 linear feet or fraction thereof within the perimeter-landscaped area. Such trees shall be located between the abutting right-of-way and off-street parking area or other vehicular use area and shall be planted in a planting area of at least 30 square feet with a minimum dimension of at least five feet. The remainder of the perimeter landscaped area may include shrubs, ground covers, grasses, flowers, vines, hedges, and inorganic features such as planters, stone, brick, and aggregate forms, provided that the combination of grass and aggregate forms shall not predominate within the perimeter landscaped area.

**(2) Landscaping Adjacent to Public Right-of-Way**

On the site of a building or open lot use providing an off-street parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening building or structure from any abutting right-of-way, excluding dedicated alleys, there shall be provided landscaping between such area and such right-of-way as follows:

- a. All property other than the required landscaped area lying between the right-of-way and the off-street parking area or other vehicular use area shall be landscaped with at least grass or other ground cover.

- b. Necessary access ways from the public right-of-way through all such landscaping shall be permitted to service the parking or other vehicular use areas, and such access ways may be subtracted from the linear dimension used to determine the number of trees required. Landscaping, except required grass or ground cover, shall not be located closer than three feet to the edge of any access way pavement.

(c) Mechanical Equipment Screening

(1) General

The mechanical equipment screening standards of this Section shall apply to all of the following:

- a. Electrical and gas-powered mechanical equipment;
- b. Duct work and major plumbing lines used to heat, cool or ventilate;
- c. Utility and power systems for the building or site upon which the equipment is located; and
- d. Antennas, including satellite dishes.

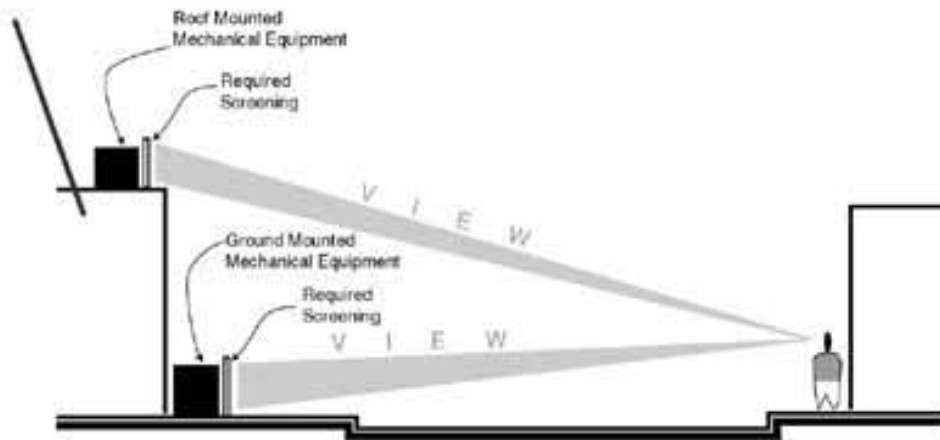
(2) Vent openings

Vent openings shall not be considered mechanical equipment for purposes of these mechanical equipment screening standards.

(3) Screening Standards

For all developments other than single-family residential, the following mechanical equipment screening standards shall apply.

- a. **Roof-Mounted Mechanical Equipment.** Roof-mounted mechanical equipment shall be screened by a parapet wall or similar structural feature that is an integral part of the building's architectural design. The parapet wall or similar structure feature shall be of a height equal to or greater than the height of the mechanical equipment being screened.
- b. **Wall-Mounted Mechanical Equipment.** Wall-mounted mechanical equipment that protrudes more than six inches from the outer building wall shall be screened from view by structural features that are compatible with the architecture or the subject building. Wall-mounted mechanical equipment that protrudes six inches or less from the outer building wall shall be designed to blend with the color and architectural design of the subject building.
- c. **Ground-Mounted Mechanical Equipment.** Ground-mounted mechanical equipment shall be screened from view by a decorative wall that is compatible with the architecture and landscaping of a development site. The wall shall be of a height equal to or greater than the height of the mechanical equipment being screened.



(4) Alternative Screening

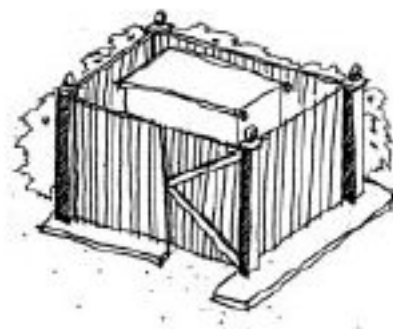
Mechanical equipment that is not screened in full compliance with the screening standards of this Section shall be reviewed in accordance with the Site Plan Review procedures of Article 4. As part of the Site Plan Review, the DRC shall be authorized to approve alternatives to full compliance with the screening standards of this Section if the DRC determines that any adverse visual impacts associated with the mechanical equipment have been mitigated to the maximum extent practical. Alternative screening methods may include, but shall not be limited to, increased setbacks, increased landscaping, clustering of equipment on specific portions of a site, painting, or otherwise camouflaging the subject equipment.

(d) Dumpster Screening

Dumpsters and other waste/recycling containers serving multi-family or nonresidential uses shall be completely screened from view off-site.

(1) Design and Other Specifications

Dumpsters and other trash receptacles shall be screened from public view on three sides by a solid wall at least six feet in height and on the fourth side by a solid gate at least five feet in height. The gate and wall shall be maintained in good working order and shall remain closed except for trash disposal and/or pickups. The wall and gate shall be architecturally compatible with other buildings and structures on the site in color, texture, and materials. Owners and/or occupants shall be responsible for coordinating with the solid waste disposal provider on matters relating to quantity, interior dimensions, locations, and access to such dumpsters, and shall comply with the provisions of this Chapter and with the City's Standards and Specifications Manual.



(2) Setbacks

All enclosures shall be located a minimum of ten feet or twenty percent of lot depth, whichever is greater, from residential districts, and from the property lines of sites containing existing or proposed residential, school, licensed daycare, public, and semi-public uses.

(e) Loading and Access Area Design and Screening

Commercial and industrial buildings with rear or side vehicular access shall maintain adequate room for loading docks, loading spaces, customer pick-up areas, trash enclosures and their setbacks, vaults, transformer pads, other utility service boxes, and all ground-mounted mechanical equipment.

(1) Beyond the physical boundaries of the docks and other such adjacent circulation impediments, property owners shall provide and maintain a minimum setback of 34 feet from all property lines. Within this minimum 34-foot setback, the 24 feet closest to the primary structure and its adjacent circulation impediments shall remain clear at all times, and the ten feet nearest the property line shall be available for vaults, transformer pads and other above and below ground utility service boxes.

(2) Loading and access areas located within ten feet of property lines, that are not used for utility boxes, shall be landscaped with a continuous visual buffer screen along the entire abutting or adjacent lot line in compliance with the applicable provisions of this Chapter. Said buffer shall be a minimum of six feet in height, except in required front yard areas will require a lesser fence height. This screening requirement applies whether or not a perimeter-landscaped area is required. Such screen may consist of a masonry wall, wooden fence, earth berm, compact evergreen hedge or foliage screening or a louvered wall or fence or any combination thereof. Alternative plant materials may be approved by the DRC, provided the alternative materials result in equivalent immediate and long-term screening.

(f) Screening of Parking Abutting or Adjacent to Residential Districts

When any vehicular use area or off-street parking area is abutting or located less than 50 feet from a residential use or district, or from a designated landmark or AHO District, and where such parking or vehicular use areas are not entirely screened visually from such parcel by an intervening building or structure, a continuous visual buffer with a minimum height of six feet shall be provided along the entire abutting or adjacent lot line in accordance with applicable provisions contained in this Chapter, except in required front yard areas where a lesser fence height will be required. This applies whether or not a perimeter-landscaped area is required. Such screen may consist of a masonry wall, wooden fence, earth berm, compact evergreen hedge, foliage screening, or a louvered wall or fence, or any combination thereof.

Sec. 23-16-10 Building Landscaping

All buildings within developments included under the provisions of this Article shall be suitably landscaped, with particular attention being devoted to landscaping of any facades opposing public rights-of-way. Adjacent to all such facades opposing public rights-of-way, a minimum of a five foot landscaped area shall be required.

Sec. 23-16-11 Tree Protection**(a) Protected Tree**

Protected tree means a woody perennial plant that:

- (1) Is located within a tree protective zone and has a single trunk which has reached a diameter of eight inches or a circumference of 25 inches, when measured four and one-half feet or 54 inches above the ground;
- (2) Is an oak or magnolia or bald cypress tree, regardless of location, that has a single trunk which has reached a diameter of five inches or a circumference of 16 inches, when measured four and one-half feet or 54 inches above the ground;
- (3) Any tree in or upon the streets, sidewalks or other publicly owned property of the City; or
- (4) All members of the pinus (Pines) family, as well as the Sapium sebiferum, commonly known as the Chinese Tallow or Popcorn tree, are specifically excluded from the definition of protected tree.

(b) Applicability**(1) Tree Permits Required**

The terms and provisions of this Article shall apply as follows:

- a. It shall be unlawful for any person to remove, relocate or substantially alter or cause to be removed, relocated or substantially altered any protected tree, without first having obtained a Tree Permit to do so as provided in Sec. 23-4-16.
- b. Public utilities having the right to construct and maintain power or transmission lines on public streets or private rights-of-way pursuant to valid certificates of public convenience and necessity from the Public Service Commission are authorized to trim and remove such trees without further permit, as necessary for the safe and proper operation and maintenance of such lines.
- c. City crews, without permits, shall be authorized to trim trees as necessary to eliminate the following:
 1. Any limb which overhangs a public sidewalk and is considered a hazard to pedestrians;
 2. Any limb which overhangs a public street and becomes a hazard to vehicular traffic; or
 3. Any limb which obstructs the motorist's view of a traffic control sign or device.

(c) Tree Relocation or Replacement

As a condition to the granting of a Tree Permit for the removal, relocation or substantial alteration of a protected tree, or certain trees of a certain size and species, if the tree does not meet the requirements of this Section, the applicant shall be required by the DRC to provide on-site replacement trees on at least a two-to-one

basis for each protected tree removed; provide off-site replacement trees for each protected tree removed on a two-to-one basis at locations selected for landscape enhancement; or compensate the City with \$500.00 per protected tree removed in lieu of replacement trees on or off site. These funds shall be deposited into a designated greenery maintenance and replacement account. This account shall receive all funds paid to the City as compensation for the removal of trees and green spaces. This account will be administered by the City Controller and used for replacement trees and shrubbery and maintenance of existing trees and shrubbery on public property locations as determined by the DRC. These funds may only be disbursed by an approved resolution of the City Council. Each replacement tree shall have characteristics comparable to those of the protected tree removed, and shall be a minimum of one and one-half inch caliper nursery stock, with a seven-foot minimum height after planting. The required type of replacement tree and location of relocated or replacement trees shall be identified by the DRC prior to issuance of a tree removal permit, taking into consideration the factors listed in this Article.

(d) Prerequisites for Issuance of Building Permit

If development, redevelopment or improvement of any parcel of land will require the removal or substantial alteration of a protected tree, proof of issuance of a Tree Permit shall be submitted to the City along with the application for a Building Permit for the development, redevelopment or improvement. No Building Permit shall be issued until the proof of issuance of a Tree Permit has been received, or until a tree site plan, as outlined in Sec. 23-4-16, has been submitted to the City, illustrating that no protected trees will be removed or relocated in the development, redevelopment or improvement of the parcel.

(e) Effect on Future Permitting

- (1)** It is the purpose of Sec. 23-4-16 to require that any application for a Tree Permit incident to property development be placed in the context of a site plan.
- (2)** To give effect to that purpose, the DRC or Planning Commission may deny approval of any site plan or Subdivision Plat for a site for which a Tree Permit has been issued in the previous 24 months if there was no site plan provided as context for such Tree Permit.

(f) Protection of Trees During Construction

Any person undertaking construction or development in the City of Biloxi shall protect trees during such construction or development in accordance with the following:

- (1)** It shall be unlawful for any person, in the development, redevelopment or improvement of any parcel of land, to store, within 30 feet of the trunk of any protected tree, equipment, material, debris, fill, gasoline, oil, paint, chemicals or other materials harmful to trees.
- (2)** Before development, redevelopment or improvement, the applicant or builder shall be required to erect and maintain suitable protective barriers so as to prevent damage to protected trees. Wood, metal or other substantial material shall be utilized in the construction of protective barriers. This protection, where required, shall remain until such time as the development, redevelopment or improvement is completed.

- (3) During construction, no attachments or wires shall be attached to any protected tree.
- (4) It shall be unlawful to pave with concrete, asphalt or any other impervious surface within a specified distance from any protected tree deemed appropriate by the DRC, taking into consideration the size and type of tree, but in no case shall any impervious material be located within five feet of the outside diameter of any protected tree.
- (5) Any protected tree which dies within three years of the conclusion of the development, redevelopment or improvement of any parcel of land as a result of any activity deemed to be unlawful by this Section, or through any other inappropriate construction action or inaction, as determined by the City Arborist, the DRC, or the Planning Commission, shall be replaced by the applicant.

(g) Waiver of Requirements During Emergency Situations

In case of emergency, such as hurricane, windstorm, flood, freeze or other disaster, the requirements of this Article may be waived by the Mayor during the emergency period so that the requirements of this Article shall not in any way hamper public or private work to restore order to the City.

(h) Credit for Existing Trees

Credit shall be provided for preservation of existing trees in accordance with the following:

- (1) An existing tree may be included as part of the tree planting requirements of this Article if it meets the minimum standards of this Article, with the exception of existing pine, Chinese Tallow and Popcorn trees.
- (2) If any preserved tree dies within five years of construction, one tree shall be replaced for each tree credited against such preserved tree that dies.
- (3) For each tree to be credited, a planting area or open ground space of at least 30 square feet shall be required. The required planting area or open ground space may be increased in accordance with the diameter of the credited tree. No vehicular encroachment shall be permitted within the planting area or open ground space.
- (4) Planting or open ground areas shall be located so that the trunk of the preserved tree is as close to the center of the open ground area as possible, and in no case shall the trunk be closer to the boundary of such area than one third of the maximum dimension of the designated open ground area.
- (5) All trees to be credited shall have constructed around them an adequate barrier to preclude damage during the construction phase as required in this Article. No excavation or grading shall occur around a tree to be credited that shall result in damage or destruction of the credited tree.

(i) Standards for Protected Tree Replacement and Reforestation.

- (1) Minimal impact on protected trees; replacement protected trees. Each applicant for a permit to remove or destroy protected trees shall, to the maximum extent feasible, minimize the impact on the protected trees on the site. The applicant

shall plant replacement protected trees on-site which equal the total number of protected trees being removed or destroyed. Where construction of improvements or existing dense protected tree cover precludes the planting of the total replacement number required, the city arborist may approve a plan which results in the planting of the total number of protected trees which can reasonably be expected to be accommodated in a manner which will allow mature growth of the replacement protected trees.

- (2) Recompense. The difference between the number of protected trees removed or destroyed (Nrem) and the number of protected trees replaced (Nrep) on a site times the standard protected tree replacement cost (\$375.00) shall be calculated as partial recompense to the protected tree trust fund. In addition, the difference between the total diameter at breast height of the protected trees removed or destroyed (TDBHrem) and the total caliper inches of the protected trees replaced on-site (TCIrep), as indicated on the approved protected tree replacement plan, shall be calculated as partial recompense to the protected tree trust fund. Total recompense (C) shall be calculated according to the formula;

$$C = \$375.00(Nrem - Nrep) + \$22.50(TDBHrem - TCIrep), C \geq 0$$

- (3) Minimum protected tree cover. In any request for a permit for construction in which no protected trees are proposed to be removed, or in cases where protected trees are being removed but the total protected tree cover on the lot is less than the minimum protected tree cover per zoning district, the city arborist shall require an afforestation reforestation standard such that the minimum protected tree cover per zoning district is satisfied, provided that all such protected trees so planted can reasonably be expected to be accommodated in a manner which will allow mature growth of the new protected trees.
- (4) Protected tree replacements (measured in total diameter of all trees planted) per zoning district and the minimum required protected tree coverage (TDBH + TCI) on a site, regardless of any loss of protected trees, are as follows:
- a. RMH districts: 35 inches per acre
 - b. RM districts: 40 inches per acre
 - c. RS (including RO) districts: 150 inches per acre
 - d. All other districts: 90 inches per acre
- (5) Replacement protected trees shall be a minimum of two and one-half inches in caliper. Regardless of caliper or diameter at breast height.
- (6) Planting priority. The location of protected tree plantings required by this section normally shall be prioritized as follows:
- a. Streets shall be shaded by new or existing protected trees at a spacing not to exceed 35 feet on center on average, with a minimum of two protected trees per lot. When feasible protected trees shall be planted as close to the street as is practicable.

- b. Soil stabilization. Replacement protected trees shall next be planted on steep slopes and other erodible areas and on the banks of wetlands and waterways.
- c. Following satisfaction of priorities a. and b., the applicant shall have discretion to satisfy additional protected tree planting requirements either by planting on the subject site, on another location approved by the city arborist, or by contributing the appropriate amount to the protected tree trust fund.

Sec. 23-16-12 Fences

- (a) In all cases, a permit shall be required for the construction of a fence.
- (b) The maximum height of fences allowed shall be eight feet, except as otherwise restricted in Articles 11 and 12 of this Chapter.
- (c) Exclusive of U.S. Highway 90 and State Highway 67, fences may be erected along the boundaries of industrial uses in designated industrial zoning districts or along the boundaries of public institutional uses in any zoning district provided such fence does not exceed a height of eight feet and does not impair motorists' vision.
- (d) Other regulations regarding fence height and location are provided in Article 11 and Article 12 of this Chapter.

Sec. 23-16-13 Variances

- (a) It is the intent of this Article to offer the prospective applicant as much latitude as possible when designing required landscaping. The design should take into consideration and be compatible with the shape and topography of the area, the architectural characteristics of adjacent structures and the character of existing adjacent landscaping.
- (b) The landscape design standards are not intended to be arbitrary or inhibiting to creative solutions. Project conditions may justify Variances to the requirements of this Article when conditions arise where full compliance is impossible, or under circumstances where achievement of the City's objectives can be better obtained through modified requirements. Therefore, in specific cases, variation of the requirements may be permitted by the BZA when this variation more fully achieves the objectives contained in this Article and when one or more of the following conditions justify the Variance:
 - (1) There are hardship circumstances and conditions applying to the land or building for which the Variance is sought, which are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood, and the hardship is such that the strict application of the provisions of this Article would deprive the applicant of the reasonable use of such land or building.
 - (2) Granting of the Variance is necessary for the reasonable use of land or building and the Variance granted is the minimum Variance that will accomplish this purpose.

- (3) The granting of the Variance will be in harmony with the general purpose and intent of this Article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (4) Granting the Variance requested will not confer on the applicant any special privilege that is denied by this Article to other lands, structures or buildings in the same district.
- (5) Topography, soil or other site conditions are such that full compliance is impossible.
- (6) Improved environmental quality or utility would result from the Variance.
- (7) Alternate or special construction methods, techniques, material and mechanical equipment are to be used, when deemed by the BZA as being significantly better than those required by this Article. Variations shall be limited to the specific project under consideration, and shall not establish precedent for acceptance in other cases.
- (8) The BZA may grant Variances to the fence height limits set out in this Section in accordance with Sec. 23-6-2.

Sec. 23-16-14 Landscaping Adjustments

- (a) It is the purpose of this Article to impose minimum landscaping standards and to create an administrative process for appropriate adjustment to the standards in the review process. The topography and landscape of Biloxi are complex, and a variety of natural and human-made conditions may exist on any given site. Although this Chapter generally requires landscaping along the street front, in some cases there may be valuable wetlands or protected trees on another part of the same property, in which case it may make sense to move part of the required landscaping to an area that protects the natural features. Thus, in this Article, the City Council not only establishes minimum standards, but it authorizes and directs the DRC to make appropriate adjustments to the standards where there are conflicts among the landscaping standards or between the landscaping standards and other development standards in this Chapter, such as the standards for tree preservation.
- (b) The landscape design standards are not intended to be arbitrary or inhibiting to creative solutions. Project conditions may justify adjustments to the requirements of this Article when conditions arise where full compliance is impossible, or under circumstances where achievement of the City's objectives can be better obtained through modified requirements. Therefore, in specific cases, adjustments to the requirements of this Article may be permitted by the DRC when this adjustment more fully achieves the objectives contained in this Article and when one or more of the following conditions justify the adjustment:
 - (1) There are circumstances and conditions applying to the land or building for which the adjustment is sought, which are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood, and the circumstance is such that the strict application of the provisions of this Article would deprive the applicant of the reasonable use of such land or building.

- (2) Granting of the adjustment is necessary for the reasonable use of land or building and the adjustment granted is the minimum or most practical adjustment that will accomplish this purpose.
- (3) The granting of the adjustment will be in harmony with the general purpose and intent of this Article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (4) Granting the adjustment requested will not confer on the applicant any special privilege that is denied by this Article to other lands, structures or buildings in the same district.
- (5) Topography, soil or other site conditions are such that full compliance is impossible.
- (6) Improved environmental quality or utility would result from the waiver or adjustment.
- (7) Alternate or special construction methods, techniques, material, and mechanical equipment are to be used, when deemed by the DRC as being significantly better than those required by this Article. Adjustments shall be limited to the specific project under consideration, and shall not establish precedent for acceptance in other cases.

ARTICLE 17. SIGNS

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Sec. 23-17-1 Introduction

(a) Purpose

The purpose of this Article is to:

- (1) Protect the public welfare and property values by preserving the aesthetic qualities of the unique environment that distinguishes Biloxi. The preservation of such environment from excessive and unobtrusive signs is a matter of critical importance to Biloxi because of the economic importance of the resort and tourism industry, and because of the importance of maintaining a high quality of life for its residents.
- (2) Promote the efficient transfer of general public, commercial, and individual identification or information and reduce traffic confusion and congestion by improving the legibility and effectiveness of signs through the control of their number, location, size, appearance, illumination, and animation.
- (3) Promote the safety of pedestrians and traffic by providing signs that do not create traffic hazards or hazards due to collapse, fire, collision, decay or abandonment.
- (4) Maintain and enhance the pleasing look of Biloxi and preserve it as a community that is attractive to business, and to residents.
- (5) Allow certain signs that are small, unobtrusive, and incidental to the Principal Use of the respective lots on which they are located, subject to the substantive requirements of this Chapter.
- (6) Provide for temporary signs in limited circumstances.

- (7) Prohibit all signs not expressly permitted by this Article.
- (8) Provide sign regulations similar to those included in the previous zoning ordinance, pending the drafting and public participation in creation of a new proposed Article 17 for this Chapter, to include a comprehensive amendment to the sign ordinance.

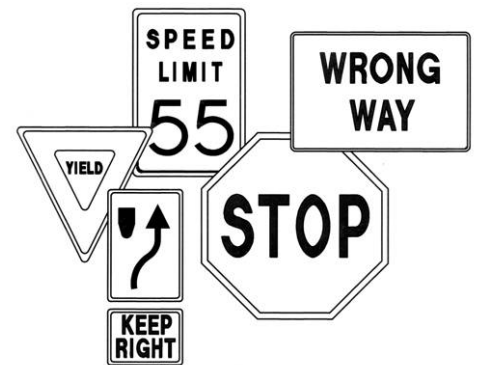
(b) Applicability

- (1) A sign may be erected, placed, established, painted, created or maintained only in conformance with the standards, procedures, exemptions, and other requirements of this Chapter and all other applicable laws, ordinances, and regulations. Signs requiring a permit shall comply with the permitting procedure at Sec. 23-4-18 and shall be erected or installed only after issuance of such a permit and in accordance with such permit.
- (2) Standards for signage for certain specific uses may be found in Article 11. These include Bed and Breakfasts, timeshares and condominiums, and Regulated Businesses.

(c) Existing Signs

- (1) Existing permanent signs legally erected prior to the effective date of this Article may remain in place and in use, subject to restrictions on modification, replacement and other actions. Certain temporary signs, including flags, banners and portable signs, shall be subject to removal in accordance with this Article.
- (2) Holders of permits for signs issued legally prior to the effective date of this Article may erect the permitted signs within the times allowed by such permits. Such permits may not be extended or amended unless the permitted sign will conform to all of the requirements of this Article.

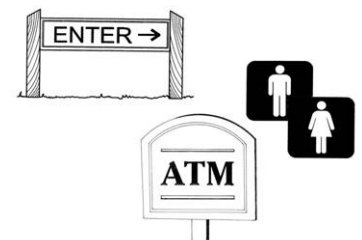
Examples of Traffic Control and Incidental Signs



Sec. 23-17-2 Signs Exempt from Regulation

The following signs shall be exempt from regulation under this Article:

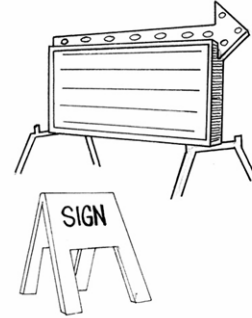
- (a) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- (b) Any sign inside a building, not attached to a window or door that is not legible from a distance of more than three feet beyond the lot line of the development site or parcel on which such sign is located.
- (c) Traffic control signs on private commercial property, such as Stop, Yield, and similar signs, the faces of which meet Mississippi Department of Transportation standards and which contain no commercial message of any sort.



Sec. 23-17-3 Signs Allowed Without a Permit

The following signs shall be allowed on private property in any district without a permit, subject to the provisions of this Section, and subject to any more restrictive provisions that may apply to a particular location or particular district under this Article:

- (a) A sign not exceeding two square feet in area giving the name and address only of the land or building on which displayed, or the owner or occupant thereof;
- (b) An unlighted sign for lease, sale or rent of property and not exceeding 12 square feet in area, and such sign shall be removed from the premises within ten days subsequent to the leasing, sale or rental of the premises;
- (c) Political signs, of qualified candidates, provided that no such political sign shall exceed 32 square feet in surface area, and provided further that political signs must be removed within 7 calendar days following the subject election;
- (d) Building marker signs carved or engraved into the building or made of bronze or other permanent material and containing no commercial message;
- (e) Notice signs containing no commercial message;
- (f) Cleaning or painting or comparable general maintenance or repair of a sign that does not alter any regulated feature of such sign;
- (g) Changing the advertising copy, announcement or message on a marquee or changeable copy sign board.



Examples of Portable Signs

Sec. 23-17-4 Signs Allowed with a Sign Permit

Except for those signs listed as allowed without a permit or exempt from regulation, all signs permitted under the following Sections require the issuance of a Sign Permit, in compliance with Sec. 23-4-18, and shall be subject to all applicable standards set out in this Chapter as well as to all applicable building and electrical codes. Major repair or replacement of such signs shall require a permit.

Sec. 23-17-5 Signs in the A Agricultural District

(a) Signs Allowed without a Permit

All signs listed in Sec. 23-17-3 shall be allowed on private property in this district without a permit.

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs are permitted on private property in the A Agricultural District:

One identification sign, not to exceed 30 square feet in area, for the following uses:

House of worship, school, hospital, library, farm, park, or similar Permitted Uses.

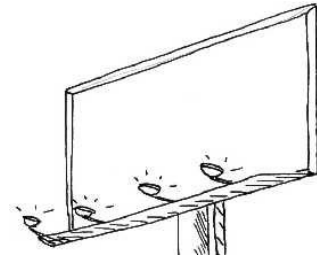
Such sign shall be located on the same premises for and shall be accessory to one of such uses. The illumination of any sign within 50 feet of and facing a residential

district lot line shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential districts and in no event shall be flashing.

(c) Prohibited Signs

The following signs are prohibited in the A Agricultural District:

- (1) All signs generally prohibited under Sec. 23-17-15;
- (2) Portable signs; and
- (3) Billboards.



Example of Billboard

(d) Dimensional Standards

(1) Sign Height

The maximum sign height in this district shall be six feet.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The maximum size of an individual sign in this district shall be 30 square feet.

Sec. 23-17-6 Signs in RE, RER, RS, RD, RM, and RMH Districts

(a) Signs Allowed without a Permit

The following signs shall be allowed on private property in these districts without a permit:

- (1) All signs listed in Sec. 23-17-3 are allowed in these districts without a permit;
- (2) In the RM districts only, directional signs not exceeding four square feet in area and not containing a commercial message. Directional signs are intended to provide notice of parking/no-parking zones, directions to telephones, restrooms, and automated teller machines; identification of entrance and exit lanes; and other noncommercial information useful for providing on-site directions to traffic and useful, noncommercial information to persons likely to be on the premises; and
- (3) In the RM district only, signs identifying apartment buildings or planned building groups not to exceed 12 square feet in area, limited to one sign per building, as a wall sign.

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs are permitted on private property in all RE Districts, all RS Districts, all RD Districts, all RM Districts, and RMH Districts: incidental signs, including the following:

- (1) Temporary signs, for one year, advertising a new subdivision development of five lots or more, provided such signs do not exceed 60 square feet in surface area,

are no more than 15 feet and no less than two feet above ground, advertise only the development in which they are located, and are erected only at dedicated street entrances.

- (2) One non-illuminated sign identifying an engineer, architect or contractor engaged in the construction of a building, provided such sign shall not exceed 12 square feet in surface area, is no more than 15 feet and no less than two feet above ground and is removed within 30 days following occupancy of the building.
- (3) One identification sign, not to exceed 30 square feet in area, for the following uses: house of worship, school, hospital, library, farm, park, clinic, multi-family complexes with five or more dwelling units, or similar uses. Such sign shall be located on the same premises as and shall be accessory to one of these institutional uses. The illumination of any sign within 50 feet of and facing a residential district lot line shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential districts and in no event shall be flashing.
- (4) Signs, not to exceed two square feet in surface area, for the following uses: house of worship, school, hospital, library, clinic or similar use, provided that each shall be limited to one such sign per major thoroughfare approach. No such sign shall be permitted on minor residential streets.

(c) Prohibited Signs

The following signs are prohibited in these districts:

- (1) All signs generally prohibited under Sec. 23-17-15;
- (2) Portable signs;
- (3) Billboards; and
- (4) Signs with separate illumination, except in the RM Districts and RMH (Parks) District.

(d) Dimensional Standards

(1) Sign Height

The maximum sign height in these districts shall be six feet.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The maximum size of an individual sign in these districts shall be 30 square feet.

Sec. 23-17-7 Signs Permitted in RO Residential Office District

(a) Signs Allowed without a Permit

The following signs shall be allowed on private property without a permit in this district:

- (1) All signs listed in Sec. 23-17-3.
 - (2) Directional signs not exceeding four square feet in area and not containing a commercial message. Directional signs are intended to provide notice of parking/no-parking zones, directions to telephones, restrooms, and automated teller machines; identification of entrance and exit lanes; and other noncommercial information useful for providing on-site directions to traffic and useful, noncommercial information to persons likely to be on the premises.
- (b) Signs Allowed with a Sign Permit**
- Subject to the other provisions of this Article, the following signs are permitted in the RO District:
- (1) Any sign permitted in any RM District;
 - (2) For a permitted nonresidential use(s), one flat sign per lot of record, externally illuminated or non-illuminated, limited in area to 24 square feet;
 - (3) For permitted principal nonresidential structure(s), one detached or projecting sign per lot of record, externally illuminated or non-illuminated, limited in area to 24 square feet.
- (c) Prohibited Signs**
- The following signs are prohibited in this district:
- (1) All signs generally prohibited under Sec. 23-17-15;
 - (2) Billboards; and
 - (3) Portable signs.
- (d) Dimensional Standards**
- (1) **Sign Height**
The maximum sign height in this district shall be six feet.
 - (2) **Sign Setback**
Permitted freestanding signs shall be set back from the front property line at least 10 feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.
 - (3) **Sign Size**
The maximum size of an individual sign in this district shall be 24 square feet.

Sec. 23-17-8 Signs in the B-1, Neighborhood Business District

(a) Signs Allowed without a Permit

The following signs are allowed on private property in this district without a permit:

- (1) All signs listed in Sec. 23-17-3;
- (2) Directional signs not exceeding four square feet in area and not containing a commercial message. Directional signs are intended to provide notice of parking/no-parking zones, directions to telephones, restrooms and automated

teller machines; identification of entrance and exit lanes; and other noncommercial information useful for providing on-site directions to traffic and useful, noncommercial information to persons likely to be on the premises;

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs are permitted in the B-1 District:

- (1) Any sign permitted in the RO District.
- (2) Business signs on a building or lot, the total area of which shall not exceed 50 square feet or the sum of one square foot for each linear foot of lot frontage, whichever is less. No single business sign surface may exceed 25 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 25 square feet.
- (3) One development sign, not to exceed 25 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use; and
- (4) Signs identifying apartment buildings not to exceed 25 square feet in area, indicating the name, address, and management of such building or group.

(c) Compatibility Standards

- (1) A freestanding sign shall be set back from any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark by at least one foot for each foot of height of the sign; and
- (2) The illumination of any sign within 50 feet of and facing any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential and AHO Districts and designated landmarks and in no event shall be flashing.

(d) Prohibited Signs

The following signs are prohibited in this district:

- (1) All signs generally prohibited in the community under Sec. 23-17-15.
- (2) Portable signs; and
- (3) Billboards.

(e) Dimensional Standards

(1) Sign Height

The maximum sign height in this district shall be 12 feet.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

See Sec. 23-17-8(b), Signs Allowed With a Sign Permit.

(4) Sign Separation

Any freestanding sign must be separated from any other freestanding sign on the same or any adjoining parcel by at least 25 feet, measured horizontally along the ground from the base of one sign to the base of the other. Where it is impracticable to comply with this requirement and with the setback from residential property required by the compatibility standards of this Section, the compatibility standards shall control and the separation standard set forth in this Section shall be reduced to the largest number less than 25 that will allow conformance with the compatibility standard setback requirement.

Sec. 23-17-9 Signs in the B-2, Community Business District**(a) Signs Allowed without a Permit**

The following signs are allowed on private property in this district without a permit:

- (1)** All signs listed in Sec. 23-17-3;
- (2)** Directional signs not exceeding four square feet in area and not containing a commercial message. Directional signs are intended to provide notice of parking/no-parking zones, directions to telephones, restrooms and automated teller machines; identification of entrance and exit lanes; and other noncommercial information useful for providing on-site directions to traffic and useful, noncommercial information to persons likely to be on the premises;

(b) Signs Allowed with a Sign Permit

The following signs are permitted in the B-2 District upon issuance of a Sign Permit:

- (1)** One development sign, not to exceed 32 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use;
- (2)** Signs identifying apartment buildings not to exceed 25 square feet in area, indicating the name, address and management of such building or group;
- (3)** Each coordinated shopping center or office building may have only one freestanding identification sign on the property at any one time for each street frontage, announcing the name of the shopping center and listing the names of individual businesses.

(c) Compatibility Standards

- (1)** A freestanding sign shall be set back from any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark by at least one foot for each foot of height of the sign; and
- (2)** The illumination of any sign within 50 feet of and facing any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential or AHO Districts or designated landmarks and in no event shall be flashing.

(d) Prohibited Signs

The following signs are prohibited in this district:

- (1) All signs generally prohibited under Sec. 23-17-15;
- (2) Portable signs; and
- (3) Billboards.

(e) Dimensional Standards**(1) Sign Height**

The maximum sign height in this district shall be 35 feet.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet plus one additional foot in setback for each foot by which the sign's height exceeds ten feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The total area of all business signs on a building or lot shall not exceed 150 square feet or the sum of three square feet for each linear foot of lot frontage, whichever is greater. No single business sign surface may exceed 150 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 150 square feet. Freestanding sign structures shall not exceed 25 feet in length.

(4) Sign Separation

Any freestanding sign must be separated from any other freestanding sign on any adjoining parcel by at least 25 feet, measured horizontally along the ground from the base of one sign to the base of the other. Where it is impracticable to comply with this requirement and with the setback from residential property required by the compatibility standards of this Section, the compatibility standards shall control and the separation standard set forth in this Section shall be reduced to the largest number less than 25 that will allow conformance with the compatibility standard setback requirement.

Sec. 23-17-10 Signs in the B-3, Hospitality Business District**(a) Signs Allowed without a Permit**

The following signs are allowed on private property in this district without a permit:

- (1) All signs listed in Sec. 23-17-3;
- (2) Signs identifying apartment buildings not to exceed 12 square feet in area, indicating the name, address and management of such building or group;

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs are permitted in the B-3, Hospitality Business District:

- (1) One development sign, not to exceed 32 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use;
- (2) Directional signs not exceeding four square feet in area and not containing a commercial message. Directional signs are intended to provide notice of parking/no-parking zones, directions to telephones, restrooms and automated teller machines; identification of entrance and exit lanes; and other noncommercial information useful for providing on-site directions to traffic and useful, noncommercial information to persons likely to be on the premises;
- (3) Each coordinated shopping center or office building may have only one freestanding identification sign on the property at any one time for each street frontage, announcing the name of the shopping center and listing the names of individual businesses; and
- (4) Business signs stating the name, location and services rendered by the specific Permitted Use located on the property are permitted. Permitted signs shall not be located closer than 25 feet to the north curb line of Beach Boulevard (U.S. Highway 90) nor project into or over any public property.

(c) Compatibility Standards

- (1) A freestanding sign shall be set back from any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark by at least one foot for each foot of height of the sign; and
- (2) The illumination of any sign within 50 feet of and facing any property line adjoining property zoned in an A, RE, RER, RS, RM, or AHO District or designated landmark shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential and AHO Districts or designated landmarks and in no event shall be flashing.

(d) Prohibited Signs

The following signs are prohibited in this district:

- (1) All signs generally prohibited in the community under Sec. 23-17-15;
- (2) Portable signs; and
- (3) Billboards.

(e) Dimensional Standards

(1) Sign Height

The maximum sign height in this district shall be 35 feet.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet plus one additional foot in setback for each foot by which the sign's height exceeds ten feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The total area of all business signs on a building or lot shall not exceed 150 square feet or the sum of three square feet for each linear foot of lot frontage, whichever is the greater. No single business sign surface may exceed 200 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 200 square feet. Freestanding sign structures shall not exceed 25 feet in length.

(4) Number of Freestanding Signs and Structures

There shall be not more than one freestanding sign structure for a lot of 100 feet frontage or less, and one additional freestanding sign for each additional 100 feet of lot frontage; additional frontage in any increment of 100 feet shall not allow additional signage. Each freestanding sign structure may contain not more than two signs per facing and not more than two facings per sign.

(5) Sign Separation

Any freestanding sign must be separated from any other freestanding sign on any adjoining parcel by at least 25 feet, or from any other freestanding sign on the same lot by at least 50 feet, measured horizontally along the ground from the base of one sign to the base of the other. Where it is impracticable to comply with this requirement and with the setback from residential property required by the compatibility standards of this Section, the compatibility standards shall control and the separation standard set forth in this Section shall be reduced to the largest number less than 25 that will allow conformance with the compatibility standard setback requirement.

Sec. 23-17-11 Signs in the B-4 and B-5, General Business and High-Volume Business Districts**(a) Signs Allowed without a Permit**

The following signs are allowed on private property in this district without a permit:

- (1)** All signs listed in Sec. 23-17-3;
- (2)** Signs identifying apartment buildings not to exceed 12 square feet in area, indicating the name, address, and management of such building or group.

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs are permitted in the B-4, General Business, and B-5, High-Volume Business Districts:

- (1)** One development sign, not to exceed 32 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use;
- (2)** Each coordinated shopping center or office building may have only one freestanding identification sign on the property at any one time for each street frontage, announcing the name of the shopping center and listing the names of individual businesses; and
- (3)** Billboards shall be limited to a maximum size of 300 square feet and a maximum height of 30 feet, and shall have a minimum setback from any property line of 80

feet, and no billboard shall be erected or constructed within a 1,500-foot radius of an existing billboard. No billboard shall be erected within 200 feet of an adjoining residential district if designed to face into such district. No billboard shall be allowed on a lot with less than 100 feet of street frontage. Only one billboard shall be allowed on any lot of record. No billboard shall be erected within 200 feet of the right-of-way lines of U.S. Highway 90, Interstate 10, Interstate 110 and major arterials including Oak, Caillavet and Bayview and Mississippi Highway 67.

(c) Compatibility Standards

- (1)** A freestanding sign shall be set back from any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark by at least 1 foot for each foot of height of the sign; and
- (2)** The illumination of any sign within 50 feet of and facing any property line adjoining property zoned in an A, RE, RER, RS, RM, or AHO District or designated landmark shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential and AHO Districts or designated landmark and in no event shall be flashing.

(d) Prohibited Signs

The following signs are prohibited in these districts:

- (1)** All signs generally prohibited under Sec. 23-17-15;
- (2)** Portable signs; and
- (3)** Billboards are prohibited in the B-4 district.

(e) Dimensional Standards

(1) Sign Height

The maximum sign height in these districts shall be 50 feet, except for billboards.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet plus one additional foot in setback for each foot by which the sign's height exceeds 10 feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The total area of all business signs on a building or lot shall not exceed 150 square feet or the sum of six square feet for each linear foot of lot frontage, whichever is the greater. No single business sign surface may exceed 300 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 300 square feet. Freestanding sign structures shall not exceed 25 feet in length.

(4) Number of Freestanding Signs and Structures

There shall be not more than one freestanding sign structure for a lot of 100 feet frontage or less, and one additional freestanding sign for each additional 100 feet of lot frontage; additional frontage in any increment of 100 feet shall not allow

additional signage. Each freestanding sign structure may contain not more than two signs per facing.

(5) Sign Separation

Any freestanding sign must be separated from any other freestanding sign on the same or any adjoining parcel by at least 50 feet, measured horizontally along the ground from the base of one sign to the base of the other. Where it is impracticable to comply with this requirement and with the setback from residential property required by the compatibility standards of this Section, the compatibility standards shall control and the separation standard set forth in this Section shall be reduced to the largest number less than 50 that will allow conformance with the compatibility standard setback requirement.

Sec. 23-17-12 Signs in CBD, Central Business District and CRD, Corridor Redevelopment District

(a) Signs Allowed without a Permit

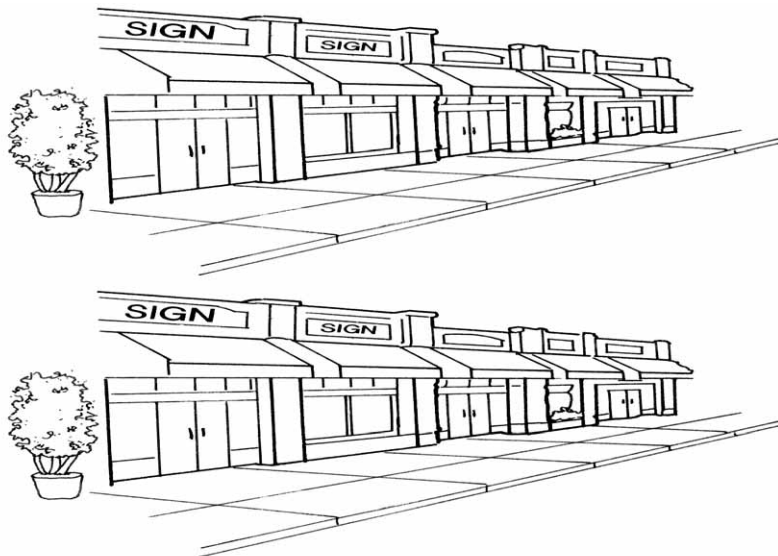
The following signs are allowed on private property in the CBD and CRD districts without a permit:

- (1)** All signs listed in Sec. 23-17-3;
- (2)** Signs identifying apartment buildings not to exceed 12 square feet in area, indicating the name, address and management of such building or group;

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs are permitted in the CBD and CRD districts:

- (1)** One development sign, not to exceed 32 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use;
- (2)** Each coordinated shopping center or office building may have only one freestanding identification sign on the property at any one time for each street frontage, announcing the name of the shopping center and listing the names of individual businesses;
- (3)** Placard signs, allowed only in the CBD District, shall not to exceed eight square feet in surface area and six feet in height, shall be non-illuminated and placed within a reasonable proximity of a building's primary public entrance without impeding pedestrian or vehicular traffic. Such signs may be placed only during hours of operation;
- (4)** Signs that project into a public right-of-way not more than one-half the distance between the property line and the curb line;
- (5)** Signs attached to the vertical face of a building that extend beyond the roof not more than 12 inches; and
- (6)** Roof signs that are an integral part of the roof design and that do not extend above the top of the roof.



Examples of Roof Signs

(c) Prohibited Signs

The following signs are prohibited in these districts:

- (1) All signs generally prohibited under Sec. 23-17-15;
- (2) Portable signs; and
- (3) Billboards.

(d) Dimensional Standards

(1) Sign Height

The maximum sign height for any sign shall be 25 feet.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least a distance equal to the height of the sign. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The total area of all business signs on a building or lot shall not exceed 50 square feet or the sum of one square foot for each linear foot of lot frontage, whichever is the greater. No single business sign surface may exceed 50 square feet in area, nor shall two or more smaller signs be so arranged and integrated as to create a surface area in excess of 50 square feet. Freestanding sign structures shall not exceed 6 feet in length.

(4) Number of Freestanding Signs and Structures

There shall be not more than one freestanding sign structure for a lot of 100 feet frontage or less, and one additional freestanding sign for each additional 100 feet of lot frontage; additional frontage in any increment of 100 feet shall not allow

additional signage. Each freestanding sign structure may contain not more than two signs per facing.

Sec. 23-17-13 Signs in the I-1, Light Industrial District, and I-2, Heavy Industrial District

(a) Signs Allowed without a Permit

The following signs are allowed in these districts without a permit:

- (1)** All signs listed in Sec. 23-17-3;
- (2)** Signs identifying apartment buildings or planned building groups not to exceed 12 square feet in area, indicating the name, address, and management of such building or group;

(b) Signs Allowed with a Sign Permit

The following signs are allowed in this district, subject to the issuance of a permit:

- (1)** One development sign, not to exceed 32 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use;
- (2)** Each coordinated shopping center or office building may have only one freestanding identification sign on the property at any one time for each street frontage, announcing the name of the shopping center and listing the names of individual businesses; and
- (3)** Billboards shall be limited to a maximum size of 300 square feet and a maximum height of 30 feet, and shall have a minimum setback from any property line of 50 feet, and no billboard shall be erected or constructed within a 1,500 foot radius of an existing billboard. No billboard shall be erected within 300 feet of an adjoining residential district if designed to face into such district. No billboard shall be allowed on a lot with less than 100 feet of street frontage. Only one billboard shall be allowed on any lot of record. No billboard shall be erected within 200 feet of the right-of-way lines of U.S. Highway 90, Interstate 10, Interstate 110, and major arterials including Oak, Caillavet, and Bayview and MS Highway 67.

(c) Prohibited Signs

Portable signs shall be prohibited.

(d) Dimensional Standards**(1) Sign Height**

The maximum sign height in this district shall be 75 feet, except for billboards.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 20 feet plus one additional foot in setback for each foot by which the sign's height exceeds twenty feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The total surface area of business signs on a building or lot shall not exceed ten square feet for each linear foot of lot frontage.

(4) Number of Freestanding Signs and Structures

There shall be not more than one freestanding sign structure for a lot of 100 feet frontage or less, and one additional freestanding sign for each additional 100 feet of lot frontage; additional frontage in any increment of 100 feet shall not allow additional signage. Each freestanding sign structure may contain not more than two signs per facing.

(5) Sign Separation

Any freestanding sign must be separated from any other freestanding sign on the same or any adjoining parcel by at least 50 feet, measured horizontally along the ground from the base of one sign to the base of the other. Where it is impracticable to comply with this requirement and with the setback from residential property required by the compatibility standards of this Section, the compatibility standards shall control and the separation standard set forth in this Section shall be reduced to the largest number less than 50 that will allow conformance with the compatibility standard setback requirement.

(e) Prohibited Signs

The following signs are prohibited in these districts:

- (1)** All signs generally prohibited under Sec. 23-17-15; and
- (2)** Portable signs.

Sec. 23-17-14 Signs in the WF, Waterfront District**(a) Signs Allowed without a Sign Permit**

The following signs are allowed in this district without a permit:

- (1)** All signs listed in Sec. 23-17-3;
- (2)** Signs identifying apartment buildings not to exceed 12 square feet in area, indicating the name, address, and management of such building or group;

(b) Signs Allowed with a Sign Permit

Subject to the other provisions of this Article, the following signs shall be allowed in this district with a permit:

- (1) One development sign, not to exceed 32 square feet in area, may be affixed to each lot or parcel of property to designate that such property is to be occupied at a future date by the proposed business or use; and
- (2) Each coordinated shopping center or office building may have only one freestanding identification sign on the property at any one time for each street frontage, announcing the name of the shopping center and listing the names of individual businesses.

(c) Compatibility Standards

- (1) A freestanding sign shall be set back from any property line adjoining property zoned in an A, RE, RER, RS, RM or AHO District or designated landmark by at least 1 foot for each foot of height of the sign; and
- (2) The illumination of any sign within 50 feet of and facing any property line adjoining property zoned in an A, RE, RER, RS, RM, or AHO District or designated landmark shall be diffused or indirect and designed to prevent direct rays of light from illuminating adjoining residential and AHO Districts or designated landmarks and in no event shall be flashing.

(d) Prohibited Signs

The following signs are prohibited in this district:

- (1) All signs generally prohibited under Sec. 23-17-15;
- (2) Billboards; and
- (3) Portable signs.

(e) Dimensional Standards

(1) Sign Height

The maximum sign height in this district shall be as designated in Table 23-12-1-A.

(2) Sign Setback

Permitted freestanding signs shall be set back from the front property line at least 10 feet plus one additional foot in setback for each foot by which the sign's height exceeds ten feet. Sign setback shall be measured from the leading edge of the sign to the nearest point on the applicable property line.

(3) Sign Size

The total area of all signs requiring a permit on a boat, barge, vessel, cruise vessel, building, structure or lot, or any combination thereof, shall not exceed 200 square feet or the sum of eight square feet for each linear foot of principal lot frontage, whichever is the greater. Wall or surface-mounted signs located on a Dockside Gaming vessel may occupy no greater than 50 percent of the surface area per side of such vessel, boat or barge.

(4) Number of Freestanding Signs

No more than one freestanding business sign per each 100 linear feet of lot frontage, provided pole signs are spaced a minimum of 75 linear feet from one another.

(5) Sign Separation

Any freestanding sign must be separated from any other freestanding sign on the same or any adjoining parcel by at least 50 feet, measured horizontally along the ground from the base of one sign to the base of the other. Where it is impracticable to comply with this requirement and with the setback from residential property required by the compatibility standards of this Section, the compatibility standards shall control and the separation standard set forth in this Section shall be reduced to the largest number less than 50 that will allow conformance with the compatibility standard setback requirement.



Example of Pole Sign

Sec. 23-17-15 Prohibited Signs

All signs not expressly permitted under this Article or exempt from regulation hereunder in accordance with the previous Sections of this Article are prohibited in all districts. Such signs include, but are not limited to:

- (a) Pennants, banners, streamers and all other fluttering, spinning or similar type signs and advertising devices are prohibited, except when a Temporary Use Permit, Sec. 23-11-17, has been approved for a specific device on a specific site for a limited time period for a special event such as: nationally-recognized holiday periods, or during a special civic event such as Mardi Gras.

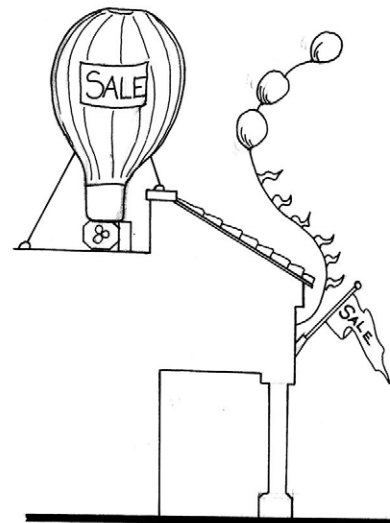
- (b) Beacons;

- (c) Portable signs;

- (d) A vehicle that:

- (1) Is inoperable;
- (2) Does not display a current vehicle inspection sticker or license plate;
- (3) Is not principally used as a mode of transportation for business purposes;
- (4) Is conspicuously parked or located on a lot or public right-of-way; and/or

- (5) Is principally used as a business or advertising device, provided, however,



Examples of Prohibited Signs

that this provision shall not apply to licensed, mobile vendors.

- (e) A sign advertising or identifying a business which is no longer operating; any sign accessory or incidental to a business shall be removed within 30 days after the business ceases to operate;
- (f) Any sign fastened to public property (unless placed by a public agency), a utility pole, a tree, a fence, or a rock;
- (g) Any sign fastened to property or erected on property without the permission of the owner of the property;
- (h) Signs utilizing flashing lights shall not be located within 50 feet of the right-of-way lines of major arterials as identified in Biloxi's Major Thoroughfare Plan.

Sec. 23-17-16 Design, Construction, and Maintenance Standards

(a) Code Compliance

All signs shall be installed and maintained in compliance with the applicable provisions of the Building Code and the Electrical Code of the City of Biloxi.

(b) Maintenance

All signs shall be maintained in good condition and appearance. The Building Official may cause to be removed any sign which shows gross neglect or which becomes dilapidated, or where the area immediately around such sign is not well maintained after due notice has been given.

(1) Removal of non-complying or hazardous signs

The Building Official shall remove or cause to be removed any sign erected or maintained in conflict with this Chapter if the owner of either the site or the sign fails to correct the violation within ten days after receiving written notice of violation from the Building Official. The Building Official may immediately remove, or cause to be removed, any sign which in his opinion constitutes a public hazard. Removal of a sign by the Building Official shall not affect any proceedings instituted prior to removal of such sign.

(2) Repair or removal of dangerous signs

Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises, or endangers the public safety, the Building Official shall give written notice to the owner of the sign, or the owner of the premises on which the sign is located, that such sign is to be made safe or removed within ten days, subject to penalties and remedies set out in Article 19.

Sec. 23-17-17 Signs not to Constitute Safety Hazard

(a) Traffic Safety

No sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision, or at any location it may interfere with or obstruct the view of traffic sight lines or traffic control devices. If located within direct line of vision of a traffic control device, no flashing or intermittent red, green or amber illumination shall be used.

(b) Pedestrian Safety, Entrances, Exits

No sign shall be erected so as to prevent free ingress or egress from any door, window or fire escape, and no sign of any kind shall be attached to a standpipe or fire escape.

Sec. 23-17-18 Permits

Signs permitted under Sec. 23-17-4 shall be placed, erected or created only after the issuance of a Sign Permit in accordance with Sec. 23-4-18.

Sec. 23-17-19 Nonconforming Signs

Any business sign or billboard legally existing prior to the adoption of the Ordinance from which this Chapter is derived and which does not conform to the provisions of this Chapter shall not be altered, or changed in overall dimension, except to conform to the provisions of this Chapter. If damaged to an extent in excess of one-half of its current replacement value, it shall not be rebuilt, provided that nothing contained in this Section shall be construed to prevent normal maintenance and repairs, repainting or posting of such signs or structures. Abandoned nonconforming signs, as defined in Sec. 23-18-6, shall be removed within six months of the advertised business ceasing operation at the location.

Sec. 23-17-20 Temporary Signs and Other Nonstructural Nonconformities

- (a)** Special sales promotional displays, which shall be limited to pennants, banners, streamers and flags, shall be allowed in any district where such sales are permitted, including displays incidental to the opening of a new business.
- (b)** A Temporary Use Permit shall be required for all temporary signs, including temporary construction signs, in compliance with Sec. 23-11-17.
- (c)** Such displays shall be limited to a maximum of 30 days in duration, no more than twice annually.

ARTICLE 18. NONCONFORMITIES

Article 18 Index

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Sec. 23-18-1 Policy

(a) General

As expressed in Sec. 23-1-9(c-d) and more particularly set forth in this Article, it is the general policy of the City to allow uses, structures or lots of record that came into existence legally and in conformance with then-applicable requirements but that do not conform to all of the applicable requirements of this Chapter to continue to exist and be put to productive use; however, it is also the policy of the City to bring as many nonconformities into conformance with the current Chapter as is reasonably practicable, all subject to the limitations of this Article. The limitations of this Article are intended to recognize the interests of the property owner in continuing to use the property but to preclude the expansion of the nonconformity and to preclude the reestablishment of an abandoned use or substantially destroyed structure. Continuance of legal nonconformities will be tolerated, but not encouraged.

(b) Applicability

This Article shall apply to uses, structures or of lots of record that became nonconforming by adoption of this Chapter or amendment to this Chapter. It shall also apply to any nonconforming status under a similar provision of a previously applicable ordinance of the City or County and that remains nonconforming with one or more provisions of this Chapter, even if the type or extent of nonconformity is different.

(c) Continuation Permitted

Any nonconforming use, building, structure or other nonconforming status that existed lawfully on the effective date of this Chapter, or which becomes nonconforming upon the adoption of any amendment to this Chapter, may be continued in accordance with the provisions of this Article. Where two or more provisions of this Article apply, the more restrictive requirement applies.

(d) Determination of Nonconforming Status

The burden of establishing that any nonconformity is a legal nonconformity as defined by this Article shall, in all cases, be upon the owner of such nonconformity and not upon the City or any other person.

(e) Effect of Public Acquisition

If a tract of land which conforms to this Chapter is rendered nonconforming, or if a legal nonconforming lot is made more nonconforming by the acquisition of a portion of said tract or lot for public purposes by any public agency, said tract shall have the status of a legal nonconforming lot.

Sec. 23-18-2 Definitions Related to Nonconformities**(a) Legal Nonconformities**

A legal nonconformity is any land use, structure or lot of record related to the use or development of land that:

- (1) Was legally established either prior to the effective date of this Chapter or its subsequent amendment or prior to the annexation of the property on which such nonconformity exists, and
- (2) Does not fully conform to the requirements of this Chapter.

(b) Legal Nonconforming Lots with Dimensional Deficit

A legal nonconforming lot is a lot of record with dimensional deficiencies is one that fails to conform to the minimum lot area, depth, width or other applicable dimensional requirement for the zoning district in which it is located.

(c) Illegal Lot

- (1) An illegal lot is one that meets any one of the following criteria:
 - a. Such lot was not created by either a plat recorded in accordance with a previously applicable Subdivision Ordinance of the City or County or by the recording of a deed prior to the applicability of such ordinance;
 - b. Such lot has frontage only on an undeveloped platted street, unless the owner can demonstrate that the plat was recorded at a time when improvement of platted streets was not required by a previously-applicable Subdivision Ordinance of the City or County; or
 - c. Such lot does not have frontage on a public street, unless the owners can demonstrate that the deed was recorded at a time when frontage on a public street was not a requirement for a legal lot of record by a previously applicable ordinance of the City or County.
- (2) The City will not accept or process any application under this Chapter for a project involving an illegal lot, except as is necessary to create lots of record from such illegal lot.

(d) Lot of Record

A lot of record is one that meets any of the following criteria:

- (1) Such lot was created by either a plat recorded in accordance with a previously applicable Subdivision Ordinance of the City or County or by the recording of a deed prior to the applicability of such ordinance;
- (2) Such lot has frontage only on an undeveloped platted street and the owner can demonstrate that the plat was recorded at a time when improvement of platted streets was not required by a previously applicable Subdivision Ordinance of the City or County; or
- (3) Such lot does not have frontage on a public street and the owner can demonstrate that the deed was recorded at a time when frontage on a public

street was not a requirement for a legal lot of record by a previously-applicable ordinance of the City or County.

(e) Other Legal Nonconforming Situations

Other legal nonconformities include all other aspects of an established land use, improvement or development that does not fully conform with the requirements of this Chapter or any amendment thereto but which are legally nonconforming under Subsection (a). Such other nonconformities include, but are not limited to, off-street parking requirements and landscaping requirements.

Sec. 23-18-3 Nonconforming Uses

(a) Generally

The lawful use of any structure or land existing at the time of the enactment of this Chapter may be continued, although such use does not conform with the provisions of this Chapter, except as provided in this Article.

(b) Extension or Enlargement of a Legal Nonconforming Use

- (1)** A legal nonconforming use may not be expanded.
- (2)** The attachment of signs to the building, the placement of signs or display materials on land outside of a building, or the attachment of racks, balconies or other projections from the building shall be considered as an extension of the use of a building.
- (3)** No legal nonconforming use shall be extended to displace a conforming use.

(c) Alterations

A building used for a legal nonconforming use may not be reconstructed or structurally altered during its life to an extent exceeding 50 percent of its replacement cost unless the building is changed to a conforming use.

(d) Restoration

- (1)** A building used for a legal nonconforming use damaged by fire or other natural causes to the extent of more than 50 percent of its replacement cost shall not be repaired or rebuilt except in conformity with the regulations of Chapter 5, Buildings.
- (2)** If a legal nonconforming building or portion thereof may be restored under the provisions of this Section, such restoration must commence within six months of the damage by fire or other natural causes, and must be pursued and completed according to such plans as filed within an additional six months.

(e) Changes in use

If no structural alterations are made, a legal nonconforming use of a building may be changed to another legal nonconforming use of the same or a more restrictive classification. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

(f) Nonconformities Due to Zoning District Map Amendment

Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one zoning classification to another, the provisions of this Article shall also apply to any nonconforming uses existing therein.

Sec. 23-18-4 Legal Nonconforming Structures**(a) Use Permitted**

A legal nonconforming structure may be used for any Permitted Use in the applicable zoning district or for any applicable legally nonconforming use.

(b) Expansion

A legal nonconforming building may not be extended or enlarged

(c) Moving Prohibited

A legal nonconforming structure shall not be moved, in whole or in part, to any other parcel unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

(d) Maintenance, Repairs and Remodeling

Maintenance and repairs of a legal nonconforming structure shall not exceed 50 percent of the replacement cost. Remodeling of the structure within the existing building footprint is permitted without a Variance, provided that the remodeling does not increase the degree of nonconformity and that applicable building and life safety codes are met.

(e) Repair of Unsafe Structures

Any legal nonconforming structure or portion thereof declared unsafe by the Building Official or other appropriate inspection official may be restored to a safe condition not to exceed 50 percent of the replacement cost.

(f) Restoration

A legal nonconforming structure damaged by fire or other natural causes to the extent of more than 50 percent of its replacement cost shall not be repaired or rebuilt except in conformity with the regulations of Chapter 5, Buildings.

(g) Setbacks in Existing Residential Subdivisions

In the case of platted residential subdivisions or phases thereof and where more than 60 percent of the lots within such subdivisions or phases thereof shall have been developed by the construction of residential structures with setbacks less than those specified under the yard requirements as set forth in this Chapter, then the building setback requirement in effect at the time the subdivision was platted shall prevail and be controlling over the setback requirements of this Chapter. However, in no case shall a setback be permitted that is less than the average respective setback of all structures within 300 linear feet on the same side of the street of the subject property.

(h) Legal Nonconforming Lots with Dimensional Deficit

A legal nonconforming lot of record that is deficient in area under the applicable zoning district standards may be used for any Principal Use permitted in the zoning district in which the lot is located.

Sec. 23-18-5 Legal Nonconforming Signs

Legal nonconforming signs may be maintained but may not be enlarged or structurally altered. If a legal nonconforming sign is damaged or destroyed to the extent that the cost of repair is equal to 50 percent or more of the cost of replacement, the sign shall be rebuilt or repaired in full conformance with the requirements of the applicable sign regulations of this Chapter or be removed completely within thirty days of the occurrence of the damage, unless the Building Official has deemed it a safety hazard, in which case it shall be removed immediately. Legal nonconforming signs shall in all other respects be subject to the requirements of Sec. 23-18-4.

Sec. 23-18-6 Termination of Legal Nonconformities**(a) Termination by Abandonment**

Abandonment of a legal nonconformity for a period of more than six months shall result in a termination of the right to maintain said nonconformity, regardless of intent. Such nonconformity shall not then be reestablished and any subsequent use shall conform to the requirements of the district in which it is located, unless specifically excepted by the provisions of Sec. 23-18-7.

(b) Termination by Damage or Destruction

In the event that any legal nonconformity is destroyed by any means to the extent of 50 percent or more of the cost of replacement of such structure or use, said structure or use shall be rebuilt, restored, reestablished or reoccupied in conformance with the regulations of Chapter 5, Buildings, and those of the zoning district in which it is located, or be removed completely within 30 days of the occurrence of the damage or destruction.

(c) Termination or Improvement Required by Modification

In acting on any application for a Building Permit, Sign Permit, or City-issued permit related to the use or development of land, the Building Official and Director of Community Development shall require or ensure that:

- (1)** Any legal nonconforming use be limited to the existing area of the structure or changed to a conforming use;
- (2)** The extent of nonconformity of a legal nonconforming structure not be increased;
- (3)** The applicant complete any necessary lot merger or replatting for a legal nonconforming lot area, in accordance with the requirements of the subdivision regulations;
- (4)** Any other legal nonconforming situation, including off-street parking, off-street loading, landscaping, or other site improvements, be brought into full conformance with the requirements of this Chapter to the maximum extent practicable within the property owned or controlled by the owner of the property on which the legal nonconforming situation exists.

Sec. 23-18-7 Exceptions for Certain Nonconforming Uses**(a) Policy**

Certain public, quasi-public, semi-public, and institutional uses currently exist as nonconforming uses in the City. There also are specific areas within the City in which

redevelopment will be encouraged. Because of the substantial investment in such uses, the public interest in the maintenance of such uses as modern, functional facilities, the lack of vacant land for the relocation of such uses in the developed portions of the City, and the enormous public and private cost involved in relocating such uses, the City Council and Mayor have determined that it is in the public interest to provide limited exceptions for these facilities from the application of this Chapter and, in particular, its provisions for nonconforming uses.

(b) Existing Public and Semipublic Facilities

Existing public and governmental uses, schools, colleges and universities, and golf courses may continue to be operated and maintained in any residential or commercial district and may be expanded provided such expansion can be accomplished in accordance with the applicable zoning district regulations. No new such facility may be established except when permitted in the applicable zoning district or when approved as a Conditional Use.

(c) Existing Cemeteries and Mausoleums

Cemeteries and mausoleums and their structures and appurtenances accessory thereto existing on the effective date of this Chapter, as well as the use thereof, may be maintained, structurally altered, enlarged or extended within the existing boundaries of such cemeteries or mausoleums, subject to Conditional Use approval.

(d) Redevelopment Areas

In designated redevelopment areas of the City, an extension or reactivation of a legal nonconforming use may be considered.

(1) Purpose of Legal Nonconforming Use Extension or Reactivation

The purpose of the extension or reactivation of legal nonconforming status provisions of this Chapter is to provide for certain uses that have lost their legal nonconforming status, but that may, under certain circumstances, be appropriately extended to achieve the redevelopment goals of the City. The extension or reactivation of legal nonconforming status differs from the Conditional Use in that it is, by its nature, an exception to the regulations set forth in this Chapter and it requires compliance with specific criteria and conditions as set forth in Subsection (3) below. Thus, the BZA may deny an application for extension or reactivation of legal conforming status for any reason given below or for any other reason stated within the record established with respect to the review of any extension or reactivation application.

(2) Application Requirements

When a developer applies for either a Building Permit and/or a Certificate of Zoning Compliance, a determination shall be made regarding the conformity of use. If it is determined that the proposed use has lost its legal nonconforming status, then the developer may apply to the BZA for an extension or reactivation, in concert with application for a Building Permit. An application for an extension or reactivation of a legal nonconforming use shall be filed with the Director of Community Development and shall include the following:

- a. A completed application on the form provided by the Planning Division.
- b. If the proposed extension or reactivation of legal nonconforming status is consistent with the overall goals of the approved Comprehensive Plan and

the specific Redevelopment Plan for the subject area, the application shall include a copy of the site plan or a reference to it by date of approval and file number.

- c. A written narrative describing the neighborhood and explaining the potential positive and negative impacts of the extension or reactivation of legal nonconforming status on same. Also, the narrative shall comment on the impact of the conditions found in Subsection (3)b. hereof on the extension or reactivation of legal nonconforming status.
- d. A letter from the Building Official verifying conformity of the subject structure(s) and/or its ability to comply with all applicable codes.

(3) Criteria and Conditions

a. Basic Criteria

An extension or reactivation of legal nonconforming status will be approved only when the use complies with all of the following criteria:

1. The use will promote the public interest at that locations;
2. The use is designed, located and proposed to be operated so that the public health, safety and welfare will be protected;
3. The use will not cause substantial injury to other properties in the neighborhood in which it is located or which it abuts;
4. The applicant makes a compelling case to grant such extension or reactivation of legal nonconforming status;
5. Satisfactory provision has been made concerning the following, where applicable:
 - i. Ingress and egress to property and proposed and existing structure(s) thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - ii. Off-street parking and loading areas, where required, with particular attention to the items listed in this Section and the economic, noise, glare or odor effects of the extension or reactivation of the legal nonconforming status on adjoining properties and properties generally in the zoning district and redevelopment area.
 - iii. Refuse and service areas, with particular reference to the items listed in this Section;
 - iv. Utilities, with reference to location, availability and compatibility;
 - v. Screening and buffering, with reference to type, dimensions and character;
 - vi. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and

harmony with adjoining properties and properties generally in the zoning district and redevelopment area.

- vii. Required yards, setbacks, and other open spaces; and
- viii. General compatibility with adjacent properties and other properties in the zoning district and in the redevelopment area.

b. Conditions

The Director of Community Development may recommend and the BZA may impose one or more of the following conditions on the extension or reactivation of a legal nonconforming use:

1. Limitations on duration of the use, regardless of whether such limitations are proposed in the initial application;
2. Restriction of permitted exterior signs and advertising structures;
3. Limitations of signs as to size, type, color, location, and illumination;
4. Limitation of amount, direction, and location of exterior lighting;
5. Limitation of amount and location of off-street parking and loading space;
6. Specifications for cleaning and painting;
7. Limitations on type of roof;
8. Limitations on type of construction and materials;
9. Limitations on exits, entrances, doors, and windows;
10. Specifications on paving, landscaping, ornamental and screening fences, walls, and hedges;
11. Limitations on hours of operation;
12. Restrictions on storefronts;
13. Limitations on structural changes;
14. Limitations for control or elimination of noise and/or vibration; and/or
15. Limitations for the placement and screening of refuse collection areas.

(4) Review Process

a. Staff Report

The Planning Division shall prepare a staff report reviewing the application for an extension or reactivation of legal nonconforming status for compliance with the general requirements of this Chapter. The Planning Division may solicit additional information, as it deems appropriate, from the applicant and may include other City personnel in the review process. A copy of the staff report shall be provided to the BZA and the applicant before the scheduled public hearing.

b. Public Hearing

Following published notice in accordance with Sec. 23-3-5, the BZA shall conduct a public hearing. All papers and other information submitted by the applicant for an extension or reactivation of legal nonconforming status shall be transmitted to the BZA.

c. Action by the City Council

After the public hearing provided for in this Section, the BZA shall act to approve, approve with modifications, or deny the request for an extension or reactivation within 90 days from receipt of the staff report from the Planning Division. If required by the BZA, a Guarantee of Improvement shall be filed or deposited in escrow with the City for a sum determined by the BZA to be sufficient to ensure completion of requirements as may be imposed by the BZA in accordance with this Article.

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ARTICLE 19. VIOLATIONS, PENALTIES AND ENFORCEMENT

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Sec. 23-19-1 Responsibility for Enforcement

It shall be the duty of the Director of Community Development to enforce this Chapter. It shall also be the duty of all officers and employees of the City, and especially of all members of the Police Department and Fire Department, to assist the Director of Community Development by reporting to the Building Official, Director of Community Development and City Engineer apparent regulated building activity or apparent violations of this Chapter.

Sec. 23-19-2 Specific Violations

In addition to violations and penalties provided by any other applicable Chapter, including but not limited to Sec. 1-1-8 of this Code, it shall be a violation of this Chapter to do any of the following in any manner inconsistent with the requirements of this Chapter:

- (a) Using or attempting to use any real property or structure;
- (b) Engaging or attempting to engage in regulated building activity;
- (c) Engaging or attempting to engage in the development or subdivision of land;
- (d) Transferring or attempting to transfer title to any real property that is not a lot of record;
- (e) Submitting or attempting to submit for recording with Harrison County any Subdivision Plat;
- (f) Moving, removing or damaging or attempting to move, remove or damage a protected tree;
- (g) Engaging or attempting to engage in any other activity requiring a permit, certificate or approval without first obtaining any such required permit, certificate or approval;
- (h) Violating or attempting to violate the terms or conditions of any permit, certificate or approval granted;
- (i) Obscuring, obstructing or removing or attempting to obscure, obstruct or remove any posted notice;
- (j) Violating or attempting to violate any lawful order issued by the City;

- (k) Moving or attempting to move a designated landmark or a building or structure from or onto a landmark site or a building or structure to or from any site in an AHO District without the required Certificate of Appropriateness;
- (l) Demolishing or allowing the demolition by neglect or by attempting to demolish or allow the demolition by neglect of a designated landmark or a building or structure in an AHO District without the required Certificate of Appropriateness;
- (m) Altering or attempting to alter in any way a designated landmark or a building or structure in an AHO District without the required Certificate of Appropriateness; or
- (n) Continuing any violation as defined, with each day of a continuing violation considered a separate violation for purposes of computing cumulative civil and/or criminal penalties.

Sec. 23-19-3 Denial of Permits, Certificates or Approvals

- (a) No Building Permit shall be issued for regulated building activity that would create a violation of this Chapter;
- (b) No Building Permit shall be issued for regulated building activity on a lot of record on which there is a violation of this Chapter, except when the construction described in the permit application will eliminate the violation;
- (c) No authorization for utility connection shall be issued for premises on which there is a violation of this Chapter; and
- (d) No permit, certificate or approval shall be issued for an activity to occur on any lot of record on which there is a violation of this or any other applicable Chapter of this Code or on which the conduct of such activity would constitute a violation of this or any other applicable Chapter of this Code.

Sec. 23-19-4 Enforcement: Stop Orders and Injunctions

A designated officer of the City may take any one or more of the following actions to remedy violations of this Chapter:

- (a) Issue stop orders against any work undertaken by an entity not having a proper Building Permit, Certificate of Zoning Compliance, Certificate of Appropriateness, Certificate of Occupancy, or any other permit required by this or any other applicable Chapter;
- (b) Issue stop orders against any actions in violation of this Chapter;
- (c) Bring an action for an injunction (or, in appropriate cases, for mandamus) to prevent the violation or to prevent the occupancy or use of any building or structure involved in a violation of this Chapter;
- (d) Bring an action for injunction or mandamus to abate a violation;
- (e) Issue an administrative order and, if said order is not followed, to obtain an injunction to require the replacement of a protected tree removed, relocated, or substantially altered without the approval of the Development Review Committee, provided that where, because of the age or size of the protected tree its replacement is not

practical, the Planning Commission may require its replacement with a combination of multiple trees found by the Planning Commission to constitute a substantial and equitable replacement of the lost or damaged protected tree.

Sec. 23-19-5 Enforcement: Suspension of Permit, Certificate or Approval

(a) In addition to other procedures and penalties provided herein, the Building Official or Director of Community Development may suspend or revoke a permit, certificate or approval issued pursuant to the provisions of this Chapter in accordance with the following procedures:

- (1) Where the responsible officer reasonably determines that a permit, certificate or approval has been improperly issued, such certificate or permit may be suspended without prior notice for a period of up to two weeks. Notice of such suspension shall be posted as provided in the next Subsection simultaneously with such suspension.
- (2) Where the responsible officer finds that a land use or construction or other activity is proceeding in violation of this Chapter or of any permit (including conditional use permit) or approval issued under it, or any condition imposed upon such a permit or approval, such certificate or permit may be suspended immediately.

(b) Notice

- (1) A written notice of suspension shall be posted on the subject property in conspicuous manner. The written notice shall identify the permit, certificate or approval subject to suspension and briefly describe the reasons for the suspension. The notice shall also briefly describe the hearing process provided by this Section.
- (2) A copy of the notice of suspension or revocation shall be served by either personal delivery to the holder of the permit, certificate or approval and the owner of record, or by leaving it at their residence with a competent member of his family of the age of sixteen years or over then residing therein. Service upon a partnership, corporation or limited liability company shall be accomplished by personal delivery to a partner, officer, director, trustee or managing, general or registered agent.
- (3) In the event that the holder of the permit, certificate or approval, or the owner of record, does not reside or maintain an office within the City, the notice of suspension or revocation shall be served by certified mail, postage prepaid, addressed to the known residence, office or principal place of business of such permit, certificate or approval holder or owner of record. If service of the written notice is refused and the certified mail envelope is returned with an endorsement showing such refusal, or the return of the person serving such notice states that service has been refused, notice shall be deemed complete when the fact of refusal is entered of record.

(c) Written Notice Not Required in Certain Cases

Written notification of a violation shall not be necessary when, in the opinion of the Director of Community Development or the Building Official, a violation creates an immediate health or safety hazard to people or property. In these situations, the

Director of Community Development or the Building Official may issue a citation or cause a complaint to be filed without giving prior notice to the violator.

(d) Hearing

Within ten days of suspension or revocation of a permit, the aggrieved party may appeal to the Director of Community Development by filing for an appeal hearing at the Community Development Department. The person requesting the hearing shall have the right to appear at this hearing, with or without counsel, and to present evidence. The responsible officer shall present evidence at the hearing of the reason(s) for the suspension or revocation of the certificate or permit. A record of the hearing will be made, that includes: all documentary evidence presented by the responsible officer and by any other party to the hearing; and a tape recording or transcript of the testimony and discussion at the hearing.

Sec. 23-19-6 Enforcement: Penalties for Certificate of Appropriateness Violations

- (a)** Any person who constructs, alters, relocates or demolishes any landmark in violation of this Chapter shall be required to restore the landmark to its appearance or setting prior to the violation. Any action to enforce this provision shall be brought by the City.
- (b)** If regulated building activity of any landmark occurs without the required Certificate of Appropriateness, then the license of the company, individual, principal owner or its or his successor in interest performing such regulated building activity may be revoked for a period of not more than three years, after a hearing before the City Council.
- (c)** If demolition of a landmark occurs without the required Certificate of Appropriateness, then any permits on the subject property may be denied for a period of not more than three years. In addition, the applicant may not be entitled to have issued to him, by any City office, a permit allowing any curb cuts on the subject property for a period of not more than three years from and after the date of such demolition, subject to the appeal process and review by the City Council.

Sec. 23-19-7 Enforcement: Penalties Related to Trees

- (a)** Any person who removes or damages a tree without the required Tree Permit shall be required to restore or replace the tree.
- (b)** Any person who removes or damages a tree in violation of a Tree Permit or a condition imposed on the issuance of a Tree Permit shall be required to restore or replace the tree or to take such other action as may be necessary for the conformance to the Tree Permit conditions imposed thereon.
- (c)** Each day that the City and its residents must live without a protected tree that has been damaged or removed in violation of this article shall be considered a separate violation and subject to a separate monetary penalty.
- (d)** Any action to enforce this section shall be brought by the City.

Sec. 23-19-8 Enforcement: Penalties Related to Landscaping

- (a) Any person who removes or damages a tree or other landscaping without the required approval under this Chapter or any permit issued hereunder shall be required to restore or replace the tree.
- (b) Any person who removes or damages a tree or other landscaping in violation of a permit or a condition imposed on the issuance of a permit shall be required to restore or replace the tree or other landscaping or to take such other action as may be necessary for the conformance to the permit or conditions imposed thereon.
- (c) Any person who owns property subject to a permit or condition on a permit related to landscaping shall be responsible for replacement of any landscaping that dies or is removed.
- (d) Any person who uses property subject to a permit or condition on a permit related to landscaping shall be responsible for replacement of any landscaping that dies or is removed.
- (e) The continuation of a situation in which required landscaping is absent from a site, for whatever reason, shall be considered a repeated violation, subject to multiple financial penalties.
- (f) Liability under this section shall be joint and several to the City and the public: claims among parties regarding damage to or failure to maintain landscaping shall be received separately from any City enforcement action.
- (g) Upon appeal of an order to replace landscaping, a party may request a variance from the Board of Zoning Appeals, which shall have the authority, for good causes shown, to delay the date by which the landscaping must be restored but not to vary the requirement that it be restored.
- (h) Any action to enforce this section shall be brought by the City.

Sec. 23-19-9 Denial of Other Permits**(a) Applicability**

This section shall apply to any person, natural or otherwise, who has violated or has been involved in the violation of multiple sections of this Chapter through multiple incidents over a period of at least six months.

(b) Referral

When the Community Development Director or the City Attorney becomes aware of a person who has been or may have been involved in multiple violations of this Chapter over a period of time, the Director or Attorney may review the matter to the Board of Zoning Appeals for hearing.

(c) Initial Review

The Board of Zoning Appeals shall make a preliminary review of the matter released to it and determine whether there are sufficient facts to proceed. If it finds that there are sufficient facts to proceed, it shall schedule a hearing on the matter for a date occurring at least 30 days but not more than 90 days in the future and shall cause

written notice of such hearing to be given to the person who is the subject of the referral.

(d) Hearing

At the hearing, the BZA shall hear first from the Director of Community Development, then from other representatives of the City, then from the person subject to the referral, and finally from any other interested parties. Counsel for the City and for the person subject to the referral shall be entitled to cross-examination of witnesses. The BZA may accept documentary evidence, including electronic and other visual representations. After the hearing, the BZA shall make explicit findings of fact regarding the matters before it.

(e) Criteria

If, based on the findings of fact, the BZA determines that the person subject to referral has repeatedly violated or been in violation of this Chapter and continues to engage in activity that may result in future violations, the BZA may impose one of the remedies set forth in the next sub-section (f).

(f) Remedies

In addition to the remedies available under this Chapter for specific violations, the BZA may, upon the findings set forth in this section, impose one or more of the following additional remedies upon a person subject to referral under this section.

- (1)** Revocation of other permits issued to the person under this Chapter;
- (2)** Suspension of the right of the person to apply for or receive permits under this Chapter for a specified period of time;
- (3)** A requirement that the person post a bond against which the City can charge monetary penalties for future violations; and/or
- (4)** A requirement that the person post a bond against which the City may draw to restore conditions created in violation of this Chapter, including removal of or damage to trees and landmarks.

Sec. 23-19-10 Penalties

Prosecutions for violations of this Chapter shall be made through the Community Court Division by the filing of an affidavit and issuance of an arrest warrant.

(a) Persons Subject to Penalties

The owner or occupant of any building, structure, premises, or part thereof, and any architect, builder, contractor or agent or other person who commits, attempts to commit, participates in, assists in or maintains such violations may each be found guilty of a separate offense and be subject to the penalties listed herein.

(b) Penalties

- (1)** Any person who fails to comply with or who violates or attempts to violate any of the provisions of this Chapter shall be guilty of a misdemeanor and on conviction thereof shall be penalized as authorized by the Mississippi Code of 1972, as amended, in Sec. 17-1-27, et seq. or by any other appropriate sentence within the discretion of the municipal judge.

- (2) In addition to any fine imposed or fee charged, an assessment for the costs of court shall be imposed upon any person found to be in violation of this Chapter. Such assessment shall be imposed in every instance regardless of the waiver or suspension of any fine or other fee.

Sec. 23-19-11 Remedies Are Cumulative

Nothing in this Article shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation of this Chapter including, but not limited to, revocation of any permit, certificate or approval, and shall not be held to prevent the enforced removal of prohibited conditions.

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ARTICLE 20. AIRPORT NAVIGATION AND NOISE ABATEMENT

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Sec. 23-20-1 Purpose

The purpose of this Article is to provide regulations to preserve and promote the public health, public safety, and general welfare of the inhabitants of the City of Biloxi, Mississippi, by controlling the creation or establishment of obstructions to air navigation as defined by the Federal Aviation Administration in Part 77 of Title 14 of the Code of Federal Regulations, which obstructions are hereby determined to be hazards to the general health welfare and safety of the community. In addition, the purpose of the ordinance is to protect the health, welfare, and safety of the general public by incorporating the safety standards mandated by the pre-existing military flight operations currently utilizing navigable airspace. Additionally, the purpose of this Article is to establish procedures for notification of the public concerning air navigation hazards. The City of Biloxi does not warrant, guaranty, or certify the accuracy or validity of the information contained in the aforementioned maps and studies, nor does the City of Biloxi hereby undertake the duty to notify each individual property owner or occupant of areas indicated on said maps as within the noise contours, quadrant district, or Accident Potential Zones.

Sec. 23-20-2 Definitions

Airport Hazard means any structure or object of natural growth or use of land within the Biloxi Municipal Area Height/Airspace Overlay that penetrates the imaginary surfaces (as those surfaces are defined by Part 77 of Title 14 of the Code of the Federal Regulations) which are applicable to the Keesler Air Force Base airport operations or that penetrates the imaginary surface which is defined herein as the "Existing Military Operations Surface".

Biloxi Municipal Area Height/Airspace Overlay District means the geographic area of land adjacent to the Keesler Air Force Base airport runway that is identified by the provisions of Part 77 of Title 14 of the Code of Federal Regulations as being within or under the approach surface, the primary surface, the transitional surface, the horizontal surface, and the conical surface as they relate to said runway, and also incorporates the area of land identified in the "Existing Military Operations Surface" defined herein.

Biloxi Municipal Area Airport Noise Overlay District means the geographic areas in proximity to Keesler Air Force Base airport that are indicated on the map developed for the Keesler Air Force Base Area Joint Land Use Study (1998) (which has been reproduced as the "Part 150 - Airport Noise Contours" map), together with the Southwest Quadrant District Map (which was based upon information provided by Keesler Air Force Base regarding their flight operations) or their successor or updated maps as approved by the City, as being subject to noise exposure at a level of 65dB or greater.

Day-night Sound Level (LDN) means a cumulative aircraft noise index that estimates the exposure to aircraft noise at a certain geographic point and relates the estimated exposure to an expected community response.

Imaginary Surface means those imaginary areas in space which are delineated by the Approach Clearance surface, the Transitional surfaces, the Horizontal surfaces, the Conical surfaces (as those surfaces are defined by Part 77 of Title 14 of the Code of the Federal Regulations), and the “Existing Military Operations Surface” (as defined herein), and in which any object extending above these imaginary surfaces is an obstruction.

LDN Contour or Noise Contour means a line linking together a series of points of equal cumulative noise exposure based on the LDN metric. Such contours are developed based upon aircraft flight patterns, number of daily aircraft operation by type of aircraft and time of day, noise characteristics of each aircraft, and typical runway usage patterns.

Noise Control District 65-70 (NCD 65-70) means the area within the 65 dB to 70 dB noise-exposure area as indicated on the map of the Biloxi Municipal Area Airport Noise Overlay District.

Noise Control District 70-75 (NCD 70-75) means the area within the 70 dB to 75 dB noise-exposure area as indicated on the map of the Biloxi Municipal Area Airport Noise Overlay District.

North American Vertical Datum (NAVD) means the nationally accepted standard reference used to determine the elevation of a surface, object, elevation, structure or natural growth.

Southwest Quadrant District means the approximately one square mile area to the southwest of the Keesler Air Force Base runway as depicted on the Wink Engineering map designated as the Southwest Quadrant District Map.

Structure means any object, whether permanent or temporary and whether mobile or movable, including, but not limited to: a building; tower; crane; smokestack; earth formation; transmission line; flagpole; or ship mast.

Surfaces:

Approach Clearance Surface means an inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.

Clear Zone Surface means a surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.

Conical Surface means a surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

Existing Military Operations Surface means a flat surface extending from the thresholds of the Keesler Air Force Base runway along the projection of the centerline, both southwest and northeast for one and three quarters ($1\frac{3}{4}$) nautical miles, and consisting of the following three elements: i) a surface 110 feet above mean sea level extending one half ($1/2$) nautical mile each side and perpendicular to said centerline projection; ii) a sloping surface on each side of said centerline projection beginning at an elevation of 110 feet above mean sea level at one half

(1/2) nautical mile, measured perpendicular to said centerline projection and extending upward to an elevation of 250 feet above mean sea level at a distance of one (1) nautical mile, measured perpendicular to said centerline projection; and iii) a sloping surface on each side of said centerline projection beginning at an elevation of 250 feet above mean sea level at one (1) nautical mile, measured perpendicular to said centerline projection, and extending upward on the same slope as described item ii for one (1) nautical mile, measured perpendicular to said centerline projection (for a terminating point at 2 nautical miles from said centerline projection).

Inner Horizontal Surface means a plane that is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.

Outer Horizontal Surface means a plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

Primary Surface means a surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with a previous lateral clearance criterion, the 2,000-foot width may be reduced to the former criteria.

Transitional Surfaces means surfaces that connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface, or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

Sec. 23-20-3 Biloxi Municipal Height/Airspace Overlay District

(a) Establishment of Overlay District

There is hereby established the Biloxi Municipal Area Height/Airspace Overlay District, which is that area depicted on the map prepared by Wink Engineering and titled "City of Biloxi, Mississippi, Height/Hazard Overlay", a copy of which was attached to this ordinance at its adoption, and official copies of which are on file in the office of the Clerk of Council and the Department of Community Development. To facilitate graphic depiction, the map represents continuously sloping imaginary surfaces as a series of stepped elevations. For the purpose of applying this ordinance, the continuously sloped surfaces, which comprise the "Imaginary Surfaces" and "Surfaces" as defined herein, shall govern.

(b) Permissible Construction within the Overlay District

- (1)** Any structure, natural growth, or use of land the height of which would exceed the federal obstruction standards as contained in Part 77, Title 14, of the Code of Federal Regulations, as those regulations are in effect on the date of the adoption of this ordinance, relative to the primary surface, the approach clearance surface, the inner horizontal surface, the outer horizontal surface, the conical surface, or the transitional surfaces, or would exceed or penetrate the "Existing Military Operations Surface", is deemed to be an obstruction to air

navigation and therefore a hazard to the general health welfare and safety of the community, and is hereby prohibited.

- (2) When an application for a building permit for the construction of any structure or improvement to any structure within the Biloxi Municipal Area Height/Airspace Overlay District indicates that the proposed height of the structure or improvement is within ten feet of the maximum allowed at that site, the applicant shall also provide an elevation survey as a part of the building permit application. So that compliance with subsection (a) above for the proposed new height asserted in the application can be verified, this survey shall: i) certify the elevation of the highest point in the footprint of the proposed structure; ii) certify the highest ground elevation surrounding the base of the foundation of an existing structure if the application is for improvements to an existing structure; or iii) otherwise certify the ground elevation at an indicated point at the site which was utilized to compute the resulting structure elevation proposed on the application. The survey shall include sufficient information to enable compliance with this ordinance to be verified. The measurement indicated on the survey shall be made using North American Vertical Datum as the standard of measurement, and a building permit shall not be issued for a proposed structure or improvement if the elevation survey indicates the project would be in violation of subsection (a) of this section unless a variance is obtained as provided in this ordinance.

(c) Application of other Land Development Ordinance provisions

In the event any other provision, standard, condition, or requirement of the zoning ordinances of the City of Biloxi conflict with an applicable provision of this ordinance, the more stringent provision, standard, condition, or requirement shall apply. In the event any restriction based upon the application of the "Existing Military Operations Surface" is in conflict with any restriction based upon any other "surface" which may be defined in this ordinance, the more stringent provision or restriction shall apply.

(d) Additional public safety based use restrictions

In order to protect the health, welfare, and safety of individuals on the ground as well as the passengers and crew in aircraft flying over the City of Biloxi and notwithstanding any other provision of the zoning ordinances of the City of Biloxi, no use may be made of land or water in the City of Biloxi in such a manner as to: i) create electrical interference with navigational signals or radio communications between the control tower at Keesler Air Force Base and aircraft utilizing the airport at Keesler Air Force Base; ii) make it difficult for pilots to distinguish between airport lights and other lights; iii) result in glare in the eyes of pilots using the airport at Keesler Air Force Base during takeoffs or landings; or iv) otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport at Keesler Air Force Base.

(e) Exemptions

The following are exempted from the regulations of Article 23-20-3:

(1) Continuation of nonconforming structures.

Any structure or vegetation existing on a specific parcel within the Biloxi Municipal Area Height/Airspace Overlay District as of the date of enactment of this ordinance which would otherwise be prohibited hereby, shall be exempt from

the prohibition or restriction contained in this ordinance, subject to the following provisions.

(2) Repair and replacement of non-conforming structures.

A structure or part thereof lawfully existing on the effective date of this ordinance which would be prohibited hereby but for the exemption contained in subparagraph (a) above and which thereafter is destroyed or damaged may be repaired or replaced without losing its exempt status by compliance with the provisions and criteria established in this code of ordinances for repair of prior existing non-conforming uses (Section 23-18-4). Any structure which would not qualify for repair and continuation of its exempt status under those criteria shall be deemed to have lost its exempt status and must be repaired or reconstructed in accordance with the provisions of this ordinance.

(f) Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property in a manner not in accordance with the prohibitions contained in this ordinance may apply to the City Council for a variance from such prohibition. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe efficient use of navigable airspace, as well as a determination from Keesler Air Force Base as to the effect of the proposal upon its flight operations and flight mission. Such variances shall be allowed only where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and the relief granted: i) will not be contrary to the public interest; ii) will not create a hazard to air navigation; iii) will not require a change in the flight operations or the flight mission at Keesler Air Force Base; iv) will do substantial justice; and iv) will be in accordance with the spirit and intent of this ordinance. If Keesler Air Force Base fails to respond to the application by providing a determination or evaluation of the proposed change on its flight operations and flight mission within 30 days of its receipt of such written application or written request for evaluation, then the City Council may assume that a determination was made of no significant impact and may proceed to consider the application and make a determination to grant or deny such application.

Sec. 23-20-4 Noise Abatement And Notice Of Airport Noise And Accident Potential

(a) Establishment of an Airport Noise Overlay District

There is hereby established the Biloxi Municipal Area Airport Noise Overlay District, which is that area depicted on the map included in the Wink Engineering maps entitled "FAA Part 150 - Airport Noise Contours", and "Southwest Quadrant District", or their successor or updated maps as approved by the City, official copies of which are on file in the office of the Clerk of Council and the Department of Community Development. The Biloxi Municipal Area Airport Noise Overlay District is comprised of Noise Control District 65-70 (NCD 65-70), Noise Control District 70-75 (NCD 70-75), and the Southwest Quadrant District.

(b) General Notice of Airport Noise and Accident Potential Zones

- (1) The public is hereby notified of the results of the Airport Noise and Accident potential studies conducted in conjunction with the 1995 Air Installation Compatible Use Zone (AICUZ) Study and the Keesler Air Force Base Joint Land Use Study (1998). The maps developed in those studies indicating the potential noise levels on specific locations generated by airport activity from Keesler Air Force Base and the accident potential zones impacted by airport activity from Keesler Air Force Base (having been reproduced by Wink Engineering as the "FAA Part 150 - Airport Noise Contours" map and the "City of Biloxi, Mississippi Height/Hazard Overlay" as well as the Southwest Quadrant District Map, shall be maintained in the offices of the Department of Community Development, and shall be available to the public for inspection. Should the flight operations at Keesler Air Force Base change and result in the development of a revised noise contour or quadrant maps, or a revised Accident Potential Zone map, then any such revised map shall be the one maintained in the office of the Department of Community Development.
- (2) As an additional and supplemental form of notification, the Department of Community Development shall endeavor to notify the public in general, as well as particular property owners within the areas indicated on said maps as being affected (whether being within the Accident Potential Zones, within the noise contours, or within the quadrant district), of the existence of these maps and studies as well as their availability for inspection.
- (3) The purpose of this ordinance is to provide general notice to the public of information which has been provided to the City of Biloxi. The City of Biloxi does not warrant, guaranty, or certify the accuracy or validity of the information contained in the aforementioned maps and studies, nor does the City of Biloxi hereby undertake the duty to notify each individual property owner or occupant of areas indicated on said maps as within the noise contours, quadrant district, or Accident Potential Zones.

(c) Additional Construction Standards Applicable to Structures within Noise Contour Areas

- (1) Any buildings constructed for the following uses within the noise contour area designated as NCD 65-70 shall be constructed in such a manner that interior noise level reduction or sound level reduction (SLR) of 25dB is achieved for: i) all residential uses; and ii) all transient lodging.
- (2) Any new buildings constructed for the following uses within the noise contour area designated as NCD 70-75 shall be constructed in such a manner that interior noise level reduction or sound level reduction (SLR) of: i) 30dB is achieved for all residential uses and transient lodging uses; and ii) 25dB is achieved for all administrative and professional offices, and all other commercial uses in those portions of the structure where the public is accommodated on the premises.
- (3) Any new buildings constructed for residential or transient lodging uses within the Southwest Quadrant District shall be constructed in such a manner that the interior noise level reduction or sound level reduction (SLR) of 25dB is achieved

for all portions of that building more than 110 feet above ground elevation at that site.

(d) Adoption of Additional Building Code Provisions

Compliance with the construction standards contained in the supplemental building provisions attached hereto as Appendix A (which shall not be published in the Code of Ordinances but shall be maintained in and available from both the Office of the Clerk of Council and the Office of the Building Official) shall be deemed to satisfy the noise reduction mandates contained in this ordinance at the levels indicated in Appendix A. Alternative methods of construction may be utilized, however, such alternative construction techniques must be certified by a licensed architect or engineer as meeting the requirements of this ordinance. Once particular alternative construction techniques have been certified as complying by a licensed architect or engineer, city building inspectors need not require redundant certifications for those same building methods.

(e) Evidence of Implementation of Compliance with Technical Requirements

Any structure which required construction or reconstruction in accordance with the provisions of this ordinance must be constructed according to the specifications set out in Appendix A or certified by a licensed architect or engineer, as to both material specifications and the implementation of construction standards, to comply with the applicable noise abatement requirements of this ordinance prior to occupancy. No certificate of occupancy or other form of approval shall be issued or granted without such certification.

(f) Application of other Land Development Ordinance provisions

In the event any other provision, standard, condition, or requirement of the zoning ordinances of the City of Biloxi conflict with an applicable provision of this ordinance, the more stringent provision, standard, condition, or requirement shall apply.

(g) Exemptions

The following are exempted from the regulations of Article 23-20-4:

(1) Continuation of nonconforming structures.

Any structure within the Biloxi Municipal Area Airport Noise Overlay District as of the date of enactment of this ordinance which would otherwise require construction to the standards prescribed hereby if it were new construction shall be exempt from the prohibition or restriction contained in this ordinance, subject to the following provisions.

(2) Repair and replacement of non-conforming structures.

A structure or part thereof lawfully existing on the effective date of this ordinance which would be require construction to the standards prescribed hereby but for the exemption contained in subparagraph (a) above and which thereafter is destroyed or damaged may be repaired or replaced without losing its exempt status by compliance with the provisions and criteria established in this code of ordinances for repair of prior existing non-conforming uses (Section 23-18-4). Any structure which would not qualify for repair and continuation of its exempt status under those criteria shall be deemed to have lost its exempt status and must be repaired or reconstructed in accordance with the provisions of this ordinance. Because most of the noise abatement construction techniques

involve the perimeter of a structure, the City Council may consider a continuation of exempt status for a damaged structure on the basis of hardship provided the damage is primarily to the interior portions of a structure and the portions that would incorporate noise abatement measures remain sound and not in need of repair.

(h) Recommended Construction Methods and Materials to Achieve a minimum 25 SLR, Exterior to Interior

(1) Compliance

Compliance with the following standards shall be deemed to meet the requirements of the compatible use noise zones in which an SLR 25 is specified.

(2) General

- a. Brick veneer, masonry blocks, or stucco exterior walls shall be grouted or caulked airtight.
- b. At the penetration of exterior walls by pipes, ducts, or conduits, the space between the wall and pipes, ducts, or conduits shall be caulked or filled with mortar.
- c. Window and/or through-the-wall ventilation units shall not be used.
- d. Through-the-wall door mailboxes shall not be used.

(3) Exterior Walls

- a. Exterior walls other than as described in this section shall have a laboratory sound transmission class rating of at least STC-39.
- b. Masonry walls having a surface weight of at least 25 pounds per square foot do not require a furred (stud) interior wall. At least one surface of concrete block walls shall be plastered or painted with heavy "bridging" paint.
- c. Stud walls shall be at least 4" in nominal depth and shall be finished on the outside with siding-on-sheathing, stucco, or brick veneer.
 1. Interior surface of the exterior walls shall be of gypsum board or plaster at least ½" thick, installed on the studs.
 2. Continuous composition board, plywood, or gypsum board sheathing at least ½" thick shall cover the exterior side of the wall studs behind wood or metal siding. Asphalt or wood shake shingles are acceptable in lieu of siding.
 3. Sheathing panels shall be butted tightly and covered on the exterior with overlapping building paper. The top and bottom edges of the sheathing shall be sealed.
 4. Insulation material at least 2" thick shall be installed continuously throughout the cavity space behind the exterior sheathing and between wall studs. Insulation shall be glass fiber or mineral wool.

(4) Windows

- a. Windows other than as described in this section shall have a laboratory sound transmission class rating of at least STC-28.
- b. Glass shall be at least 3/16" thick.
- c. All operable windows shall be weather stripped and airtight when closed so as to conform to an air infiltration test not to exceed 0.5 cubic foot per minute per foot of crack length in accordance with ASTM E-283-65-T.
- d. Glass of fixed-sash windows shall be sealed in an airtight manner with a non-hardening sealant, or a soft elastomer gasket or glazing tape.
- e. The perimeter of window frames shall be sealed airtight to the exterior wall construction with a sealant conforming to one of the following Federal Specifications: TT-S-00227, TT-S-00230, or TT-S-00153.
- f. The total area of glass in both windows and doors in sleeping spaces shall not exceed 20% of the floor area.

(5) Doors

- a. Doors, other than as described in this section shall have a laboratory sound transmission class rating of at least STC-28.
- b. All exterior side-hinged doors shall be solid-core wood or insulated hollow metal at least 1¾" thick and shall be fully weather stripped.
- c. Exterior sliding doors shall be weather stripped with an efficient airtight gasket system with performance as specified in Section 1-4C. The glass in the sliding doors shall be at least 3/16" thick.
- d. Glass in doors shall be sealed in an airtight non-hardening sealant or in soft elastomer gasket or glazing tape.
- e. The perimeter of door frames shall be sealed airtight to the exterior wall construction as described in Paragraph 1-4E above.

(6) Roofs

- a. Combined roof and ceiling construction other than described in this Section and Section 1-7 shall have a laboratory sound transmission class rating of at least STC-39.
- b. With an attic or rafter space at least 6" deep, and with a ceiling below, the roof shall consist of closely butted ½" composition board, plywood, or gypsum board sheathing topped by roofing as required.
- c. If the underside of the roof is exposed, or if the attic or rafter spacing is less than 6", the roof construction shall have a surface weight of at least 25 pounds per square foot. Rafters, joists, or other framing may not be included in the surface weight calculation.
- d. Window or dome skylights shall have a laboratory sound transmission class rating of at least STC-28.

(7) Ceilings

- a. Gypsum board or plaster ceilings at least ½" thick shall be provided where required by paragraph 1-6b above. Ceilings shall be substantially airtight, with a minimum number of penetrations.
- b. Glass fibers or mineral wool insulation at least 2' thick shall be provided above the ceiling between joists.

(8) Floors

Openings to any crawl spaces below the floor of the lowest occupied rooms shall not exceed 2% of the floor space area of the occupied rooms.

(9) Ventilation

- a. A mechanical ventilation system shall be installed that will provide the minimum air circulation and fresh air supply requirements for various uses in occupied rooms without the need to open any windows, doors, or other openings to the exterior.
- b. Gravity vent openings in attic shall not exceed code minimum in number and size.
- c. If a fan is used for forced ventilation, the attic inlet and discharge openings shall be fitted with sheet metal transfer ducts of at least 20 gauge steel, which shall be lined with 1" thick coated glass fiber, and shall be at least 5 feet long with one 90 bend.
- d. All vent ducts connecting the interior space to the outdoors, excepting domestic range exhaust ducts, shall contain at least a 5 ft. length of internal sound absorbing duct lining. Each duct shall be provided with a bend in the duct such that there is no direct line of sight through the duct from the venting cross section to the room-opening cross section.
- e. Duct lining shall be coated glass fiber duct liner at least 1" thick.
- f. Domestic range exhaust ducts connecting the interior space to the outdoors shall contain a baffle plate across the exterior termination which allows proper ventilation. The dimensions of the baffle plate should extend at least one diameter beyond the line of sight into the vent duct. The baffle plate shall be of the same material and thickness as the bent duct material.
- g. Fireplaces shall be provided with well-fitted dampers.

(i) Recommended Construction Methods and Materials to Achieve a Minimum 30 SLR, Exterior to Interior

(1) Compliance

Compliance with the following standards shall be deemed to meet the requirements of the compatible use noise zones in which an SLR 30 is specified.

(2) General

- a. Brick veneer, masonry blocks, or stucco exterior walls shall be constructed airtight. All joints shall be grouted or caulked airtight.

- b. At the penetration of exterior walls by pipes, ducts, or conduits, the space between the wall and pipes, ducts, or conduits shall be caulked or filled with mortar.
- c. Window and/or through-the-wall ventilation units shall not be used.
- d. Operational vented fireplaces shall not be used.
- e. All sleeping spaces shall be provided with either a sound-absorbing ceiling or a carpeted floor.
- f. Through-the-wall/door mailboxes shall not be used.

(3) Exterior Walls

- a. Exterior walls other than as described below shall have a laboratory sound transmission class rating of at least STC-44.
- b. Masonry walls having a surface weight of at least 40 pounds per square foot do not require a furred (stud) interior wall. At least one surface of concrete block walls shall be plastered or painted with heavy “bridging” paint.
- c. Stud walls shall be at least 4” in nominal depth and shall be finished on the outside with siding-on-sheathing, stucco, or brick veneer.
 - 1. Interior surface of the exterior walls shall be of gypsum board or plaster at least ½” thick, installed on the studs. The gypsum board or plaster may be fastened rigidly to the studs if the exterior is brick veneer or stucco. If the exterior is siding-on-sheathing, the interior gypsum board or plaster must be fastened resiliently to the studs.
 - 2. Continuous composition board, plywood, or gypsum board sheathing shall cover the exterior side of the wall studs behind wood or metal siding. The sheathing and facing shall weigh at least 4 pounds per square foot.
 - 3. Sheathing panels shall be butted tightly and covered on the exterior with overlapping building paper. The top and bottom edges of the sheathing shall be sealed.
 - 4. Insulation material at least 2” thick shall be installed continuously throughout the cavity space behind the exterior sheathing and between wall studs. Insulation shall be glass fiber or mineral wool.

(4) Windows

- a. Windows other than as described in this section shall have a laboratory sound transmission class rating of at least STC-33.
- b. Glass of double-glazed windows shall be at least 1/8” thick. Panes of glass shall be separated by a minimum 3” air space.
- c. Double-glazed windows shall employ fixed sash or efficiently weather stripped operable sash. The sash shall be rigid and weather stripped with material that is compressed airtight when the window is closed so as to

conform to an infiltration test not to exceed 0.5 cubic foot per minute per foot of crack length in accordance with ASTM-E-283-65-T.

- d. Glass of fixed-sash windows shall be sealed in an airtight manner with a non-hardening sealant, or a soft elastomer gasket or glazing tape.
- e. The perimeter of window frames shall be sealed airtight to the exterior wall construction with a sealant conforming to one of the following Federal Specifications: TT-S-0027, TT-S-00230, or TT-S-00133.
- f. The total area of glass of both windows and exterior doors in sleeping spaces shall not exceed 20% of the floor areas.

(5) Doors

- a. Doors, other than as described in this section shall have a laboratory sound transmission class rating of at least STC-33.
- b. Double door construction is required for all door openings to the exterior. Openings filled with side-hinged doors shall have one solid-core wood or insulated hollow metal core door at least 1¾" thick separated by an airspace of at least 4" from another door, which can be a storm door. Both doors shall be tightly fitted and weather stripped.
- c. The glass of double-glazed sliding doors shall be separated by a minimum 4" airspace. Each sliding frame shall be provided with an efficiently airtight weather stripping material as specified in Paragraph 2-4c above.
- d. Glass of all doors shall be at least 3/16" thick. Glass of double sliding doors shall not be equal in thickness.
- e. The perimeter of door frames shall be sealed airtight to the exterior wall construction as indicated in Section 8-4E.
- f. Glass of doors shall be set and sealed in an airtight non-hardening sealant, or a soft elastomer gasket or glazing tape.

(6) Roofs

- a. Combined roof and ceiling construction other than described in this section and Section 2-7 shall have a laboratory sound transmission class rating of at least STC-44.
- b. With an attic or rafter space at least 6" deep, and with a ceiling below, the roof shall consist of closely butted ½" composition board, plywood, or gypsum board sheathing topped by roofing as required.
- c. If the underside of the roof is exposed, or if the attic or rafter spacing is less than 6', the roof construction shall have a surface weight of at least 40 pounds per square foot. Rafters, joists, or other framing may not be included in the surface weight calculation.
- d. Window or dome skylights shall have a laboratory sound transmission class rating of at least STC-33.

(7) Ceilings

- a. Gypsum board or plaster ceilings at least ½" thick shall be provided where required by Paragraph 2-6b above. Ceilings shall be substantially airtight with a minimum number of penetrations.
- b. Glass fiber or mineral wool insulation at least 2" thick shall be provided above the ceiling between joists.

(8) Floors

The floor of the lowest occupied rooms shall be slab on fill, below grade or over a fully enclosed basement. All door and window openings in the fully enclosed basement shall be tightly fitted.

(9) Ventilation

- a. A mechanical ventilation system shall be installed that will provide the minimum air circulation and fresh air supply requirements for various uses in occupied rooms without the need to open any windows, doors, or other openings to the exterior.
- b. Gravity vent openings in attic shall not exceed code minimum in number and size. The openings shall be fitted with transfer ducts at least 3 ft. in length containing internal sound absorbing duct lining. Each duct shall have a lined 90 bend in the duct such that there is no direct line of sight from the exterior through the duct into the attic.
- c. If a fan is used for forced ventilation, the attic inlet and discharge openings shall be fitted with sheet metal transfer ducts of at least 20 gauge steel which shall be lined with 1" thick coated glass fiber, and shall be at least 5 ft. long with one 90 bend.
- d. All vent ducts connecting the interior space to the outdoors excepting domestic range exhaust ducts, shall contain at least a 10 ft. length of internal sound absorbing duct lining. Each duct shall be provided with a lined 90 bend in the duct such that there is not direct line of sight through the duct from the venting cross section to the room opening cross section.
- e. Duct lining shall be coated glass fiber duct line at least 1" thick.
- f. Domestic range exhaust ducts connecting the interior space to the outdoors shall contain a baffle plate across the exterior termination which allows proper ventilation. The dimensions of the baffle plate should extend at least one diameter beyond the line of sight into the vent duct. The baffle plate shall be of the same material and thickness as the vent duct material.
- g. Building heating units with flues or combustion air vents shall be located in a closet or room closed off from the occupied space by doors.
- h. Doors between occupied space and mechanical equipment areas shall be solid core wood or 20 gauge steel hollow metal at least 1¾" thick and shall be fully weather stripped.

(j) Variances

All variances from the requirements of this ordinance shall be applied for, processed, and administered according to the general variance policies and procedures set out in the Land Development Ordinance of the City of Biloxi.

ARTICLE 21. DEFINITIONS AND INTERPRETATION

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Sec. 23-21-1 General Rules of Construction

(a) Construction of Language, Meanings, and Intent

All provisions, terms, phrases and expressions contained in the Chapter shall be construed according to the stated purpose and intent of this Chapter.

(b) Headings, Illustrations and Text

In case of any difference of meaning or implication between the text and any heading, drawing, table or figure, the text will control.

(c) Computations of Time

The time within which an act is to be completed will be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or legal City holiday, that day will be excluded. In the computation of time for public hearing notice, the day of the advertisement will be counted and the day of the hearing will be excluded. If the period is five days or less, all intervening Saturdays, Sundays, and legal holidays will be excluded.

(d) References to Laws, Publications, Other Codes, and Documents

Whenever reference is made to a state or federal law, another regulation, document or publication, it will be construed as a reference to the most recent edition of such law, regulation (as amended), document or publication, unless otherwise specifically stated. Where there is a reference in this Chapter to a specific article, section or Subsection that is not identified as being part of any other document, the reference is to an article, section, or Subsection of this Chapter.

(e) Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate the responsibility to subordinates.

(f) Technical and Nontechnical Terms

Words used herein shall be given the meanings ascribed to them in this Article. Otherwise all other words shall be given their common, ordinary meanings.

(g) Mandatory and Discretionary Terms

The words “shall,” “will,” and “must” are always mandatory. The words “may” and “should” are discretionary terms.

(h) Conjunctions

Unless the context clearly suggests the contrary, conjunctions will be interpreted as follows: “and” indicates that all connected items, conditions, provisions or events apply; and “or” indicates that one or more of the connected items, conditions, provisions or events may apply.

(i) Tenses, Numbers and Usage

Words used in one tense (past, present or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular, except where otherwise noted.

Sec. 23-21-2 Minimum Requirements; Conflicting Provisions

The provisions of this Chapter shall be considered minimum requirements. Where a state law or another ordinance or code section of the City imposes a higher or more restrictive standard, the higher or more restrictive standard shall apply.

Sec. 23-21-3 Interpretation of Zoning District Boundaries

Where uncertainty exists with respect to the boundaries of any of the zoning districts established in this Article as shown on the Zoning District Map, or any overlay district map, the following rules shall apply:

- (a)** Where zoning district boundaries are indicated as following streets, highways or alleys, the centerlines of such streets, highways or alleys shall be construed to be such boundaries;
- (b)** Where the land has been or may hereafter be divided into blocks and lots, where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries;
- (c)** In unsubdivided property, the zoning district boundary lines on the Zoning District Map shall be determined by use of the scale appearing on the Zoning District Map;
- (d)** Where the boundary of a zoning district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of the railroad line;
- (e)** Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

Sec. 23-21-4 Tables and Charts

The tables and charts included in this Chapter and all of their notations and requirements shall be a part of this Chapter, and shall have the same force and effect as text in this Chapter.

Sec. 23-21-5 Terms and Uses Defined

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Accessory Building means a subordinate building, the use of which is incidental to and detached from the main or principal building, and not used as a place of habitation or a living room, kitchen, dining room, parlor, bedroom or library.

Accessory Retail means a retail use that is subordinate in area, extent, and purpose to the Principal Use; contributes to the comfort, convenience, or necessity of the Principal Use; and is located on the same lot and in the same zoning district as the Principal Use.

Accessory Structure means a nonhabitable structure detached from a principal building located on the same lot and incidental and subordinate to the principal building or use.

Accessory Use means a use incidental and subordinate to the Principal Use of a building and located on the same lot with such Principal Use or building.

Access way means an area intended to provide an entrance or exit for vehicular traffic from a public right-of-way to an off-street parking or loading area. The maximum width of an access way through a residential perimeter landscaped area for vehicular use shall be 24 feet. The maximum width for access ways for commercial and industrial uses shall be 25 feet. No more than one two-way access way shall be permitted for any street frontage of 100 linear feet. One-way access ways through residential perimeter landscaped areas shall be not greater than 15 feet in width. One-way access ways through commercial or industrial perimeter landscaped areas shall not be less than 18 feet in width. Where ownership involves over 100 feet of street frontage, one additional two-way or two additional one-way drives may be permitted for each additional 100 feet of frontage.

Addition means any construction which increases the size of a building by less than 50 percent of the floor area, including porches, attached garages, carports, new rooms, wings, and the like.

Agricultural livestock means any animal normally considered to be a farm animal or commercially produced animal. This includes but is not limited to: cows, horses, mules, pigs, hogs, goats, ducks, geese, chickens, and other forms of poultry.

Agriculture means the raising or growing of crops, fowl or livestock, and including the growth of trees for pulp, lumber, and other wood products.

AHRC means Architectural and Historical Review Commission as established by the City of Biloxi.

Alley means a minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes although not intended for general traffic circulation.

Alteration means any change in the exterior appearance or materials of a landmark or a structure within an AHO District or on a landmark site.

Antenna means any structure or device used for the purpose of collecting or radiating electromagnetic waves including, but not limited to, directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antennas including whip antennas. This definition specifically includes devices used for television, radio and communications.

Antenna, Stealth means a rooftop or building-mounted antenna which is mounted on an existing structure with or without a mast, painted to match the color of the exterior material of the structure, placed so as not to obscure any significant architectural feature of the structure and shielded reasonably from public view.

Apartment means a room or suite of rooms with cooking facilities designed for or used as living quarters for a single household.

Applicant, AHRC means the record owner of a landmark, landmark site or building or structure within an Architectural/Historic Overlay District, or the lessee thereof with the notarized approval of the owner of record, or a person holding a bona fide contract to purchase a landmark, landmark site or building or structure within an Architectural/Historic Overlay District, who makes application for a Certificate of Appropriateness or other AHRC approval under this Chapter.

Appurtenance means an accessory to a building, structure, object or site, including, but not limited to, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs.

Architectural/Historic Overlay District means a group of two (2) or more tax parcels and their structures which may be an entire neighborhood of structures linked by architectural or historical association or historical development. Such district must be designated by the AHRC and approved by the City Council through an ordinance in accordance with the provisions of this Chapter.

Architectural and Historic Review Commission means the Biloxi historic preservation commission, established under authority of the City government historic preservation law under authority of the State of Mississippi.

Bar means an establishment serving alcohol for consumption on the premises, as may be limited by zoning district and other provisions of this Code. (Eating and Drinking Establishments, Sec. 23-11-5)

Base District A portion of the incorporated area of Biloxi within which certain regulations and requirements apply under the provisions of this Chapter.

Basement means an area below the first story having more than one-half of its height below grade and used for utilities or storage or as a garage for occupants of the building.

Bed and Breakfast means any historically-significant, existing residential building(s) located in Districts A, RM-10, RM-20, RM-25, RO, B-1, B-2, B-3, B-4, B-5, CBD, or CRD wherein bedrooms are rented to transient guests on an overnight basis (Sec. 23-4-12).

Berm means a mound or wall of earth that is molded into a landform in a landscaped area. When berms are used for screening, buffering or any other purpose, the berm shall be constructed in accordance with applicable provisions of this Chapter, and so that soil erosion is prevented. The surface of berms shall be completely covered with landscape material so that bare soil is not visible.

Billboard means an outdoor sign structure which advertises a business, commodity, good, service, entertainment or attraction which is not offered or does not exist on the premises where the billboard is located, or which contains a political or ideological or noncommercial message.

Block means an area of land surrounded by public highways, streets, streams, railroad rights-of-way, parks or other similar physical features or other barriers to the continuity of development.

Boat Yard means a premise or site used as an industrial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance and accessory sale of boats, marine engines, or marine equipment, supplies, or services of all kinds including, but not

limited to, rental of covered or uncovered boat slips, or dock space or enclosed dry storage space, lifting or launching services.

Body piercing means that activity as defined in Mississippi Code Annotated Section 73-61-3, said statutory definition being hereby adopted by reference.

Body Shop means an establishment in which the exterior of damaged automobiles are repaired and/or repainted.

Book or Media Shop is a general term for zoning purposes for the retail sale of books and other media and excludes the subcategory of “sexually-oriented media shop.”

Brewpub means a drinking establishment producing and serving fermented malt beverages and meeting the conditions of Sec. 23-11-14(f)(2) and subject to limitations imposed in Miss. Code Annotated Sec. 67-1-5 and 67-3-22.

Buffer Area means an area set aside as a nonbuildable area, but which may include landscaping, berms, walls, fences or any combination thereof that partially blocks, in a continuous manner, the view from one area to another, which shall not be penetrated by vehicular access.

Building means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, good, or materials of any kind or nature.

Building Footprint means the area of land covered, as measured along the exterior surface of the exterior wall of the ground floor of a principal and/or Accessory Building.

Building Permit means an official document or certification that is issued by the Building Official and which authorizes regulated building activity including the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

Building, Principal means a building in which is conducted the primary use of the lot on which the building is situated.

Building Official means the Building Official of the City of Biloxi.

Building Setback Line means the minimum distance, as prescribed by this Chapter, between the property lines of a lot of record, as established by survey, and any point on a building or structure related thereto.

Building Site means one or more lots of record occupied or intended to be occupied by a principal building or structure, and appropriate Accessory Buildings or uses.

Buy-Sell Store or Buy-Sell Shop means an establishment or business which regularly, in the ordinary course of business, acquires used merchandise from individuals and resells such merchandise to other individuals, except that this definition shall not include: automobile dealers licensed by the state; any business dealing primarily in used clothing, any business dealing primarily in used books or other media; any business in which at least seventy percent (70%) of the inventory is more than fifty years old; any business in which the acquisition of used merchandise involves trade-ins or is otherwise incidental to the sale of new merchandise and constitutes less than ten percent (10%) of the merchandise available for sale in the store at any time; or pawn shops as defined herein.

BZA means Board of Zoning Adjustment.

Cafeteria means a building or portion thereof where food may be sold and consumed as an accessory to a Principal Use, such as a school or hospital; it does not mean a high-turnover restaurant.

Carport means a canopy or shed that may be detached or may be attached to the principal building as an Accessory Structure and is open on three or more sides for the purpose of providing shelter for one or more vehicles.

Casino means a room or structure whose Principal Use is for the conduct of Dockside Gaming activities defined in Miss. Code §75-76-5(a).

Cemetery means a lot of record, private or public, divided into plots for internment of the dead in compliance with applicable state statutes.

Center Line of Street means that line running midway between the right-of-way lines of a street, avenue or highway.

Certificate of Appropriateness means an official signed and dated governmental document issued by the City, indicating approval by the Architectural and Historic Review Commission for specific work in an Architectural/Historic Overlay District or at a landmark site or landmark which has been reviewed and approved.

Certificate of Occupancy means a document issued by the Building Official allowing the occupancy and use of building(s) and structure(s) and certifying that said building(s) and structure(s) and use(s) have been constructed and will be used in compliance with all applicable municipal codes.

Certificate of Zoning Compliance means a document issued by the Director of Community Development, which certifies that the proposed use of a parcel complies with all regulations of the zoning district in which it is located.

Certified Local Government (CLG) means a federal program authorized by the National Historic Preservation Act 16 U.S.C. 470 et seq. that provides for the participation of local governments in a federal/state/local government preservation partnership. The federal law directs the State Historic Preservation Officer of Mississippi and the U.S. Secretary of the Interior to certify local governments to participate in this partnership. Specific Mississippi requirements for the program are published in "State of Mississippi, Guidelines and Regulations for the Certified Local Government Program."

Check-Cashing Business means any individual, partnership, association, joint stock association, trust or corporation, excluding the U.S. Government and the government of Mississippi, who exchanges cash or other value for any check, draft, money order, personal money order, or other instrument for the transmission or payment of money, except travelers checks and foreign drawn payment instruments, and who charges a fee therefore, and who may defer deposit of a personal check cashed for a customer. This definition does not include any federally or state chartered bank, savings institution or credit union.

Cinema means a building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

Cinema, Drive-in means an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis to patrons seated in automobiles or on outdoor seats.

City means the City of Biloxi.

City Clerk means the City Clerk of the City of Biloxi.

City Council means the elected legislative governing body of the City of Biloxi.

City Engineer means the City Engineer of the City of Biloxi.

Civil Engineer means a professional engineer registered in the State of Mississippi to practice in the field of civil engineering.

Clinic means a building or portion thereof, in excess of 2000 square feet, designed for or constructed or under construction or alteration for or used by physicians, surgeons, dentists, physiotherapists or practitioners in related specialties, or a combination of persons in these professions, where patients who are not lodged overnight are admitted for examination and treatment. Clinics may include on-site labs.

Club means a corporation, association or group of individuals whose primary purpose is social, educational or recreational in nature, but not for profit or to render a service that is normally carried on as a business.

Clubhouse means buildings and facilities, or portion(s) thereof, owned and operated by a corporation, association or individual for a social, educational or recreational purpose, but not primarily for profit or to render a service that is normally carried on as a business.

Cluster Development means a form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and the remaining land area is devoted to open space, active recreation, preservation of environmentally-sensitive areas, or agriculture.

Commercial Wireless Telecommunications Service Company means a licensed commercial wireless telecommunications service company including cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the public. Commercial wireless telecommunication service facilities shall not be considered public utility uses.

Common Area or Common Open Space means an open space area within or related to a site designated as a development and designed and intended for the shared use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the shared use or enjoyment of residents and owners of the development (see also Open Space).

Community Development Director means the person appointed by the Mayor, confirmed by the City Council, and having line responsibility for the Planning, Federal-State Programs and Building Divisions, or such person's designee.

Completely Enclosed Structure means a structure enclosed by a permanent roof and solid exterior walls pierced only by windows and customary entrance and exit doors and attached to a permanent foundation. This definition is intended to include any enclosed structure, whether site-built or factory-built.

Composite Legal Description means a perimeter description of the outermost boundaries of a parcel or parcels of land for a given tract or parcel of land under consideration for any development or permit, which description shall comply with the descriptions contained in the subject lots of record included, unless otherwise noted.

Comprehensive Plan means a statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body. As used in this Chapter, the term refers to the most recently adopted Comprehensive Plan of the City of Biloxi, as amended and supplemented from time to time by ordinance of the City Council.

Conditional Use means a use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in this Chapter.

Condominium means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional basis.

Condominium Common Areas means the entire project excepting all units therein granted or reserved, the maintenance of which shall be the responsibility of the condominium owners' association, as defined in the condominium declaration.

Condominium Project means the entire parcel of real property divided, or to be divided into condominiums, including all structures thereon.

Condominium Unit means a part of the condominium property subject to individual ownership or co-ownership. A unit may include air space only. A unit includes such accessory rights and obligations as are stipulated in the condominium declaration.

Condotel means a condominium hotel that shall have rental and reservation desks, and may have short-term occupancy, food and telephone services, and daily cleaning services and that is operated as a commercial hotel even though the units are individually owned.

Conforming Use means any lawful use of a building or a lot that complies with the provisions of this Chapter.

Construction means work that is neither alteration nor demolition. Essentially, it is the erection of a new structure that did not previously exist, even if such a structure is partially joined to an existing structure.

Contractor's Office see Office, Contractor's below.

Convenience Goods means retail items generally necessary for everyday living.

Convenience Store means any retail establishment offering for sale a limited line of groceries and household items generally necessary for everyday living, and intended for the convenience of the neighborhood.

Coordinated Shopping Center means a site area of ten or more acres containing approximately 150,000 square feet of gross leasable area and featuring a junior department store; its clientele draw is approximately a ten-minute drive from the center.

County means Harrison County, Mississippi.

County Tax Collector means the Tax Collector of Harrison County, Mississippi.

Court means an open space, which may or may not have access, and around which is arranged a single building or a group of related buildings.

DRC means the Development Review Committee.

Day Care Center means a place that provides shelter and personal care for five or more persons, regardless of age, for any part of a 24-hour day, whether such place be organized or operated for profit or not. Care of a person shall not exceed twelve and one half (12 ½) hours for any part of the 24-hour day. The term day care center includes day care babysitting service, child or adult care centers and any other facility that is within the scope of this definition, regardless of auspices. Excluded from this definition is any facility operating a kindergarten, nursery school or Head Start Program in conjunction with an elementary school and/or secondary school system, whether it be public, private or parochial, whose primary purpose is

a structured school readiness program. Also excluded is any medical care facility, such as a nursing home or rehabilitation center. Space requirements shall comply with Mississippi State Board of Health and the Southern Standard Building Code, or other appropriate state or federal agency, provisions. By definition, provision of 24-hour care requires approval of a Variance.

Day-Labor Employment Service means a business or an establishment that provides, or markets itself as providing, the temporary employment of persons where persons wait at the establishment on a daily basis for work assignments or transportation to work assignments. For purposes of this Article, this definition shall specifically exclude those services placing employees primarily through telephone contacts that do not involve the waiting of prospective employees on the premises whether for employment, transportation or assignment.

Deciduous means the tendency of a plant to drop or lose its leaves during a particular season of the year, generally during the colder months.

Demolition means the intentional removal of a structure.

Demolition by neglect means substantial deterioration of a historic structure that results from improper maintenance or a lack of maintenance as further defined in Sec. 23-10-6.

Density means the number of families, individuals, dwelling units, households or housing structures per acre of land.

Design review guidelines, means Appendix A to this Code and any amendments or additional materials adopted by the Architectural and Historic Review Commission (AHRC) to inform local property owners about historical architectural styles prevalent in a community and to recommend preferred treatments and discourage treatments that would compromise the architectural integrity of structures in an Architectural/Historic Overlay District or on a landmark site or individually designated as landmarks.

Deterioration. See “Substantial Deterioration.”

Developer means any person dividing or proposing to divide land so as to constitute a subdivision, and may also mean any person engaged in the development or redevelopment of land, buildings or structures.

Development means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, dredging, filling, grading, paving, excavation or drilling operations.

Display Publicly describes the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others or from any portion of the premises other than where items and material being publicly displayed are offered for sale or rent to the public.

District, Zoning means any section of the City in which the zoning regulations established by this Chapter are uniformly applied.

Ditch means a drainage area that has a side slope steeper than four feet horizontally and one foot vertically.

Dockside Gaming Establishment means any establishment (as defined in the Mississippi Gaming Control Act of 1990) including, but not limited to, any boat, barge, vessel, cruise vessel, building or structure used in whole or in part for the conduct of gaming, gambling or gaming related activities.

- Domestic Animal** means any animal that has been bred and/or raised to live with humans and is dependent on persons for food and shelter (See also Pet).
- Drinking Establishment** (See Bar, Brewpub, and Nightclub)
- Driveway** means a private roadway providing access to a public right-of-way.
- Dry Cleaning Business** means a facility where retail customers drop off or pick up laundry or dry cleaning and where the cleaning processes may take place on site as long as all cleaning materials and chemicals and waste water is disposed of in compliance with all applicable permits and regulations.
- Dry Cleaning Plant** means a building or premises used or intended to be used for the large volume cleaning of fabrics, textiles, wearing apparel, or articles of any sort for corporate clients, such as hotels, restaurants and caterers, but where individual retail customers do not drop off or pickup laundry or dry cleaning.
- Duplex Dwelling** means a building containing two dwelling units, each of which has direct access to the outside.
- Dwelling** means any building, or portion thereof, that is designed for or used exclusively for residential purposes. For the purpose of this Chapter, such building shall have a minimum area of 400 square feet.
- Dwelling, Multiple-family** means a building designed for residential occupation by three or more families, with the number of families occupying said multiple-family dwelling, not to exceed the number of allowable dwelling units under the applicable zoning district regulations.
- Dwelling, Single-family** means a detached residential building, other than a mobile home or manufactured home, designed for and constructed to be occupied exclusively by not more than one family (See also Single-family dwelling).
- Dwelling Unit** means one room, or rooms connected together and comprising a minimum of 400 square feet, constituting a separate, independent housekeeping establishment with independent cooking and sleeping facilities for owner occupancy, or rental, or lease on a weekly or monthly basis or for longer periods, and physically separated from any other rooms or dwelling units which may be in the same building.
- Earth Material** means any rock, natural soil or natural fill and/or any combination thereof.
- Easement** means a grant by the property owner of the use of a portion of land for specific purposes.
- Encroachment** means the act of advancing beyond the usual or proper limits, as in the encroachment of a motor vehicle beyond the limits of the parking area onto landscaping.
- Engineer** means a registered professional engineer, licensed in the State of Mississippi, whose seal shall appear on all construction drawings and plans for improvements.
- Entertainment Establishments-Other** means an establishment primarily engaged in the operation of entertainment-oriented activities or services to the general public [as found in Section 23-11-4 (a)], but specifically not inclusive of dockside gaming facilities, riding academies, nightclubs, bars, eating and drinking establishments, or regulated businesses as found in Section 23-11-18 (f).
- Erosion** means the detachment and movement of soil or rock fragments, the wearing away of the ground surface as a result of the movement of wind, water, ice and gravity.

Escort Bureau or Escort Service means a person, as defined herein which for a fee, commission, profit, payment, or other monetary consideration, furnishes, refers, or offers to furnish or refer escorts, or provides or offers to introduce patrons to escorts, and shall include a “service oriented escort bureau” and a “sexually oriented escort bureau” as further defined herein.

Evergreen means the tendency of a plant to have foliage that remains green and functional through all seasons of the year.

Excavation means the removal of earth material below the finished grade of the adjacent surrounding area.

Executive Planner means that individual within the City of Biloxi Community Development Department who serves as the planner-in-charge of the Department of Community Development and whose work is performed under the general supervision of the Community Development Director and who exercises supervision over all subordinate professional, technical and clerical personnel. The Executive Planner performs complex professional and responsible administrative work in conducting major activities, special projects, or programs in the Department of Community Development and does related work as required.

Existing Grade means the elevation of the surface of the ground or pavement at a stated location as it exists prior to disturbance.

Expansion means an increase in the amount of existing floor area in an existing building.

Explicit Sexual Material means any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of human genitals; provided, however, that works of art or anthropological significance shall not be deemed to be within the foregoing definition.

Exterior Features means the color, kind, texture of the building material and the type and style of all windows, doors and appurtenances.

Extraction means the removal from the premises of sand, gravel, shells, topsoil, minerals or other natural resources from a lot or a part thereof.

FAA means the Federal Aviation Administration.

Facilities Frequented by 6-18 Year-olds (term used in establishing separation requirements from certain uses in accordance with Table 23-11-18-A) include: public schools serving any combination of grade levels from Kindergarten through 12th Grade; Youth Centers; public parks; permanent locations of organizations that primarily serve youths, such as the YMCA, YWCA, Boys' and Girls' Clubs and 4-H.

Family means two or more persons related by blood, marriage, or state-approved foster-home placement or court-approved adoption.

Farm means any parcel of land two acres or more in size that is used for gain in the raising of agricultural products, livestock, poultry, fur-bearing animals and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes riding academies, livery or boarding stables and dog kennels.

FCC means the Federal Communications Commission.

Fence means a barrier intended to mark a boundary, screen a view or prevent intrusion. All fences shall be able to withstand normal wear, function as a barrier and keep an

attractive appearance, and shall be built in a sound workmanlike manner, with adequate footings.

Fill means a deposit of earth material placed by artificial means or as a result of natural means due to negligent placement of stockpiled material.

Finished Grade means the final elevation of the ground level after development.

Fire Chief means the person appointed by the Mayor, confirmed by the City Council, and having line responsibility for the Fire Department, or such person's designee.

Fire Marshal means the person designated by the Mayor or the Fire Chief as Fire Marshal of the City of Biloxi. When no person has been formally given that title, any reference to the Fire Marshal shall be deemed a reference to the Fire Chief of the City of Biloxi.

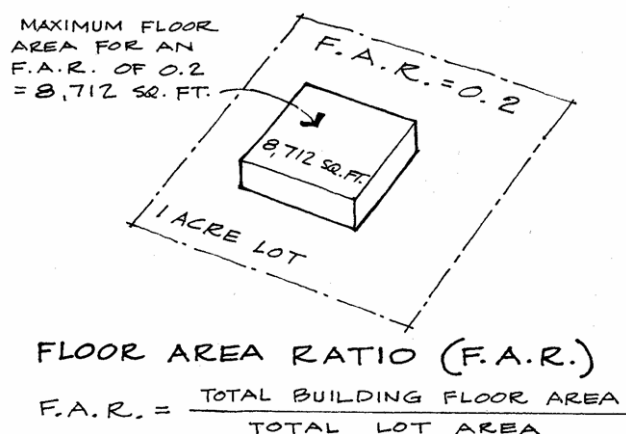
Fish Camp means a camp adjacent to a body of water providing fishing facilities, but which does not include overnight accommodations or permanent residential dwellings other than that of the owner or operator.

Floodplain Management means an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to emergency preparedness plans, flood control works, and land use and control measures.

Floodplains means those areas that are subject to periodic or occasional inundation from stream overflows and tide conditions and are therefore usually unsuited for development.

Floodway means the channel of a river or other watercourse and the adjacent land areas needed to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

Floor Area Ratio means the numerical value obtained through dividing the gross floor area of a principal and all Accessory Buildings by the total area of the lot of record on which such building and accessories are built.



Frontage Road means a street parallel to and adjacent to a major highway or thoroughfare, which provides access to abutting properties.

Fuel means compressed natural gas, diesel, gasoline, kerosene, and propane.

Gaming or Gambling means any activities that are regulated pursuant to the Mississippi Gaming Control Act of 1990.

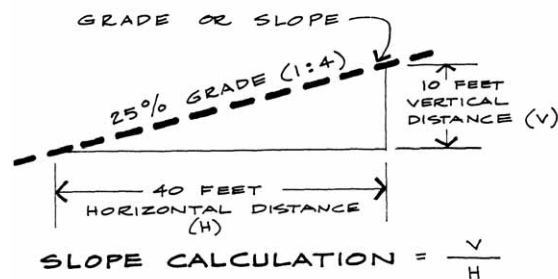
Gas Station, Full Service means a retail sales establishment that primarily dispenses or sells vehicular fuels and may include, as Accessory Uses, the sale and installation of lubricants, tires, batteries, similar accessories and convenience items and/or the limited repair of vehicles. This does not include Truck Stops.

Gas Station, Self Service means a building and premises wherein the sale of gasoline, dispensed by the customer, is the primary use and where vehicle oil and convenience goods may be sold, where appropriate.

General Office see Office, General below.

Grade means the average elevation of the land around a building or the percentage of rise or dissent of a sloping surface, as established by the City Engineer.

Grade, Finished means the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.



Grading means any stripping, cutting, filling, stockpiling or excavating of earth or land, including the land in its cut or filled position.

Grass means low-growing plants that creep along the earth surface to form a solid mat or lawn. Only perennial grasses (those which live for more than one growing season) shall be allowed to satisfy the requirements of this Article. Such turfs or grasses shall be mowed or manicured and shall be kept healthy and weed-free. Installation of lawns shall be by sodding, seeding or hydromulching.

Green Space or Area means land designated for conservation, preservation, recreation, landscaping or parks.

Gross Floor Area means the sum of the horizontal areas of the several stories of a building, measured from the exterior faces of the exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross Floor Area shall exclude basements and attics.

Gross Floor Area, Commercial for commercial, business or industrial uses shall be computed as the sum of the gross horizontal areas of the several floors of the principal building and Accessory Buildings measured from the exterior faces of the exterior walls, or from the centerline of walls separating two buildings, but not including:

- a) Attic space providing less than seven feet of headroom;
- b) Cellar space providing less than seven feet of headroom;
- c) Uncovered steps or fire escapes;
- d) Accessory water towers or cooling towers;
- e) Off-street parking spaces;

f) Accessory off-street loading areas.

Gross Floor Area, Public, means the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

Gross Floor Area, Residential shall be computed as the gross horizontal areas of the habitable stories of the dwelling, exclusive of garages, cellars and open-roofed porches, measured from the extended faces of the exterior walls of a dwelling.

Ground Cover means low-growing plants that grow in a spreading fashion to form a more or less solid mat of vegetation. They are generally included in most landscaped areas to provide permeable cover for bare earth and therefore prevent soil erosion. The individual plants shall be spaced close enough to one another so that they will have grown into a complete cover of the planted area in a maximum of two growing seasons after installation.

Group Home means a nonprofit or for-profit boarding house for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling service, and transportation. (Sec. 23-11-2(a)(2))

Group Living means persons other than a family living together in one or more dwelling units other than as a form of Household Living. (Sec. 23-11-2(b))

Group Living, Institutional means group living occurring in the context of a managed or supervised institution, such as a nursing home, as contrasted to group living in a family or home context.

Guarantee of Improvements means a performance bond, surety bond, or other approved form of guarantee posted with the City to insure the completion of improvements or the performance of specified conditions or requirements

Guest Cottage means a subordinate detached, accessory single-family dwelling located on a lot of record upon which a principal single-family dwelling has been constructed or is under construction, which subordinate dwelling, with or without culinary facilities, may be used as a place of non-permanent housing for guests of the occupants of the principal dwelling situated on said property, and which subordinate dwelling shall not be rented, leased or sold separately from the rental, lease or sale of the principal dwelling, and which shall be subject to conditions and constraints provided in this Chapter.

Habitable means a space in a structure for living, sleeping, eating or cooking. Maintenance or utility spaces, parking garages and similar areas are not considered habitable space.

Habitable Story means a story that contains habitable space. A story used solely for parking is not considered a habitable story.

Hardcore (Cinema or Other Media) means media which features one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration of a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice, sometimes assisted by another person; male ejaculation or the aftermath of male ejaculation.

Hazardous Materials include all materials and substances that are now or hereafter designated or defined as hazardous by any state or federal law or by regulation of any state or federal agency. Hazardous Materials include, but are not limited to,

inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts; lead, nickel and mercury and their inorganic salts or metallo-organic derivatives; coal, tar acids such as phenol and cresols and their salts and all radioactive materials.

Health Department means the State of Mississippi Department of Health or its successor agency.

Hedge means shrubs planted in a continuous line that substantially blocks the view from one area to another in a maximum of two growing seasons after installation. All hedges shall conform to the height regulations contained in this Chapter.

Height means the vertical distance measured from the average finished grade of the structure to the highest point of the structure. This includes any decorative elements affixed to the structure.

Heliport means an area of land, water, or structure used for the landing and takeoff of helicopters, and having service facilities for such aircraft or providing for permanent basing of such aircraft, licensed by the Federal government and the appropriate State agency.

Helistop means an area of land, water, or structure used for the landing and takeoff of helicopters, providing no command facilities for service or basing of such aircraft.

Historic landmark means a structure of exceptional individual significance and typically is a structure that could not be included within a local Architectural/Historic Overlay District.

Home care center means a private residence allowing up to four persons where tuition, fees or other forms of compensation for the care of persons is charged for a period of less than twelve and one half (12 ½) hours for any part of a 24-hour day. A home care center is defined as a home occupation.

Home occupation means any activity carried out for gain by a resident and conducted as a customary, incidental, and Accessory Use in the resident's dwelling unit.

Home Retail Center means a building conducting the retail sale of a diverse range of hardware and related materials generally used in the maintenance, repair or construction of buildings or other structures, including lawn and garden supplies. However in no case shall such use engage in on site fabrication.

Hospice means a coordinated, autonomous, centrally-administered, nonprofit or profit, program of active professional medical attention within the home and outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically-directed interdisciplinary team, providing relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social and economic stresses which are experienced during the final stages of illness and during dying and bereavement.

Hospital means a building or portion thereof designed and used to provide primary health services and medical or surgical care to persons designated as inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions. This shall include related facilities such as, laboratories, outpatient clinics and medical offices.

Hotel means a building containing 20 or more individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, excluding accommodations for employees, and in which ingress and egress to and

from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

Household means a group of persons living together sharing cooking, eating, and common living areas (Sec. 23-11-2(a)).

Impervious surface coverage means any hard-surfaced, man-made area that is more impervious than the natural surface, including, but not limited to, buildings, structures, decks and porches, parking and driveway areas, sidewalks and paved recreation areas.

Improvement means any permanent building or structure that becomes part of, placed upon or is affixed to real estate.

Improvement plans means the engineering drawings showing types of materials and construction details for structures, buildings and other development.

Institution means any nonprofit, religious or public use, such as a church, library, private or public school, hospital, or government-owned or operated building, structure or land used for a public purpose.

Institutional Group Living See "Group Living, Institutional"

Interior landscaped area means that area inside the perimeter of a parcel that is permeable and capable of being planted with live landscape materials, such as landscaped islands within a parking lot.

Junkyard means a building, structure or parcel of land, or portion thereof, used for the collection, storage and sale of paper, rags, scrap metal, bottles, or discarded material. Where such materials are a byproduct of a Permitted Use, such activity shall be considered outdoor storage and must comply fully with all applicable provisions of this Chapter.

Kennel means the keeping of six or more domestic animals for monetary gain, whether for boarding, breeding or sale.

Landmark means an improved parcel of ground with a building, structure or object designated by the AHRC and approved by the City through an ordinance, in accordance with the provisions of Sec. 23-10-3.

Landscaped area means that area within the boundaries of a given lot which is devoted to and consists of plant material including but not limited to trees, shrubs, ground covers, grass, flowers and native plant materials, and also including, but not limited to, inorganic features such as planters, stone, brick and aggregate forms, water and other landscape elements; provided, however, that the use of such inorganic materials shall not predominate over the use of organic plant material. Artificial plants are not considered landscape material.

Landscape materials means plants including, but not limited to, trees, shrubs, ground covers, grass, flowers and native plant materials, and also including, but not limited to, inorganic features such as planters, stone, brick and aggregate forms, water and other landscape elements.

Landmark site means an unimproved or improved parcel designated by the AHRC under Article 10.

Laundromat means a business equipped with self-service clothes washing and drying machines for use by retail customers.

Light Manufacturing means the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and

distribution of such products, but excluding basic industrial processing and custom manufacturing.

Line, Street means a dividing line separating lots of record from a contiguous street.

Lingerie modeling studio means an establishment or business that provides the services of live models modeling lingerie, bathing suits or similar wear to individuals, couples or small groups in a room smaller than 600 square feet.

Livestock means grazing animals kept either in open fields or structures for training, boarding, sales, or breeding and production, including but not limited to: cattle; riding and draft horses; hogs; sheep; and goats.

Loading area means an off-street space or berth used for the loading or unloading of cargo, products or materials from vehicles.

Lodge means a place where members of a local chapter of a fraternal, cultural or religious organization hold their meetings.

Lot means a parcel of land that may be occupied by a building and Accessory Buildings, together with such open spaces and parking spaces or areas as are required under this Chapter, and having principal frontage upon a public street or right-of-way.

Lot Area means the total horizontal area within the boundaries of a lot, exclusive of any area designated for street purposes.

Lot, Corner means a lot located at the intersection of and abutting upon two or more streets.

Lot Depth means the average horizontal distance between the front and rear lot lines.

Lot, Double Frontage means a lot, other than a corner lot, which has frontage on more than one street (see Lot, Through).

Lot, Flag means a lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

Lot Frontage means that dimension of a lot or portion of a lot abutting upon a street.

Lot, Interior means a lot other than a corner lot.

Lot Lines means the lines bounding a lot.

Lot of Record means a part of a recorded subdivision or a parcel of land that exists as shown or described on a plat or deed in the land records of the Chancery Clerk of Harrison County.

Lot, Through means a lot having frontage upon two approximately parallel streets (see Lot, Double Frontage).

Lot Width means the average horizontal distance between the side lot lines.

Lounge (See Bar)

Maintenance Pruning (See Tree, Maintenance Pruning)

Major Subdivision means all subdivisions that do not meet the definition of a Minor Subdivision.

Manufactured Home means a structure defined by, and constructed in accordance with, the National Manufactured Housing and Safety Standards Act of 1974, as amended (42 U.S.C. 5401, et.seq.), and manufactured after June 14, 1976. Neither a mobile home nor a travel trailer will be considered a manufactured home.

Manufactured Home Park means a parcel of land under one ownership that has been planned and improved for the placement of two or more manufactured homes for rental purposes and non-transient use. No structure meeting the definition of mobile home or travel trailer shall be permitted in a Manufactured Home Park.

Marina means a harbor, boat basin, or other facility that provides storage and/or docking facilities, supplies, or other services for watercraft, including facilities for storing watercraft in or out of the water, but excluding storage of watercraft at a private dock associated with a residential unit or on private property where no fee is charged.

Marquee means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather and/or provide business identification.

Massage means touch, stroking, kneading, stretching, friction, percussion and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

Massage Therapy means the profession regulated by the State of Mississippi in which the practitioner applies massage techniques with the intent of positively affecting the health and well-being of the client, and may adjunctively (i) apply allied modalities, heat, cold, water and topical preparations not classified as prescription drugs, (ii) use hand held tools or devices designed as t-bars or knobbies, and (iii) instruct self care and stress management. "Manual" means by use of hand or body.

Massage Studio means a studio or other location where a massage therapist qualified to practice massage therapy under state law practices massage therapy.

Master Plan means a thorough composite of a mapped and written proposal defining the physical development of a project for review and approval by the City. There are three types of projects which require master planning: PUD, Dockside Gaming, and B-3 Hospitality Business projects which incorporate multiple uses not normally allowed within a single location and allow heights up to 175 feet, if certain prescribed conditions and stipulations are met.

Master Property Development Plan means a long range land use plan submitted for property development where a developer proposes to develop only a portion of contiguous lands owned by or controlled by the developer. See Sec. 23-4-6(g)(3).

Media means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.

Minor Amendment means a change to a master Plan in which the footprint on an approved site plan for a development does not change.

Minor Subdivision means a division of land that meets all of the following conditions: it creates no more than four residential lots or two nonresidential lots; and it does not require public infrastructure improvements to be dedicated to the City or constructed by the sub divider and where no dedication of land is required or proposed; and all of the resulting lots have access to water and sewer facilities, if provided by the City to the area, including taps.

Mobile Home means a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401 et. seq.). A travel trailer is not to be considered a mobile home.

Mobile Home Park means a parcel of land under one ownership that has been planned and improved for the placement of two or more mobile homes for rental purposes and non-transient use.

Motel means an establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Motion picture arcade booth means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat customers and is used for presenting motion-pictures or viewing publications by any photographic, electronic, magnetic, digital or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, cd-roms, books, magazines or periodicals) for observation by customers therein. The term "booth," "arcade booth," "preview booth," and "video arcade booth" shall be synonymous with the term "motion picture arcade booth".

Multimodal Transportation Facility means a combination of site and building where people transfer from one form of transportation to another, typically from automobiles to bus or train service, and may include a variety of Accessory Uses that complement the Principal Use.

Museum means a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment.

Neighborhood Center means a building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

Neighborhood Shopping Center means a site area occupying up to ten acres with up to 50,000 square feet of gross leasable area, offering goods necessary to meet daily needs and drawing its clientele from a five-minute driving radius from the center.

Nightclub means a place of entertainment offering alcoholic beverages for consumption on the premises that is differentiated from a bar or lounge primarily by the form of entertainment provided, for which a nightclub shall be the provision of some form of live or recorded entertainment that is either advertised or presented as an attraction for customers or a focus of the attention of customers while patronizing the establishment. Provided, however, a nightclub does not include a bar or lounge either: whose form of entertainment is live or recorded music which is merely background music, unless space of a size more than 25% of the public use area, excluding restrooms, of the establishment is provided for customer dancing; or whose form of entertainment consists of musical acts of one or two performers who accompany themselves on musical instruments in an establishment whose overall gross public floor area is less than 1500 square feet. (Sec. 23-11-5(f)).

Nonconforming Building means a building that is nonconforming in terms of height, area and yard requirements, and/or use.

Nonconforming Lot means any site or lot of record that was lawful prior to the adoption, revision or amendment of this Chapter, but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the district in question. (See also Lot of Record.)

Nonconforming Use means a structure or land use lawfully occupied by a use that does not conform to the regulations of the district in which it is situated at the time of passage of this Chapter, or subsequent amendment or revision thereto.

Noncontributing Structure means a structure that does not contribute to the significant linkage, concentration or continuity of sites of an Architectural/Historic Overlay District, as determined by the AHRC.

Nonresidential Subdivision means a division or redivision of a tract into more than one lot, plat or site for commercial or industrial purposes.

Nursery, Retail means the retail handling of any article, substance or commodity related to the planting, maintenance, or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals, or other nursery goods and related products in small quantities to the consumer.

Nursery, Wholesale means the growing, storage and sale of garden plants, shrubs, trees or vines for resale to a commercial outlet.

Nursing Home means a place, either governmental or private, profit or nonprofit, which provides group living arrangements for four or more persons who are unrelated to the operator and who are being provided food, shelter and personal care, and which employs at least one registered nurse or licensed practical nurse. It does not include hospitals, clinics, personal care homes and other institutions devoted primarily to providing medical services.

Office, General means a room or group of rooms used for conducting the affairs of a business, profession, service, industry or government. Any office other than a Medical Office or Contractor's Office shall be considered a General Office and shall be permitted as an Office under this Chapter.

Office, Contractor's, means a building or portion thereof used by a contractor both as an office and for the storage of a limited quantity of materials inside a building.

Office, Medical or Dental means a building or portion thereof, which does not exceed a total of 2000 square feet, used by a physician, dentist, medical practitioners in related specialties, or a combination of persons in these professions, where patients who are not lodged overnight are examined and treated.

Off-Site Parking means the temporary storage of vehicles that is provided on a lot of record other than the lot of record on which the primary activity is conducted.

Off-Street Parking means a temporary storage area for vehicles that is directly accessible to an access aisle and is not located on a dedicated street right-of-way.

Open Space means land used for recreation, resource protection, amenities and/or buffer yards. In no event shall any area of a lot constituting the minimum lot area of said lot nor any part of an existing or future street or right-of-way be counted as constituting open space except that buffer yard areas may be included in the area of a lot constituting the minimum lot area.

Ordinary Maintenance and Repairs means work done on a building or structure in order to correct any deterioration, decay of or damage to said building or structure or any part thereof, in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

Outdoor Storage means a place for storing goods related to an establishment on the same premises and not located within a building.

Overlay District means a district that encompasses or is superimposed upon one or more base districts or portions thereof and that may impose different requirements than those required by the base district(s).

Owner(s) means the individual owner of an establishment, or, if the legal owner is a corporation or partnership, the term shall include all general partners, any limited partner with a financial interest of ten percent (10%) or more, all corporate officers and directors, and any shareholder with a financial interest of ten percent (10%) or more.

Owner of Record means the owner of a lot of record reflected on the current Harrison County tax roll.

Parking Area means any public or private area beneath or outside a building or structure, designed and used for parking vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

Parking Garage means a structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles.

Parking Lot means a ground level open area that is used for the temporary parking of vehicles but which is not a required off-street parking facility.

Parking Space means a space for the temporary parking of a motor vehicle within a public or private parking area.

Passenger Shelter means a space with a roof and walls on not more than three opaque sides, or four sides, none of which may be opaque, providing shelter from the elements for passengers waiting for a train, bus or taxi.

Pawn Shop means a specific Regulated Business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledgor or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

Perimeter Landscaped Area means that area surrounding a vehicular use area that is devoted to and consists predominately of live plants.

Permitted Use means a use that is permitted by right within a given zoning district.

Personal Service Shop mean business establishments such a barbershop, beauty parlor or similar personal service shop, not including massage therapy establishment, tattoo or body piercing parlor.

Personal Watercraft means a boat less than 16 feet in length.

Pet (See Domestic Animal)

Place of Worship means a building or structure, together with its Accessory Buildings and uses, where persons regularly assemble for religious worship, and which structure, together with its Accessory Buildings and uses, is maintained and controlled by a religious body.

Planned Unit Development (PUD) means an area of a minimum contiguous size, as specified by this Chapter, developed according to a City-approved plan as a single entity and containing one or more structures with appurtenant common areas .

Planning Commission means the nine-member Planning Commission of the City of Biloxi for clarity, ease of administration and delegation of duties as set forth in Article 2 of this Chapter. However, it is the intent of the City that all of the members of the Planning Commission and the Board of Zoning Adjustments are members of

the "Planning Commission" of the City of Biloxi as that term is utilized in Chapter 1 of Title 17 of the Mississippi Code of 1972, as amended.

Plat means a map of a subdivision.

Plat, Final means the final map of all or a portion of a subdivision that is presented to the City Council for final approval, and subsequent to such approval, must be recorded in the Office of the Chancery Clerk of Harrison County.

Plat, Preliminary means a map of a subdivision of land showing required features that is submitted for purposes of preliminary consideration and approval.

Pool hall means any commercial establishment that derives significant or substantial income from the operation of pool tables, billiard tables, or like or similar devised, and which permits consumption of alcoholic beverages on the premises.

Premises means a lot of record together with all improvements occupying the lot.

Primary live entertainment means that entertainment which characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

Principal Use means the primary purpose for which land or a structure is utilized.

Private Drive means a vehicular use area that it is not dedicated for public use.

Protected Tree means a woody perennial plant that meets any of the criteria set forth in, and that cannot be removed or altered unless permitted by the City.

Protected Use means any use or area identified in this Chapter that are influenced by or are susceptible to the secondary effects of sexually-oriented businesses.

Protective Barrier means a physical structure limiting access to a protected tree, composed of wood or other suitable materials, that ensures compliance with the intent of this Chapter.

Public Health Center means a nonprofit, public facility engaged in providing services for health maintenance and the treatment of mental or physical conditions.

Public Utility means any person, firm, corporation, municipal department or board duly authorized through State or municipal regulation to furnish such public services as electricity, gas, water, sewer, telephone, telegraph, transportation or other public utility service to its subscribers or customers.

Recreational Vehicle (RV) means a vehicle type with the following characteristics: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle (RV) Park means a parcel of land upon which sites are rented or leased for the temporary or periodic placement of recreational vehicles as temporary living quarters for recreational or vacation purposes.

Recreational Vehicle (RV) Site means a plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle on a temporary basis.

Regulated Building Activity means any act or process that requires a Building Permit as identified below.

Regulated Building Activities Include:

1) Alteration means any change in the supporting members of a building or structure (such as bearing walls, columns or girder), except such change as may be

required for its safety, any addition to or reduction of a building, any change in use or any relocation of a building from one location or position to another. This does not include maintenance and routine repairs.

2) Construction means the erection, alteration or extension of a building or structure.

3) Demolition means the removal of a building or structure, or a portion thereof, from a site.

4) Maintenance means the cleaning, painting, repair or replacement of defective or worn parts in a manner that does not alter the basic copy, design, or structure.

5) Rehabilitation means the repair, preservation and/or improvement of substandard structures.

6) Relocation means any changes in the location of a building or structure from its present setting to another setting.

7) Renovation means any improvement to the exterior and interior of a building or structure that requires an electrical, plumbing or other permit and that is not a structural alteration, new construction or enlargement.

Regulated Business means, in the context of this Article, only buy-sell store, day-labor employment service, sex shop, sexually oriented cabaret, sexually oriented movie theater or video arcade, escort bureau, lingerie modeling studio, other sexually oriented business, tattoo parlor, and body piercing parlor.

Relocation means the moving of a structure to a new location on its tax parcel or the relocation of such a structure to a new tax parcel.

Repair means any change that does not require a Building Permit and that is not construction, relocation, or alteration.

Resource, Historic means any building, structure or property located within an Architectural/Historic Overlay District, and any landmark or landmark site, regardless of whether such site is presently improved or unimproved. Historic resources can be separate buildings, AHO Districts, structures, sites and objects and related groups thereof.

Restaurant means an eating establishment offering prepared food and beverages.

Restaurant, Fast Food means an eating establishment characterized by counter- or self-service and a high percentage of food sold for consumption off the premises (Sec. 23-11-5).

Restaurant, High-turnover means an eating establishment characterized by turnover rates of less than one hour per customer but with most food sold for consumption on the premises.

Restaurant, Quality means an eating establishment characterized by table service and turnover times of more than one hour per customer.

Re-subdivision means the redivision of any part of a block, lot or parcel previously platted as a subdivision.

Retail, General means establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods or retail.

Retail Manufacturing means baking, dressmaking, dyeing, printing, tailoring, upholstering and similar types of establishments and businesses of a similar and no more objectionable character, including associated retail transactions tied to on-site manufacturing activities.

Retail Sales Activities means a commercial enterprise that provides goods and/or services directly to the general public, where such goods are available for immediate purchase and removal from the premises by the purchaser.

Right-of-Way means a portion of land acquired by express or implied dedication or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, water line and other similar uses.

Rooming House means a building containing not more than ten rooms with sleeping facilities where lodging, with or without meals, is provided for compensation and by previous arrangement to three or more persons but not exceeding ten persons. This excludes group homes.

Satellite Dish means any antenna that is designed to receive direct broadcast satellite service including direct-to-home satellite services and video programming services, via multi-point distribution services and including multi-channel multi-point distribution services, instructional television fixed services, local multi-point distribution services or television broadcast signals, via director orbital satellite signals. (Sec. 23-11-15(b)(2) for specific regulations based upon size variations.)

School means any building or group of buildings, the use of which meets State requirements for elementary (including preschool), junior or middle school, high school or higher education.

School, Business means public or private schools offering instruction in accounting, secretarial work, business administration, illustrative arts, information technology and similar subjects.

School, Trade or Industrial means any public or private secondary or higher education facility primarily teaching skills that prepare students for jobs in a trade, and meets the State requirements for a vocational facility.

Screening means the use of landscaping, hedges, berms, fences, walls or any combination thereof that at least partially block, in a continuous manner, the view from one area to another.

Seasonal Vendor means a person who prepares and/or sells food, and other seasonal and/or festival related items such as Christmas trees and pumpkins.

Self-Storage Facility means a building or group of buildings divided into separate compartments offered for rent and used to meet off-site storage needs.

Service Oriented Escort Bureau means an escort bureau which:

- a) maintains an open office at an established place of business;
- b) employs or provides only escorts that possess work identification cards;
- c) does not use an escort bureau runner; and,
- d) does not advertise that sexual conduct will be provided to a patron.

Sex Shop means an establishment offering goods for sale or rent and that meets any of the following tests:

- a) It offers for sale items from any two of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items make up more than ten percent of its stock in trade or occupies more than ten percent of its floor area;
- b) More than five percent of its stock in trade consists of sexually-oriented toys or novelties; or

c) More than five percent of its gross public floor area is devoted to the display of sexually-oriented toys or novelties.

Sexual Conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

Sexual Gratification means sexual conduct as defined herein.

Sexual Stimulation means to excite or arouse the prurient interest or to offer or solicit acts of sexual conduct as defined herein under offer to provide acts of sexual conduct.

Sexual Acts means sexual conduct as defined herein.

Sexually-Oriented Business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented motion picture theater; motion picture arcade; bathhouse; massage shop; and/or sex shop. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the zoning code or other applicable ordinances.

Sexually-Oriented Cabaret or Sex-Oriented Cabaret means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment which constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by customers therein.

Sexually-Oriented Cinema, Sexually-Oriented Motion Picture Theater, or Sex-Oriented Cinema means a cinema or motion picture theater which shows hard-core features on more than half the days that it is open, or which is marketed as or offers features described as adult, XXX, or sexually-oriented.

Sexually-Oriented Media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (separately defined).

Sexually-Oriented Media Store or Sex Oriented Media Store means an establishment that rents and/or sells media, and that meets any of the following three tests:

- a) More than forty percent of the gross public floor area is devoted to sexually-oriented media; or
- b) More than forty percent of the stock in trade consists of sexually-oriented media; or
- c) It is advertised, marketed, or holds itself out in any forum as XXX, adult, sex or otherwise as a sexually-oriented business other than a sexually-oriented motion picture theater or sexually-oriented cabaret.

Sexually-Oriented Toys or Novelties mean instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

Sexually-Oriented Video Arcade or Sex-Oriented Video Arcade means a video arcade providing or displaying sexually-oriented media.

Shooting Range means the use of a structure or portion of land for archery and/or discharge of firearms for recreational or training purposes.

Shopping Center means a group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on-

site, provision for goods delivery separated from customer access, aesthetic consideration and protection from the elements, and landscaping and signage in accordance with an approved plan.

Shrubs mean woody or semi-woody perennial plants that do not die after one growing season. Their size, form, texture and growing requirements are highly variable. They are customarily included in most landscape designs to provide for lower-scale buffering and visual interest. They may be combined in a myriad of ways to accomplish the goals of the landscape design.

Sidewalk means a hard-surfaced, all-weather pedestrian way, usually within a right-of-way line.

Sign means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, numbers, designs, symbols, fixtures, colors, illumination or projected images.

Sign, Business means a sign that directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such sign is located.

Sign, Development means a sign identifying that a lot or parcel of property is to be occupied at a future date by the proposed business or use and affixed to the subject property.

Sign, Directional means a sign limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit."

Sign, Incidental means a sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as "no parking," "loading only," "telephone," and similar information. No sign with a commercial message legible from a position off the site on which the sign is located shall be considered incidental.

Sign, Monument means any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

Sign, Notice means a sign that is subordinate in significance, but bearing a reasonable relationship with the primary sign, the size of which will be factored into the total allowed signage for the parcel.

Sign, Outdoor Advertising. (See Billboard)

Sign, Portable means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made as A-frames or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for commercial messages; and signs attached to or painted on or placed upon vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Sign, Surface Area of means the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface.

Sign, Temporary means a sign or advertising display constructed of cloth, canvas, fabric, plywood or other light material and designed or intended to be displayed for a short period of time.

Sign, Wall means a sign or advertising display fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve inches from such building or structure.

Site means any lot or lots of record, or contiguous combination thereof, under the same ownership.

Site Plan means a plan (to scale) showing uses and structures proposed for a legal lot or lots of record as required by Sec. 23-4-3 or Sec. 23-4-4.

Slope means the rate of deviation of the ground surface from the horizontal surface, as expressed in percentage of ratios.

Soil means the medium in which plants will grow.

Solid Waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from residential and community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Sec. 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

Specified Anatomical Areas mean and include: (1) less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities mean and include human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse or sodomy or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Staff means employees of the City of Biloxi.

State Historic Preservation Office means the Historic Preservation Division of the Mississippi Department of Archives and History.

State Historic Preservation Officer means the director of the Mississippi Department of Archives and History.

Stealth Facility means any telecommunications facility that is designed to blend into the surrounding environment and is reasonably shielded from public view.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

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

Street, Collector means a street that collects traffic from local neighborhood streets and distributes it to the arterial streets. Collector streets are designed to carry traffic within neighborhoods, but generally not between neighborhoods.

Street, Cul-de-sac means a short, local street having one end open to traffic and being permanently terminated at the other end by a circular area which permits vehicles to turn around without having to stop and back up.

Street, Dead end means a street that has been terminated on one end, where vehicles must stop and back up in order to turn around.

Street Frontage means all the property on one side of a street between two intersecting streets (crossing and terminating), measured along the lines of the street, or, in the case of a dead-end street, then all of the property abutting on one side between an intersection street and the dead-end of the street.

Street, Local means a street providing access to individual lots carrying low volumes of traffic, typically fewer than 1,000 ADT, at low speeds.

Street, Loop means a local street that begins from one local street and curves around to end on the same local street.

Street Line means a dividing line separating a lot, tract or parcel of land and a contiguous street.

Street, Major Arterial means a street that interconnects and links with primary arterial routes and Interstate and U.S. Highways carrying moderate volumes of traffic, in the range of 5,000 to 10,000 ADT.

Street, Minor Arterial means a street that interconnects and links with major arterial streets and Interstate and U.S. Highways carrying low to moderate volumes of traffic, in the range of 1,000 to 5,000 ADT.

Street, Primary Arterial means a street linking communities, major destinations and urban activity centers handling longer trips at higher speeds and average daily traffic volumes of 10,000 or greater. Primary arterials are intended to move through traffic and accommodate major access points, while limiting access from residential streets and driveways.

Structure means a combination of materials to form construction for use, occupancy or ornamentation whether installed above, on or beneath the surface of land or water.

Studio means the workshop of an artist, sculptor, photographer or craftsperson.

Substantial deterioration means structural degradation of such a nature that water penetration into a historic structure can no longer be prevented, or structural degradation that causes stress or strain on structural members when supports collapse or warp, evidence of which includes defective roofing materials, broken window coverings and visible interior decay.

Surfaced Road Width means that portion of the right-of-way available for vehicular traffic, and, where curbs are laid, the portion between curbs.

Survey of resources means the documentation, by historical research or a photographic record, of structures of historical interest within a specified area or jurisdiction or of existing structures within a proposed AHO District.

Surveyor means a registered land surveyor in the State of Mississippi to practice the profession of surveying.

Swale means a wide, shallow drainage area with gradual slopes not greater than 1:4, generally lined with grass, soil, rock or other plant materials.

Tattoo and tattooing mean those activities as defined in Mississippi Code Annotated Section 73-61-1, said statutory definitions being hereby adopted by reference.

Temporary means lasting, or intending to last, for a short period of time, not to exceed 30 days.

Temporary Use means a use established for a temporary period of time with the intent to discontinue such use upon the expiration of the time period.

Timeshare means a building containing condominium units, rooms or suites of rooms, with or without kitchen facilities, and subject to a timeshare plan or transient vacation rentals.

Timeshare Plan means any arrangement, excluding normal hotel, motel or other similar visitor accommodations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby a person receives the right to use, but not an ownership interest in, a unit, room or suite of rooms in a timeshare building.

Title-Loan Business means any business that regularly makes either loans to individuals secured by the title to a vehicle or title pledge agreements with pledgors, unless the business or individual is exempt from the definition of "title pledge lender" under Miss. Code Ann. Sec. 75-67-403 (1972), or unless more than ninety percent (90%) of the loans that the business makes which are secured by vehicle titles are made in the context of the purchase of the vehicle.

Tower means any ground or roof-mounted pole, spire, mast, structure, or combination thereof taller than 12 feet in height, intended primarily for the purpose of mounting one or more antenna, meteorological device or similar apparatus above grade. Lines, cables, wires, braces and masts that are used to support the tower shall be considered a part of the tower.

Tower, Guyed means a tower that is supported in whole or in part by guy wires and related ground anchors.

Tower, Monopole means a tower consisting of a single pole or spire, which is self-supported by a permanent foundation and constructed without guy wires and/or related ground anchors.

Tower, Self-Support/lattice means a tower that is constructed without guy wires and related ground anchors and is not a monopole tower.

Townhouse means a one-family dwelling, in a row of at least three such units, in which each unit has its own front and rear access to the outside, no unit is located over another and each unit is attached, but separated from any other unit by one or more vertical, common fire-resistant walls that extend through the roof line so as to create separate roofs for each townhouse.

Transient Guest means a person whose occupancy does not exceed more than ten nights within any 30-day period in any one Bed and Breakfast.

Tree means an evergreen or deciduous upright woody perennial plant having a single main stem or several main stems and which attains a height of at least 15 feet, generally with few or no branches on its lower part. Tree species shall be a minimum of seven feet in overall height immediately after planting.

Tree, Maintenance Pruning means maintaining or improving a tree's health and structure through trimming. Maintenance pruning may consist of one or more of the following:

- a) crown cleaning, defined as the selective removal of one or more of the following items: dead, dying, diseased, weak branches and watersprouts from a tree's crown;
- b) crown thinning, defined as the selective removal of branches to increase light penetration, air movement and reduce weight;

- c) crown raising, defined as the removal of lower branches of a tree in order to provide clearance;
- d) crown reduction, defined as reducing the height and/or spread of a tree with consideration given to the ability of a species to sustain this type of pruning;
- e) vista pruning, defined as selective thinning of framework limbs or specific areas of the crown to allow a specific view of an object from a predetermined point; and
- f) crown restoration, defined as pruning to improve the structure, form and appearance of trees that have been severely headed, vandalized or storm damaged.

Tree Protective Zone means that portion of any lot lying within a district that has been designated in the Zoning District Map as a multiple-family residential district, commercial district or industrial district.

Tree, Relocate means the digging up by a property owner of a tree from a place on his property and the planting of the same tree in another place on the same property or in a public place as directed by the DRC.

Tree, Remove or Removal means the actual removal of a tree by digging up or cutting down, or the effective removal through damage.

Truck Stop means any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.

Turf means low-growing plants that creep along the earth's surface to form a solid mat or lawn. Only perennial grasses (those which live for more than one growing season) shall qualify as turf. Such turfs or grasses shall be mowed or manicured and shall be kept healthy and weed-free. Installation of lawns shall be by sodding, seeding or hydromulching.

Unauthorized demolition means the deliberate demolition of a historic structure without prior review and approval by a local historic preservation commission or a governing authority to which such a commission has made a recommendation.

University or College means any institution of higher learning, publicly or privately owned, for the education of students beyond the 12th grade. The term does not include business or trade schools.

Variance means a relaxation of the terms of this Chapter where such Variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Chapter would result in unnecessary and undue hardship.

Vehicle Repair, Major means general repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, including bodywork, framework, welding, and major painting service.

Vehicle Repair, Minor means the replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstering service. Above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.

Vehicular Use Area means that area of a development dedicated to vehicular traffic, that is required to be a hard-surfaced, all-weather area, including access ways, loading and service areas, areas used for the parking, storage and display of vehicles, boats or portable construction equipment, and all land which is primarily used by vehicles.

Video Arcade means any business or portion of a business wherein one or more motion picture arcade booths are located.

Video Game Arcade means a building within which coin-operated video games and pinball games of a non-sex-oriented nature are available for amusement.

Vines mean herbaceous or semi-woody plants requiring support upon which to grow. Vines climb by twining or by tendrils that attach to a surface. They are generally used in the landscape to soften the effect of inorganic elements such as fences, walls and arbors, as well as to provide some screening or buffering effects.

Waiver means a suspension of a specific term or terms of this Chapter where such waiver is found by the appropriate City entity to better promote the goals of this Chapter and the Comprehensive Plan.

Warehouse means a facility characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and others, but not involved in manufacturing or production.

Wetlands means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Yard means an open space at existing ground level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. For the purpose of determining yard measurements, the least horizontal distance between the lot line and the maximum permissible principal building shall be used.

Yard, Front means a yard extending across the front of a lot between the side lot lines, and being the required minimum horizontal distance between the street line and the maximum permissible principal building. On corner lots, the front yard shall be provided facing the street upon which the lot has its lesser dimension.

Yard, Rear means a yard extending across the rear of a lot between the side lot lines, and being the required minimum horizontal distance between the rear lot line and the rear of the maximum permissible principal building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side means a yard between the principal building and the side lot lines and extending from the required front yard to the required rear yard, and being the required minimum horizontal distance between a side lot line and the side of the maximum permissible principal building.

Youth Camp means any camp operating on a permanent campsite for four or more consecutive periods of 24 hours and accommodating 20 or more children six to eighteen years of age; provided, however athletic camps and hunting and fishing camps shall not be included in this definition.

Youth Center means a facility providing youth-oriented activities and recreation, including but not limited to Boys' and Girls' Clubs.

Zero Lot Line Construction means the location of a building on a lot in such a manner that one of the building's sides rests directly on a lot line.

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Appendix A

AHRC Design Review Guidelines

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APPENDIX A

AHRC DESIGN REVIEW GUIDELINES

I. THE DESIGN REVIEW PROCESS

The Architectural and Historical Review Commission (AHRC) was established by the City of Biloxi in 1985 to promote historic preservation efforts in the community, and to provide a review process to ensure appropriate rehabilitation and compatible new construction in Biloxi's historic areas.

To accomplish these goals, the AHRC reviews changes that affect designated landmarks and AHO Districts. The following is a brief overview of the design guideline process. Please refer to the AHRC Ordinance for more information.

- The AHRC reviews proposed changes to any landmark or any building or lot located within 300 feet of any landmark, including new construction, exterior rehabilitation, relocation, demolition, excavation, fill, alteration, landscaping, lighting and signage.
- The AHRC review proposed changes to any building or lot within any AHO District, including new construction, exterior rehabilitation, relocation, demolition, excavation, fill, alteration, landscaping, lighting and signage.
- An application for design review by the AHRC can be obtained from the City of Biloxi Director of Community Development, located in the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr., Boulevard.
- An application must be accompanied by the following information:
 - Detailed site plan
 - Photographs of building or site
 - Drawings or sketches of proposed work
 - Samples of colors and materials
- Completed applications must be submitted to the Director of Community Development no later than the Friday prior to the next scheduled AHRC meeting to be considered at that meeting.
- The AHRC generally meets every second and fourth Thursday at 8:30 a.m. in the Dr. Martin Luther King, Jr. Municipal Building Auditorium.
- Applications requesting permission for general maintenance issues such as repairs and repainting in the same color that do not alter the appearance of a resource may be approved administratively by the Director of Community Development.
- The applicant or qualified designee must appear before the AHRC to present his or her request.
- After hearing the applicant's request, the AHRC can take action on all or part of the request as follows:
 - Approve the applicant's request as presented.
 - Table the applicant's request until a subsequent meeting if there is not enough information to make a determination.

- *Deny the applicant's request.*
- If approved, the applicant will be issued a Building Permit (provided all building and planning division restrictions have been met).
- If denied, the applicant can appeal the decision to the City Council.

For questions regarding the design review process, please call:

Director of Community Development	435-6266
Building Division	435-6270
Historical Administrator	435-6244

II. DESIGN REVIEW GUIDELINES

OVERALL APPROACH AND FORMAT

The primary approach in design review guidelines is the emphasis on preservation over complete remodeling. This view is illustrated through the use of terms such as repair, retain, maintain and protect. It is better to repair original materials rather than replace them; retain original neighborhood features, such as stone retaining walls; maintain original porch columns; and protect the neighborhood from incompatible new construction.

This manual lists guidelines in alphabetical order. Included is information on common rehabilitation questions, recommendations for maintaining the site and setting of historic neighborhoods and guidance for new construction.

The design guidelines are primarily concerned with the fronts and readily visible sides of buildings. Most often the public views buildings from the street or sidewalk. The fronts of buildings also contain the defining features of the property such as porches, main entrances and decorative details. The rears of buildings are usually reviewed with more flexibility since they are generally not readily visible due to the building's placement on the lot or screening by landscaping or fences. New construction at the rears of buildings is best when additional living space is required. Property owners are encouraged to refer to the guidelines when planning or designing new construction projects, planning exterior rehabilitations and completing everyday maintenance.

The design guidelines apply to all properties that are included in a locally designated district regardless of age or architectural style. For non-historic buildings (properties which are less than fifty years of age or which have been substantially altered), the AHRC may apply the guidelines with more flexibility than for historic buildings. In reviewing work affecting non-historic buildings, the AHRC's primary concern is to maintain or enhance the relationship and compatibility of the non-historic buildings with adjacent historic buildings and streetscapes.

III. REHABILITATION-RESIDENTIAL BUILDINGS

A. ARCHITECTURAL DETAILS AND FEATURES

(gingerbread, verge boards, eaves, brackets, dentils, cornices, moldings, trim work, shingles, columns, pilasters, balusters or any decorative or character-defining features).

1. Do not remove architectural details or features if they are original to a building.
2. Architectural details and features should be repaired rather than replaced. Repair should be with materials to match the original and with appropriate dimensions and profile.
3. Do not conceal architectural details beneath vinyl, aluminum or other synthetic sidings.
4. Architectural details and features should not be added to a building unless accurately based on physical, pictorial, or historical evidence. Any added details or feature should be compatible with the building in materials, scale, location, proportions and form.

B. AWNINGS

1. Awnings should be of canvas, vinyl-coated or acrylic material.
2. Awnings are appropriate for buildings at traditional locations such as above windows, doors and porches.
3. When awnings are added to a building, they should not cover or conceal significant architectural details.
4. Awnings should be designed to fit the opening to which they are added. Rectangular window and door openings should have straight across shed type awnings. Awnings over windows with rounded or oval shapes should have curved awnings to match the opening.

C. BRICKWORK AND MORTAR

1. Brick and brick veneer should not be sandblasted, water blasted or subjected to any other kind of abrasive cleaning. Brick should not be cleaned with high pressure water which exceeds 600 pounds per square inch. If needed, cleaning with detergent cleansers or chemicals is appropriate. Professionals should be used in any chemical cleaning projects.
2. Avoid applying water-repellant coatings to brick buildings. These coatings can serve to retain moisture and keep water from evaporating. This can result in moisture retention within the brick and continued spalling and cracking.
3. Brick and brick veneer which has never been painted should not be painted unless the brick and mortar is extremely mismatched from earlier repairs or patching.
4. Brick and brick veneer should not be covered with stucco or with any type of synthetic material. Such surfaces can also serve to trap moisture within the brick.

5. Brick and brick veneer should be repaired with materials to match the original brickwork and mortar. When repointing, use hand tools, not electric power saws, to remove mortar.
6. When repointing, the new brick and mortar should match the original brick and mortar in width, depth, color, raking profile, composition and texture.
7. Brick repointing should not be done with Portland cement or other hard mortars. Use soft mortars to match the original composition. If the original composition is unknown, use a historic compound such as one part lime and two parts sand.
8. Original brick chimneys should not be removed or altered. Chimneys should have clay, slate or stone caps. Metal caps should be avoided unless they fit in the top of the chimney and are not readily visible.

D. DOORS

1. Doors which are original to a building should be preserved and maintained. Repair should be with materials to match the original. Door elements such as surrounds, sidelights and transoms should also not be altered. Transoms should be left intact and not covered or concealed. Transoms should not be used for the installation of air conditioning units.
2. If original doors are missing, new doors should be appropriate for the style and period of the building. Replacement doors should be similar in design to the original in style, materials, glazing (glass area) and lights (pane configuration).
3. Modern doors of solid six-panel or flush wood or steel design are not appropriate for front doors on historic dwellings. These common design doors should only be used for rear entrances or side entrances which are not readily visible from the street.
4. Modern doors of "decorator" designs available from wholesale hardware stores are generally not appropriate for Biloxi's historic dwellings. Most of these doors have fake leaded glass or raised panels which are out of character with traditional historic doors.
5. The addition of new door openings should not occur on the fronts of buildings. If new door openings are needed to meet a new use or fire codes, they should be added at the rear or sides of buildings where not readily visible.
6. Storm and security doors should not be applied on front doors. Security doors are more appropriate for rear and side entrances not readily visible from the street.
7. Storm and security doors should be full view design, without ornamentation or decorative grillwork or extensive structural framework.
8. Original screen doors should be preserved and maintained.
9. New screen doors should be wood and full-view or with structural members aligned with those of the original door.

E. FOUNDATIONS

1. Foundations should be preserved and maintained in their original design, and with original materials and detailing.

2. Brick pier foundations should be filled in as traditional for the type and style of the house. Wood lattice frame panels are appropriate for infill between porch or foundation piers. The use of modern brick may be appropriate if the foundation is painted a uniform red brick color. Infilling between the piers with concrete block or stucco is not appropriate.
3. Foundations should not be concealed behind concrete block, plywood panels, corrugated metal or wood shingles.
4. Foundations should be cleaned, repaired or repointed according to masonry guidelines.

F. GARAGES, SHEDS AND OUTBUILDINGS

1. Outbuildings that contribute to a property's architectural character should be preserved and maintained. These buildings should be repaired with materials and details to match the original.
2. Some historic outbuildings retain their original hinged or overhead track doors. These types of doors on stables and garages should be preserved and maintained. If difficult to operate, these doors may be retrofitted with new hardware or electric door openers. Modern garage doors of solid panel wood or metal design should not be added to historic garages. Multi-light glass and wood doors are more appropriate than solid wood or metal doors.

G. GUTTERS

1. Gutters of hang-on type should be half-round. If half-round gutters are not readily available, "K" or molded gutters of aluminum or vinyl are acceptable.
2. Gutters and downspouts should not be installed in such a way as to remove or conceal significant architectural details.
3. Gutters and downspouts should provide proper drainage through the use of splash blocks or concealed piping to avoid water damage to the building.

H. LIGHTING FOR PORCHES

1. Light fixtures original to the building should be preserved and maintained.
2. Light fixtures introduced to the exterior of a structure should be simple in design or be appropriate for its style and period.
3. Security lights, such as flood lights, should be mounted on the rear or sides of buildings.

I. PAINT COLORS

1. Paint colors proposed for rehabilitation or new construction shall comply with the approved colors of the AHRC. These paint colors are based on traditional or historic palettes for Biloxi's buildings. Paint colors should be appropriate to the style and period of the building or structure.

J. PORCHES

1. Porches on the front and side facades should be maintained in their original configuration with original materials and detailing.
2. Original porches should not be removed or replaced.
3. Porches and their details should be repaired or replaced with columns, posts, railings, balusters, decorative molding and trim work to match the original in design, materials, scale and placement.
4. Porches on the front of dwellings should not be enclosed with glass, wood or other materials.
5. Porches which are on the rear and sides of dwellings may be enclosed when not readily visible from the street, and if the height and shape of the porch is maintained.
6. For most pre-1910 dwellings, porches have wood steps. The construction of poured concrete steps may be appropriate for Bungalow or Craftsman style dwellings. The use of brick or pre-cast concrete steps for historic buildings should be avoided.
7. The application of screen panels may be appropriate if the structural framework for the screen panels is minimal, and the open appearance of the porch is maintained. Wood framing for the screen panels is preferred.
8. Porches on the front of dwellings may be partially enclosed with lattice panels for privacy. Lattice panels should not exceed more than one-third of the porch area in order to maintain its traditional open appearance. Such panels should be added behind, not in front, of porch columns and railings.
9. Wooden trellises for plants are appropriate for front porches.

K. PORCH COLUMNS AND RAILINGS

1. Original porch columns and railings should be preserved and maintained. If repair is required, use materials to match the original in dimensions and detailing.
2. Porch columns of aluminum, wrought iron or other modern materials are not appropriate for front porches.
3. If the original porch no longer exists, new porches should be of wood in keeping with the architectural style and period of the building. For dwellings built during the 19th and early 20th centuries, milled porch columns are appropriate and are readily available at wholesale companies. These types of porch columns are generally 8' in height and have widths and depths of 4". For Craftsman/Bungalow style dwellings of the early twentieth century, round, square or tapered wood columns are best. Although generally not available at wholesale stores, they can be ordered from milling companies. These columns should fit the porch height and if round, have diameters of no less than 6" and no more than 10". Square columns or tapered square columns should be a minimum of 8" and a maximum of 10" in depth and width.
4. If the original railing or balusters no longer exist, replacement should be with design and materials in keeping with the period and style of the building. For

dwelling built during the 19th and early 20th centuries, milled balusters may be available from hardware stores. Appropriate milled balusters measuring 3' high and 2" in diameter are appropriate for Biloxi dwellings of this period. Balusters which are smaller than 2" in diameter are not appropriate for exterior porches. Square balusters which are 3' high and 2" in width and depth are best for Craftsman/Bungalow dwellings of the early 20th century. The "jumbo" balusters which measure 3"x3" or 4"x4" are too large and should not be added to front porches or porches readily visible from the street.

L. ROOFS

1. Roof forms should be maintained in their original dimensions, shape and pitch.
2. Roofs may be re-roofed with fiberglass or asphalt shingles. The application of wood shingle roofs may also be appropriate for buildings constructed prior to 1915. Most buildings constructed after this date were built with asphalt, metal or tile roofs and wood shingles would not be appropriate.
3. Roofs should not be altered through the addition of new dormers, decks, balconies or half stories on front facades. Dormers and roof additions may be appropriate for rear facades or secondary facades if not readily visible from the street, and designed to maintain the building's character.
4. Roof vents, added for ventilation, should be sited on rear facades or facades not readily visible.
5. The application of new crimped metal roofs is appropriate if the panels and seams are in keeping with traditional metal standing seam designs and colors.

M. ROOF SKYLIGHTS

1. Skylights should not be added where visible from the street. Skylights should be placed at rear roof lines or behind gables or dormers.
2. Skylights should be flat or flush with the roofline, not convex or "bubble" designs.

N. SCREEN PANELS

1. Screen panels for porches may be appropriate if the structural framework for the screen panels is minimal, the open appearance of the porch is maintained and the panels are located behind porch columns, posts and railings.
2. Original screen doors should be preserved and maintained.
3. Replacement screen doors should be wood and full-view, or with structural members aligned with those of the original door.
4. Screen windows should be wood or baked-on or anodized aluminum and fit within the window frames, not overlap the frames. Full-view screen panels or those with central meeting rails aligned with the window's meeting rails are appropriate.

O. SHUTTERS

1. Window and door shutters which are original to a building should be preserved and maintained.
2. Shutters should not be added to a building unless there is evidence that it originally had wood shutters. New shutters should be of louvered wood construction and sized so that the shutters will fit the window opening (so that if closed, they would cover the window opening).
3. New shutters of vinyl, aluminum or similar materials are not appropriate. These shutters generally have exaggerated graining designs which do not reflect the character of wood and are incompatible with the materials of historic buildings.

P. STAIRCASES AND STEPS

1. Staircases and new steps should not be added to the fronts of buildings or side facades where readily visible from the street. Rear facades are the most appropriate location for exterior stairs.
2. New staircases and steps should be of wood construction. The addition of metal stairs at the rear façades of buildings is acceptable.
3. New steps leading to porches with wood floors should be replaced with wood rather than brick or concrete. The addition of brick, poured concrete or pre-cast steps for front porches instead of wood is discouraged.

Q. WINDOWS

1. Windows should be preserved in their original location, size and design and with their original materials and numbers of panes.
2. Windows should be repaired rather than replaced. If replacement is necessary due o severe deterioration, replacement should be windows similar in material and design.
3. Windows should not be added to fronts or sides of buildings which are readily visible.
4. Snap-on or flush mentions should not be used in replacement windows. These lack the depth and profile of historic windows.
5. Screen and/or storm windows should be wood or baked-on or anodized aluminum and fit within the window frames. Storm windows should be full view design or have matching meeting rails.
6. Shutters should not be added to buildings unless there is evidence that shutters were original to the building. New shutters should be of wood, of louvered design and fit the window opening.
7. Security bars should not be added to windows on the front of a building.
8. If necessary, windows may be covered or enclosed with wood panels when there is a threat of severe weather. However, these panels should be removed and the original windows exposed within two weeks after the threat of inclement weather has passed.

R. WOOD SIDING

1. Wood siding and/or shingles which are original to a building should be repaired rather than replaced. If replacement is necessary, the new wood should match the original in dimension and design.
2. The application of synthetic or substitute materials such as vinyl, aluminum or pressboard over original wood siding is not appropriate. The application of these materials will generally not be permitted on primary or readily visible side facades. If applied to the rear of a building, synthetic siding should not conceal original decorative detailing or trim. This includes the concealment of gable details and window and door surrounds. Synthetic siding materials should match the dimensions of the original wood siding as closely as possible. Care should be taken to have synthetic siding vented to the maximum extent possible.
3. Wood siding and shingles original to a building should be preserved, but if replacement is necessary the new shingles should match the original in size, placement and design (this includes decorative wood shingles of Victorian buildings as well as wood or asphalt shingles of Bungalow-period houses).
4. The removal of synthetic sidings and restoration of the original wood siding is encouraged.
5. Wood siding should be maintained through regular painting. When paint removal is required, removal should be done by hand scraping, heat (heat guns and plates) or chemical methods. Exterior wood siding should never be sandblasted, water-blasted or subjected to other high-pressure cleaning.

IV. ADDITIONS TO RESIDENTIAL BUILDINGS

A. ADDITIONS (NEW ROOMS)

1. Additions should be located at the rear of buildings, not on the front or readily visible areas of the sides of buildings.
2. An addition should be secondary to the original building in scale and design.
3. When additions are constructed, original historic materials should be preserved as much as possible. On rear additions, it is best to utilize existing door and window openings to connect with a new room or wing, rather than removing sections of the rear wall itself.
4. Additions should not be created by framing or glassing in the front porch or prominent side porch.

B. DECKS

1. Decks should be constructed at the rear of buildings. Decks on sides of buildings are also acceptable as long as they are not readily visible from the street. Readily visible decks should follow guidelines for new construction.
2. Decks should be simple rather than ornate in design. Wood decks should have square wood balusters set no more than three inches apart. Balusters should be no more than 2" in width and depth.

C. FIRE ESCAPES

1. Fire escapes and stairs should be located where they will not be readily visible from the street.
2. Wood construction for fire escapes and stairs is preferred rather than metal or other materials.

D. HANDICAPPED ACCESS RAMPS

1. Handicapped access ramps should be installed at the rear or sides of buildings. If a handicapped ramp is necessary on the front of a building it should be of wood construction rather than of brick, concrete or metal. Brick, concrete or metal ramps are more acceptable at the rear and sides of the buildings which are not readily visible from the street.
2. Handicapped access ramps should be of wood in simple designs and detailing. Square balusters and handrails are best where there are no existing porch railings. If original porch railings do exist, ramps may be designed to match the railing in materials, dimensions and detailing. Ramps should be painted to match the color of the porch railing or to match the overall paint color of the building.
3. The screening of handicapped access ramps with landscaping of low shrubbery is recommended to provide concealment.

V. SITE AND SETTING-RESIDENTIAL BUILDINGS

A. DRIVEWAYS, PARKING LOTS AND PAVING

1. Parking for dwellings should be in side driveways or in parking areas at the rear of the building. Parking lots or driveways should not be sited in front yards directly in front of the building.
2. Parking lots should be screened with landscaping or fencing in accordance with the City's Tree and Landscape Ordinance.
3. Driveways in the front or side yards should be of gravel (white or pea gravel), concrete or concrete tracks (narrow strips). Blacktop or asphalt driveways are not traditional to Biloxi's historic neighborhoods and should be avoided.
4. Driveways of semi-circular design should not be sited in front yards.
5. Parking lots for commercially-used houses, churches, apartment buildings or schools should be located in rear yards.
6. Parking lots between buildings should be recessed back from the street and aligned with neighboring buildings.
7. Parking lots on corners should have edge screening on both the primary and secondary street.

B. FENCES

1. Fences which are original to a dwelling, or built before 1950, should be preserved. If missing, fences should be reconstructed based on physical or pictorial evidence.
2. Cast iron fences may be added to buildings constructed in the late 19th and early 20th century. Cast iron fences are not appropriate for Bungalow/Craftsman style dwellings or for other designs built after 1920.
3. Wood picket fences are appropriate for front or rear yards. Picket fences should be no taller than 3 feet six inches (3'6") have pickets no wider than four inches and set no farther apart than three inches. Picket fences should have a minimum transparency of 20 percent. Wire fences should also be no more than three feet tall.
4. Wood plank privacy fences should be located in rear yards and generally be no taller than six feet (most pre-fabricated wood sections are 8' wide by 6' high). Privacy fences of this height should be at least half-way back from the front to the back walls on the side of the house. Simple fences with flat tops or "dog-ear" designs are both appropriate, while fences resembling "stockades" are discouraged.
5. Fences of brick or concrete block are not appropriate in front yards but are acceptable at rear yards and side yards if not readily visible from the street.
6. Chain link is not a historic fence material for Biloxi's historic neighborhoods and is not appropriate for front yards. Chain link fences are acceptable in rear yards or side yards where not readily visible from the street. Plastic coatings for chain link fences in green and black colors are available and recommended. The screening of chain link fences with hedge, ivy or other creeping cover is also encouraged.
7. Fences of split or horizontal wood rails, or of railroad ties or timbers, whether freestanding or as retaining walls, are not appropriate for front yards but may be added at rear yards or non-readily visible side yards.

C. GARBAGE COLLECTORS

1. Garbage collectors should be located at the rears or sides of buildings and be screened from the street view with fencing or shrubbery.

D. LANDSCAPING

1. All new commercial developments within the AHO Districts along Beach Boulevard (U.S. 90) shall provide a landscape buffer within the property abutting the public right-of-way. Appropriate trees shall be planted at the rate of one tree per each twenty-five (25) linear feet of street frontage. Existing trees shall be protected and retained wherever possible, and new trees shall be planted to meet requirements.
2. A three (3) foot area of shrubs shall be planted across the entire front façade against the building of all new construction except where a building is constructed on the front property line.

3. Landscaping shall follow the City's *Tree and Landscape Ordinance*.

E. LIGHTING FOR YARDS AND SIDEWALKS

1. Lighting for sidewalks and front yards should be of small footlights rather than post-mounted fixtures

F. MECHANICAL SYSTEMS

1. Mechanical units should be located at the rear or sides of buildings where they are not readily visible from the street.
2. Mechanical units should be screened with shrubbery or fencing.
3. Window air-conditioners should be located in windows on the rear or sides of buildings, and should not result in the removal or replacement of the original window sash or surround.
4. Solar energy panels should be located on rear sections of the roof, behind dormers or gables or other areas not visible from the street.
5. Satellite dishes should not be installed in front yards or readily visible side yards.
6. Mechanical units such as electrical and gas meters should be located on the rear or side of a building.

G. SIDEWALKS AND WALKWAYS

1. Sidewalks and walkways that are original to a property or along streets should be preserved.
2. Brick sidewalks should be repaired with historic brick similar in color and texture.
3. New sidewalks should be smooth concrete in patterns, dimensions, colors, and placement similar to original or early 20th century sidewalks.

H. SIGNS

Biloxi's historic dwellings are located in both traditional residential areas and in areas rezoned for office and commercial use. Areas that are zoned R-1, Single-Family Residential, and G-R, General Residential have specific sign requirements outlined in the City's Land Development Ordinance. Allowable signs include small signs to identify occupants and addresses, identification signs for schools, churches, and similar uses, and temporary construction and sales signs. Basic Provisions of these standards include:

1. Identification signs shall not exceed thirty (30) square feet in area. The sign may be illuminated but not flashing.
2. Directional signs are limited to one per use and shall not exceed two square feet in area.
3. Nameplate signs shall not exceed five square feet in surface area.

In addition to these standards, signs should also be in accordance with the following guidelines:

1. Signs should not cover or obscure significant architectural features.
2. Signs should not be illuminated with visible bulbs or luminous paints, but with remote sources.
3. Signs should be of traditional materials such as finished wood, glass, copper, or bronze, not plywood, plastic, or unfinished wood.
4. When mounted on masonry walls, signs should be anchored into the mortar, not the masonry.
5. Plastic or other translucent surface interior lit signs are prohibited in residential areas.

I. YARD FEATURES (GAZEBOS, PERGOLAS, FOUNTAINS, SWIMMING POOLS)

1. Gazebos of traditional design and materials (wood, decorative iron) are encouraged, with no more than two per parcel. Gazebos should be sited in rear or side yards.
2. Swimming pools should be sited in rear yards or side yards not readily visible from the street.
3. Swimming pools should be screened with privacy fences, landscaping, or both.

VII. NEW CONSTRUCTION – RESIDENTIAL BUILDINGS

New construction is desirable when it is compatible with the adjacent historic buildings. New construction should be contemporary in design but compatible with historic buildings. Contemporary means clearly built of the present-day period so that new buildings can be distinguished from those which are historic. Compatible means displaying building forms and features which blend in with historic buildings along the street. New construction which is compatible with historic buildings generally has similar roof forms, materials, window and door sized and placement, porch size and location and foundation heights.

It is important that new construction coordinate with adjacent dwellings. A design that may be appropriate along one block may not work for a different block. Each new building, whether a single family dwelling, multiple-family residence, or commercial building, has to be evaluated within its exact location and surroundings.

A. NEW CONSTRUCTION of *primary buildings* should reinforce the existing pattern of adjacent historic buildings by being compatible in:

1. Scale (height and width). Most blocks in Biloxi's residential areas have buildings which are one-story or two-stories in height. In areas which are zoned R-1, R-2, and GR, the existing zoning restricts new construction to heights of thirty-five (35) feet, or approximately three stories. Traditional residential areas which have been rezoned for commercial use such as C-1 or C-2 districts, have height restrictions of seventy-five (75) feet. In addition to height, new construction must also follow front and side yard requirements to ensure uniform setbacks and

building placement within lots. New construction which extends over several lots should have recessed and/or projecting bays to reinforce historic building widths. It is essential to maintain building heights as much as possible within Biloxi's AHO Districts. The construction of multi-story buildings out of scale can result in radical changes in the physical appearance and visual continuity of historic areas.

2. Shape. The shape of new buildings should be similar to adjacent properties and those along the block.
3. Roof shape and pitch. Roof slope ratio for new construction should be consistent with traditional roof forms in the AHO Districts. In most areas, a minimum of 6:12 to a maximum of 12:12 with 9:12 is a good ratio for historic neighborhoods (9:12 refers to nine inches of rise to 12 inches of run in measuring slopes). Roof forms should be of gable and hipped variations. Flat, mansard, or gambrel forms are not appropriate for Biloxi's historic neighborhoods.
4. Orientation to the street. New construction should have at least a secondary entrance and some type of entry porch on the front of a dwelling. Most buildings have their fronts oriented towards the street and this character should be maintained by new construction.
5. Location and proportion of porches, entrances, windows, and divisional bays. Porches should have roof forms of gable, hipped, or shed design. New construction should have entry bay porches or porches which extend partially or fully across the main façade. Porch columns and railings should be simple in design in square or round shapes. Columns should be a minimum of six inches and a maximum of ten inches square or in diameter. Porch railings should have balusters which are no more than two inches square or in diameter. New windows should be rectangular sash whose proportions on the main façade should not exceed three-to-one in a height to width ratio or be any less than two to one in height-to-width (two-to-one proportions are preferred).
6. Porch height and depth. Porch heights should be consistent with adjacent buildings.
7. Foundation height. Maintaining foundation heights is of particular importance for Biloxi's historic neighborhoods. Most pre-1950 dwellings were built with foundation heights of two-to three-feet, and new buildings should have foundations heights similar to adjacent historic buildings. No slab foundations or at-grade foundations should be utilized on the fronts or readily visible sides of buildings.
8. Material and material color. *Foundations:* Most historic dwelling foundations are of brick, poured concrete, or split faced concrete block. If smooth concrete block is used, a stucco wash should be added to provide texture. Exposed wood pilings, steel posts, or steel pipes are not permitted.

Brick Dwellings: If the new construction is of brick, the brick should closely match typical mortar and brick color tones found in the neighborhood. Bright white mortars contrast with typical dark brick colors and should be avoided.

Frame Dwellings: If the new construction is of frame, the preferred exterior material is horizontal wood siding which is a minimum of four inches and a maximum of six inches in width. The use of amazonite or grained pressboard is also acceptable as long as it meets these size recommendations. Vertical board siding or panels are not appropriate. The use of vinyl or aluminum siding is

discouraged, and should only be used on rear or non-readily visible sides of buildings.

Windows: Wood construction is preferred for windows, especially those on the fronts of buildings. The use of vinyl clad or aluminum windows is acceptable as long as they follow proper proportions (see window guidelines). The use of dark anodized aluminum windows or storm windows is appropriate.

10. Details and texture. The details and textures of building materials in new construction should be applied in a manner which reinforces traditional designs and is compatible with surrounding buildings.
11. Placement on the lot. Front and side yard setbacks should respect the setbacks found along the block on which the building is site.

B. NEW CONSTRUCTION of *secondary buildings* such as garages, carports, and other outbuildings should be:

1. Built at traditional locations such as off an alley, at rear lot lines, or at the rear of the primary building.
2. Smaller in scale than the primary building.
3. Simple in design but reflecting the general character of the primary building. For example, use gable roof forms if the main dwelling has a gable roof, hipped roof forms if the main dwelling has a hipped roof etc.
4. Compatible in design, shape, materials, and roof shape to the primary building.
5. Have a wood siding exterior. However, if not readily visible from the street, secondary buildings may have exterior siding materials such as amazonite, aluminum, or vinyl.

C. NEW DRIVEWAYS AND PAVING for residential buildings:

1. Should be located at the rear of buildings with access from side lot lines or rear alleys.
2. Should be of gravel (white or pea gravel), concrete, or concrete tracks (narrow areas). Blacktop or asphalt driveways are not traditional to Biloxi's historic neighborhoods and should be avoided.
3. Should not be sited in front yards or readily visible side yards.
4. Should be screened through plantings of hedges, shrubs, trees or fences.

VII. COMMERCIAL BUILDINGS

The historic downtown area of Biloxi consists of 19th and early 20th century commercial buildings. Commercial buildings from this period were designed with two separate sections – storefronts and upper facades. Storefronts were generally built with large expanses of glass display windows, recessed entrances, and with large transoms. Upper facades were often embellished with arched windows, decorative brick or decorative sheet metal cornices.

A. ARCHITECTURAL FEATURES

1. Architectural features which have been removed should be replaced based upon their original design, materials, proportion, and details.
2. Architectural features should not be added to a building where none originally existed.
3. Architectural features should be repaired using compatible materials.
4. Cast iron columns or pilasters on storefronts should be maintained through regular painting. If cleaning is desired, the use of chemical or detergent cleaning is preferred over abrasive cleaning methods such as sandblasting.

B. AWNINGS

1. The addition of awnings to commercial buildings is appropriate. Awnings should be in traditional awning designs, materials, and placement.
2. Storefronts and upper façade windows are both appropriate locations for awnings.
3. Awnings may be retractable or fixed in place and should fit the opening to which they are applied. Shed awnings are appropriate for rectangular openings while arched awnings are appropriate for arched openings.
4. Awning materials should be canvas, acrylic, or vinyl coated. The use of fixed metal, vinyl, or wood awnings is discouraged.
5. Shed awnings are most appropriate for historic commercial buildings. The use of bubble, concave, or convex forms is discouraged. Internally lit awnings are also not appropriate.
6. Transom lights of prism glass or stained glass should not be covered by awnings.

C. CORNICES

1. Missing cornices should be replaced based upon physical or pictorial evidence. If no such evidence exists, a simple wood or metal cornice similar to other cornices in the commercial area is appropriate.
2. Sheet metal is the most appropriate material for cornices, however, fiberglass reinforced concrete or other similar molded cornices may be acceptable if they accurately replicate the original in profile, dimensions, and texture.
3. Cornices should not be added to buildings where no physical or pictorial evidence for such a cornice existed.

D. LIGHTING

1. In the absence of historic light fixtures, use concealed up-lit light fixtures, fixtures of simple design, or fixtures appropriate to the period of the building.
2. The use of "Colonial" coach lights and similar fixtures is discouraged.
3. New light fixtures along the sidewalks of Howard Avenue should be of traditional street lamp designs, and appropriate to the early 20th century character of the

district. New post mounted lights shall not exceed twelve (12) feet in height, and the use of pole mounted high pressure sodium lights is discouraged.

E. ROOFS

1. Most commercial building roofs have flat or sloping roofs which are not visible from the street. If any metal roofs exist they should be preserved and maintained where feasible. However, if replacement is required, new roofs of rolled or asphalt roofing materials are appropriate.
2. Parapet walls and features such as concrete or stone piers should not be altered or removed.

F. SIDEWALKS AND PARKING LOTS

1. New sidewalks along Howard Avenue are encouraged to be of brick in herringbone or basket weave patterns.
2. The construction of new parking lots shall be to the rear of the building whenever possible. The layout of the parking lot shall be designed to retain as many trees as possible.
3. New sidewalks should be smooth concrete in patterns, dimensions, colors, and placement similar to original or early 20th century sidewalks.

G. SIGNS

Commercial buildings have traditionally had a variety of sign designs and placement, and there should be wide flexibility for their use for Biloxi's businesses, in addition to their approval by the AHRC, signs must also follow provisions for the Central Business District as set forth in Section 23-9-2 of the Biloxi Land Development Ordinance.

1. Historic signs, such as painted wall signs, should be repaired, preserved, and maintained.
2. New signs should be of traditional materials such as wood, glass, copper or bronze letters. Sandblasted wood signs are appropriate. Plastic substrate signs, plywood signs, or unfinished wood are not recommended.
3. Signs should be sized in proportion to the building. Avoid oversized signs.
4. Buildings should have no more than three signs, not counting signs painted on windows.
5. Signs which resemble logos or symbols for businesses are encouraged.
6. Signs should have no more than two or three colors – colors should be coordinated with overall building colors.
7. Serif, sans serif, or script lettering are traditional lettering styles for signs. Letters should not exceed 18 inches in height and cover more than 60 percent of the total sign area.
8. Traditional sign locations include storefront belt courses, upper façade walls (not to exceed 20 percent of the overall wall surface), hanging or mounted inside windows, or projecting from the face of the building.

9. Mounting brackets and hardware for signs should be anchored into mortar not masonry.
10. Avoid non-period historic signs such as “Colonial” designs.
11. Lighting for signs should be concealed. Spot or up-lit lighting for signs is recommended. Internally-lit signs are not appropriate for the downtown area.

H. STOREFRONTS – GENERAL APPROACH

1. Storefront features that have become deteriorated should be repaired rather than replaced.
2. If replacement is necessary, new storefront elements should be with features to match the original in design and materials.
3. Storefronts which were altered after 1950 should be reconstructed based upon pictorial or physical evidence of the original.
4. If the original storefront appearance is unknown, a new storefront should be constructed based upon traditional designs. This should be typical of those built during the late 19th and early 20th century.

I. STOREFRONTS - ENTRANCES

1. Historic doors should be retained and repaired with materials to match the original. Doors added to storefronts should be replaced with doors to match the original in design and materials. Solid wood doors should not be installed on storefronts.
2. If the original door design is unknown, replace with plain wood doors in a single light design. Do not replace with solid paneled doors, decorative doors, or any kind of door based upon a different historical period or architectural style (Colonial, Gothic church doors, etc.).
3. New doors should generally use glass proportionate to display windows glass and kick plate panels proportionate to bulkhead panels. Wood is the material most appropriate for new doors, however, metal with a dark or bronze anodized finish and with a wide stile may be substituted. Raw Aluminum or other silver-colored metals are not appropriate.

J. STOREFRONTS – DISPLAY WINDOWS AND BULKHEADS

1. New display windows should match the original in location, design, size, and materials.
2. If the original display window design is unknown, replacement windows should be traditionally scaled with large glass lights and few structural divisions to maintain the traditional transparent storefront look.
3. Window mullions or framing should be of wood, copper, or bronze metal.
4. Clear glass should be installed on storefronts. Tinted glass should not be used. Interior shades or blinds should be utilized for privacy.
5. Transom lights should not be obscured.

6. When replacing missing bulkheads, the original should be matched in design, size, and materials.
7. If the original bulkhead material is unknown, replacement should be of wood or brick in a traditional storefront design.

K. WINDOWS

1. Deteriorated windows should be repaired rather than replaced. Missing windows should be replaced with windows which match the original in size, number and arrangement of lights, and materials.
2. If the original window configuration is unknown, rectangular one-over-one wood sash windows are most appropriate for Howard Avenue. Wood is the preferable material for new windows.
3. Anodized or bake-on enamel aluminum, in white or dark finishes is also appropriate. The application of flush or snap-on is not appropriate. These materials do not replicate the appearance of historic windows.
4. Shutters should not be added to windows on commercial buildings unless there is physical or pictorial evidence that they originally existed on the building. Wood shutters may be used to conceal blocked-in or bricked-in windows until windows are restored.
5. Shutters should be of louvered wood design and sized to fit their opening. If closed they should completely cover the window opening.
6. Original window surrounds and detailing should be maintained and preserved such as sheet metal hood molding, brick or stone lintels, and sills.
7. If necessary, windows may be covered or enclosed with wood panels when there is a threat of severe weather. However, these panels should be removed and the original windows exposed within two weeks after the threat of inclement weather has passed.

VIII. NEW CONSTRUCTION – COMMERCIAL BUILDINGS

A. NEW COMMERCIAL BUILDINGS

1. New construction should be compatible in height with adjacent buildings. Along Howard Avenue, one- to-two story buildings are most appropriate. New buildings should not exceed three-stories in height.
2. Masonry (brick and stone) are the most appropriate materials for new construction.
3. New buildings should be aligned with adjacent buildings along the street and conform to existing setbacks.
4. New construction should be of similar width and scale and have similar proportions as adjacent buildings.
5. New construction should be oriented towards the major street.
6. New construction should have flat roof forms consistent with adjacent buildings.

7. Window size and proportion of openings should be consistent with adjacent buildings.
8. New buildings should maintain the traditional separation between storefronts and upper facades. This separation should be in alignment with adjacent buildings.
9. New buildings which are constructed over several lots should have vertical divisions to maintain traditional building widths.

B. NEW COMMERCIAL BUILDING ADDITIONS

1. Rooftop penthouses or additional stories should not be constructed unless the addition will not be readily visible from the street or other pedestrian viewpoints. Roof additions should be set back from the main façade.
2. Additions at the rear of buildings are appropriate. Rear additions should be compatible with the original building in scale, proportion and rhythm of openings, and size.
3. Rear additions should be of brick or concrete construction. Metal or frame additions are not appropriate.
4. Rear additions should be constructed to cause minimal damage or removal of original walls and details from the rear of the building.

IX. DEMOLITION AND MOVING OF BUILDINGS

The AHRC may deny Building Permits that would result in the demolition or moving of a Historic building. The City's Land Development Ordinance states that denial may be appropriate if the demolition or moving of a building would "disrupt or diminish the concentration, linkage or continuity of sites, buildings, structures, or objects located within a AHO District. Further, the commission may deny any Building Permit or application for architectural approval if it determines that the moving, relocation, excavation or demolition would be detrimental to the promotion of the City's historic, aesthetic and cultural heritage or protection, enhancement and perpetuation of the City's social, economic, political and architectural history, as well as the harmonious, orderly and efficient growth and development of the City."

A. DEMOLITION

1. Demolition of a Historic building which has most of its original design and features should only be an action of last resort after exploring all options for its preservation.
2. Demolition of a building which contributes to the historic or architectural significance of a AHO District should not occur, unless:
 - a. public safety and welfare requires the removal of the building or structure;
 - b. the building has lost its architectural and historical value, and its removal will improve the appearance of a Historic neighborhood;
 - c. the building does not contribute to the historical or architectural character and the importance of a district.
3. Demolition of pre-1950 secondary buildings (garages, etc.) is appropriate only if the building is substantially deteriorated (requiring 50 percent or more

replacement of exterior siding, roof rafters, surface materials, and structural members).

B. MOVING BUILDINGS

1. Moving buildings into the AHO District may be appropriate if the building is compatible with a district's architectural character through style, period, height, scale, materials, setting, and placement on the lot.
2. Moving buildings from a district that contribute to the historic and architectural character of that district should be avoided unless demolition is the only alternative.

Section X. Cemeteries

1. Cemeteries shall be identified by a marker containing the name and known history of the cemetery.
2. Boundaries of cemeteries shall be identified by appropriate fencing, including cast or wrought iron, brick or wood picket.
3. Existing statuary, vaults, markers and monuments shall be preserved.
4. Existing statuary, vaults, markers and monuments that are in a damaged or deteriorated condition shall be restored according to professionally accepted standards for cemetery restoration.
5. Cemeteries and Indian burial grounds shall be investigated by professional archaeologists to ensure that all graves have been identified and protected.
6. In the event of development that includes a cemetery, access to the cemetery by family members shall be allowed and incorporated into the site plan.

Appendix B

Caillavet Street CRD Design Standards

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INTRODUCTION

Caillavet Corridor Redevelopment District Location Standards

REDEVELOPMENT DISTRICT BOUNDARY

The Caillavet CRD boundaries are as described: south boundary CSX railroad, north boundary Bayview Avenue, east boundary Anglada Street, and west boundary Interstate-110.

PURPOSE OF THE DISTRICT

The primary purpose for the redesign and reconstruction Caillavet Street is to connect Bayview Avenue and Hwy. 90 via a four-lane boulevard. Caillavet Street is one segment of a ring road concept being developed to provide improved vehicular access along the perimeter of the East Biloxi area. This ring road will connect two of the three most prominent areas for casino gaming and help bring Downtown Biloxi and Point Cadet together with a variety of appealing destinations.

The purpose and intent of the designation of the Caillavet area as a Corridor Redevelopment District (CRD) is to encourage and enhance property redevelopment into a neo-traditional business district with distinguishable characteristics. The goal is to establish a revitalized corridor of mixed-use commercial and residential development for Gulf Coast residents as well as tourists, creating a vibrant atmosphere that reflects a consolidated theme along a street. These redevelopment goals will be accomplished by setting forth guidelines and regulations to guide the enactment of the CAILLAVET CRD. Additional goals that will be met through the establishment of this district include:

- ✓ Protection of adjacent residential land uses.
- ✓ Enhancement of the commercial status of the corridor.
- ✓ Reduction of the visual distraction through uniform sign and lighting criteria.
- ✓ Clustering of complementary uses.
- ✓ Provisions of architecture design guidelines.
- ✓ Encourage the construction of pedestrian oriented facilities both private and public.
- ✓ Installation of special landscape features at major intersections.
- ✓ Promote infill development by encouraging mixed-use development within the redevelopment area.
- ✓ Increase the property values within the redevelopment area by creating an active center that will attract residents and visitors to the redevelopment area.

The concepts and guidelines set forth in this manual are not new. A number of cities throughout the United States have used the idea of mixed-use development and new "town centers." Some of the successful destinations within our region are Downtown Chattanooga, Tennessee, Beale Street and Peabody Place in Downtown Memphis, Tennessee, and the Southside in Birmingham, Alabama.

All these destinations encourage patrons to drive considerable distances to experience a neo-traditional or unique downtown feel. The characteristics that attract patrons to these areas are:

open-air townscapes;
walkable streets;
human-scaled architecture;
eye catching detail;
attractive public spaces; and
urban amenities.

As a part of this redevelopment effort, business owners locating in the Caillavet Corridor Redevelopment District will be required to conform to certain standards that will promote overall design consistency through project review and permitting. These standards are provided below.

LAND USES

1. Retail uses shall be made accessible through pocket parking and pedestrian friendly sidewalks in a linear manner along the east and west sides of Caillavet Street.
2. Infill development shall be encouraged to promote the goal of creation of a high density, mixed-use urban center.
3. A mix of uses is critical to the success of the redevelopment area. The following uses are listed in order of their perceived importance to this goal:
 - a. Restaurants, especially specialty restaurants;
 - b. Retail, especially specialty/destination retail;
 - c. Residential;
 - d. Offices;
 - e. National chain retail; and
 - f. National chain restaurants.
4. Restaurants shall be permitted to operate outdoor cafes on sidewalks and courtyards provided that pedestrian circulation and access to entrances are not impaired. In addition, the following are required for outdoor dining:
 - a. A minimum 6 feet of clear walkway along curb and leading to entrance of establishment shall be free of tables and other impediments;
 - b. Awnings, canopies or umbrellas shall be provided for shade; and
 - c. Additional trash receptacles shall be provided.
5. Increased density of residential areas within and adjacent to the redevelopment area shall be achieved through the use of infill apartment and townhouse construction as well as through the addition of garage apartments and backyard bungalows.

6. No outside storage as defined by the Biloxi Zoning regulations shall be allowed in this redevelopment area without approved screening
7. Fencing shall be of wood, masonry, stucco, cast iron, or wrought iron or better construction, and shall not be erected closer to the street than the front edge of the building improvements. All fences shall be stained or painted. Chain link fences will not be allowed without a landscaping buffer to fully screen them as approved by the City Arborist.

BUILDINGS

1. A consistent “style” for new architecture in the redevelopment area is not necessary. However, new buildings shall address issues of height, massing, silhouette, and placement/rhythm of windows, bays, doorways, and other features to lend a consistent visual texture to the street wall, maximizing their visual compatibility with existing buildings and with each other. The front building facade shall be a minimum 25 feet wide.
2. New infill development shall be planned to create continuous “street wall” of building facades on both sides of the street, giving the street a comfortable sense of enclosure and human scale. Landscaping will be used to create “street wall” in the areas where pocket parking is located.
3. Buildings shall be built close to the street, adjacent to the public sidewalk, to give the street a sense of enclosure and containment.
4. Gaps in the street wall may occur from pocket plazas or parking areas. These areas may be softened by masonry or brick walls no higher than 36” with landscaping buffers.
5. Block corners, focal points or points of visual termination shall generally be occupied by more prominent buildings and structures that employ enhanced height, massing, distinctive architecture treatments or other distinguishing features.
6. All buildings' sides fronting Caillavet Street shall have a minimum height of two stories to maintain a continuous “street wall” effect, and creating a pleasing sense of human scale.
7. The minimum street frontage per lot will be 50 feet.
8. Maximum building height shall not exceed five stories without mitigating architectural treatments, such as step-backs.
9. **Building Features**
 - a. At least three of the following amenities shall be provided for each project constructed:

- 1) Buildings shall extend the width of the front of the lot, excluding access walkways, drives and pocket parking areas.
 - 2) At least 25 percent of a building's street face at grade shall be windows, but no more than 75 percent. (Required on buildings fronting Caillavet Street.)
 - 3) At least 40 percent of facades facing a street (excluding doors and windows) shall be comprised of masonry materials such as stone, brick, cast stone and colored fancy concrete masonry units (CMU).
 - 4) At least 75 percent of the front facade shall contain a canopy or arcade to provide pedestrians with shade and rain protection.
- b. Corrugated sheet metal and smooth CMU shall only be used as an exterior material when complementary to the streetscape.
 - c. Mechanical equipment and piping shall be screened from view from public areas.
 - d. Trash receptacles and loading docks shall be screened from view by masonry walls that match the building's primary facade materials. Trash receptacles shall be placed at the rear of the building.
10. The first floor of all buildings shall engage the interest of the pedestrian:
 - a. All shall have well-defined main entrances for people on the sidewalk.
 - b. All shall have windows to pique interest and lend to the wall a sense of transparency.
 - c. No blank walls shall face the sidewalk.
11. All new buildings shall be painted using subdued tones. Bright colors are discouraged.
12. New construction shall avoid long, horizontal building forms, which shall instead be broken into smaller vertical elements to replicate the rhythm of the traditional downtown street.
13. Building window design and placement shall contribute to a consistent visual texture for the street wall to be achieved through the use of rectangular windows with a vertical orientation, tied together from one building to the next in horizontal bands.
14. Mechanical equipment on the backs of buildings shall be screened from view, and piping shall not be exposed.
15. All communications, electrical and mechanical equipment shall be underground from the point of service at the lot line to the building. No equipment shall be installed in the front yard. Visual screening consisting of ornamental fencing or landscaping shall be placed around all electrical and mechanical equipment to conceal them from view.
16. The use of overhead doors facing Caillavet Street is prohibited. All overheads shall be located at rear of the building or at the side with approved screening.
17. New buildings shall be constructed above or level with the new grade of Caillavet Street.

18. All new buildings shall be constructed on a concrete slab.

19. Setbacks

- a. The building facade facing the Caillavet Street side must meet a 5 foot setback from the property line.
- b. No side yard setback is required.
- c. A 20 feet rear yard setback is required when commercial property abuts single family residential-zoned parcels.

PARKING

- 1. No parking shall be located between a building and the front property line. Parking shall be located (in order of priority):
 - a. At the rear of buildings.
Public entrances to buildings from rear parking lots are encouraged.
 - b. Shared driveways from the street.
If practical, these should be shared between adjacent properties to minimize the gaps between buildings.
 - c. At a consolidated location where parking for 2 or more businesses are located (including a parking structure).
 - d. At the side of buildings.
- 2. There shall be no parking in front of the building between the storefront and sidewalk.
- 3. Shared access drives and parking lots shall be utilized whenever possible to reduce development costs, improve driver and pedestrian safety, increase the efficiency of streets, and minimize gaps in the street wall.
- 4. In the event that surface parking lots are located adjacent to the sidewalk, they shall be defined and partially screened with low plants and/or street trees.
- 5. All driveways and parking areas, on any lot, shall be paved with either concrete, asphalt of quality suitable for the intended traffic, or other approved materials. Entrances from public roads shall be provided with radii for the intended traffic.
- 6. Curbs and gutters shall be used to define all parking areas and control water run-off.
- 7. Off-street paved parking spaces, at least nine feet wide and twenty feet-long exclusive of access or maneuvering area, ramps and other appurtenances, shall be located off the street right-of-way as follows:
One space for each four hundred square feet gross area in the building.

8. Parking for mixed-use projects shall be reduced based on the extent of the mixture as provided for in the Zoning Ordinance or Land Development Ordinance of the City of Biloxi.
9. No on-street parking shall be used in calculating minimum parking requirements, unless its use is approved by the City.
10. Where parking is located adjacent to the sidewalk, a landscape screen shall be provided which includes a minimum of 5 feet of landscaping bed that includes 1 shade tree per every 35 feet. If approved, a three foot masonry wall separating parking from the sidewalk may be provided in addition to the required landscaping.
11. Surface parking lots shall contain a minimum of one tree for every 7 parking spaces.
12. Where there is an alley, other access drives may be prohibited. Where drives are allowed, parking access drives may not be located closer than 50 feet from an intersection or other access drives.

WALKABILITY

1. Sidewalks fronting on Caillavet Street shall be designed with a minimum of 8 feet ~~(40 feet when fronting Caillavet Street)~~ of walkway, and a street tree and furnishing strip along the curb separating the street from the walk itself. The minimum width for the street tree strip is 7 feet. Sidewalks on adjacent streets shall be designed with a minimum of four feet of walkway.
2. Crosswalks shall be designed for maximum safety and visibility of the pedestrian, and to support the fact that the redevelopment corridor is a distinctive and walkable redevelopment area.
 - a. Special paving can be used to visually extend the pedestrian way across the street.
 - b. Where appropriate, pedestrian “bulb-outs” can be extended to shorten crossing distance and enhance pedestrian visibility.
3. Paving for public walks shall be neutral and understated, with repetition of a limited palette of material (such as warm tone concrete and brick) in simple patterns serving as a unifying element in the redevelopment area.
4. Paving and materials shall be designed to identify and separate different zones in the sidewalk environment, i.e., walk zone vs. tree and furnishings zone.

LANDSCAPING

1. Street trees shall be tall canopy trees, trimmed to an eight foot, bottom branching height. These will shade the sidewalk environment, will not obstruct pedestrian movement, will

define the pedestrian space between street and buildings, and will visually blend contrasting building facades.

2. Street trees shall (generally) be spaced at no more than 35 feet apart.
3. Small ornamental trees are best used as accents, focal points, for enclosure and for screening. They shall not be used as street trees where their low crowns obstruct visibility and “eat up” sidewalk space.
4. Plant materials shall be as follows:
 - a. Street trees shall be a minimum 12 feet in height and 2.5-inch caliper.
 - b. Street trees shall be limited to one of the following species:
Alexander Palm (*Ptychosperma elegans*),
Southern Red Oak (*Quercus shumardii*), or
To be supplemented by E. Nolan
 - c. No minimum site landscaping required, except for parking areas. Additional landscaping consistent with the public green space is encouraged within the building’s five foot setback from the property line.

SIGNAGE

1. Simplicity is the key factor to good signage design and readability. Signs shall use bold, easily recognizable symbols, clear crisp lettering and a minimum of words to communicate effectively and to enhance the building, street and area.
2. Building signs shall fit within existing facade features and shall not interfere with door and window openings, conceal architectural details or obscure the composition of the facade where they are located.
3. Signs on adjacent storefronts on the same building shall be coordinated in height and proportion, and shall be encouraged to use the same sign format.
4. Pictures, symbols and logos can add individuality and character to signs, in addition to making them easier to read.
5. On most signs, no more than three colors should be used: one for background (preferably dark), a contrasting color for lettering, and sometimes a third for emphasis (borders, motifs, or shaded lettering). Examples of preferred background colors are burgundy red, forest green, chocolate brown, black, charcoal, and navy blue. Preferred lettering colors are ivory, white or gold. Exceptions may occur when an illustration is used on the sign, in which case, complementary colors should be used. The principle colors chosen should complement the general tone of the building. A dull or matte finish is recommended to reduce glare and enhance legibility.
6. Sign materials must be durable and weatherproof.

7. Sign materials shall take cues from construction materials and architectural style of the building on which they are displayed. For this reason, natural materials such as wood and metal are appropriate. Wood signs shall use only high-quality exterior grade wood with suitable grade finishes.
8. Internally lit plastic signs are out of context with the neo-traditional concept for the area and shall not be used. However, internally lit individual letters (with plastic translucent face) may be used.
9. Lettering styles shall complement the style and period of the building. Traditional block and curvilinear styles that are easy to read are preferred. No more than two different lettering styles shall be used on the same sign to avoid a cluttered appearance.
10. Signs shall be lit to enhance evening image and activities. In most cases, direct illumination from a shielded light source will be most appropriate. Light shall be contained within the sign frame and shall not significantly spill over to other portions of the building or site. Internal illumination is generally discouraged, but may be appropriate in certain circumstances, such as:
 - a. Individual backlit letters which are silhouetted against softly illuminated wall,
 - b. Metal-faced box signs with cutout letters and soft-glow fluorescent tubes, and
 - c. Traditional movie marquee signage on a theater.
11. Certain signs are permitted, provided that no sign shall be permitted which is not an accessory to the business occupying the property and then only if in compliance with the following requirements:
 - a. Signs may be erected providing the sum area of all signs doesn't exceed two square feet per linear foot of building frontage. The total area of business signs shall not exceed one hundred square feet. Such signs shall be attached to the principal building and shall not extend beyond the roof line.
 - b. In addition to building signs, each individual lot may have one freestanding sign that is accessory to the business conducted to the premises. The sign may only be utilized during the hours of business and must be removed during off hours. All freestanding signs must meet the following standards:
 - 1) The height shall not exceed five feet;
 - 2) Width shall not exceed three feet;
 - 3) Signs with flashing, blinking, or pulsating lights are prohibited; and
 - 4) Signs with motion, sound or animation are prohibited.
12. Site information signs shall be allowed as provided for in the Zoning Ordinance or Land Development Ordinance of the City of Biloxi.
13. No flashing or running light signs shall be allowed.

14. No pole signs shall be allowed.
15. No banners except for grand openings as permitted elsewhere in the Zoning Ordinance or Land Development Ordinance of the City of Biloxi.
16. As stated earlier, the sum of all signs shall not exceed 100 square feet per building. A total of five signs will be allowed per building and may include the following types of signs:

a. Wall Signs

- 1) One wall sign per occupancy shall be allowed.
- 2) Maximum size is 30 square feet if located 12 feet or higher above grade; 10 square feet if less than 12 feet above grade.
- 3) Minimum 5-foot distance between wall signs (excluding building identification sign or directory sign).
- 4) In addition, one wall-mounted sign, not exceeding 6 square feet in area, is permitted on any side or rear entrance open to the public.

b. Projecting and hanging signs, including graphic or icon signs, mounted perpendicularly to the wall.

- 1) A maximum of one per occupancy shall be allowed.
- 2) A maximum area of six square feet per face; and a maximum of three feet in width.
- 3) Distance from the ground to the lower edge of the sign shall be 7.5 feet or greater.
- 4) Minimum fifteen-foot distance between signs. The height of the top edge of the signboard shall not exceed the height of the wall from which the sign projects, if attached to a single-story building, or the height of the sill or bottom of any second story window, if attached to a multi-story building.
- 5) In addition, one projecting and hanging sign, not exceeding 6 square feet in area, is permitted on any side or rear entrance open to the public.

c. Building Identification Signs

- 1) One per building face shall be allowed.
- 2) Maximum size 10 square feet.
- 3) Twenty-four inch maximum height for letters or logos.
- 4) Applied letters shall be constructed of painted cast metal, bronze, brass, or black anodized aluminum. Applied plastic letters are not permitted.

d. Awning Signs (for ground floor uses only)

- 1) One per occupancy per building face shall be allowed.
- 2) Minimum 7.5 feet above sidewalk level for pedestrian clearance.
- 3) Ten square feet maximum sign area.

- 4) If acting as the main business sign, it shall not be in addition to a wall-mounted sign.
- 5) If acting as an auxiliary business sign, it shall be located on the valance only, and the height of the lettering shall not exceed 4 inches.

e. Building Directory Signs

- 1) One per entrance shall be allowed.
- 2) The sign shall be located next to the entrance.
- 3) The sign shall not project out from the wall to which it is attached more than 6 inches.
- 4) The sign shall not extend above the parapet, eave or building facade.
- 5) Maximum size shall be eight square feet.

- f.** Food and beverage establishments shall be permitted one wall-mounted display per business featuring the actual menu as used at the dining table, to be contained within a shallow wood or metal case, and clearly visible through a glass front. The display case shall be attached to the building wall, next to the main entrance, at a height of approximately four feet, shall not exceed a total area of two square feet, and may be lighted.

STREET FURNISHINGS

1. Street furnishings shall be grouped or clustered to the extent possible to reduce visual clutter and impediments to pedestrian circulation. Street furnishings shall be reviewed and approved by the City and may include:
 - a. Benches;
 - b. Drinking fountains;
 - c. Information kiosks;
 - d. Bicycle racks;
 - e. Trash receptacles;
 - f. Telephone kiosks;
 - g. Newspaper dispensers;
 - h. Plant containers; and
 - i. Street lights.
2. Locate furnishings, including light poles, so that they do not obstruct pedestrian traffic or create bottlenecks. On restricted sidewalk environments (where existing buildings are built closer than 16 feet to the curb), they shall be located in the 5 to 7 foot wide "tree and furnishing strip" next to the street curb to the extent possible.
3. Post-mounted lights shall not exceed twelve feet in height and shall comply with the City's Standards and Specifications Manual.

4. The use of pole mounted high pressure sodium utility/security lights on private property is prohibited.
5. Outdoor seating for cafes or restaurants shall be located where there is:
 - a. Shade during heat of the day,
 - b. Air flow in summer, and
 - c. Protection from prevailing wind during winter.Public seating, if provided, shall be a minimum of 3 feet from curb of street.
6. The walls of raised planters shall be of adequate thickness and suitable height to serve as seating (no more than 36 inches). This is desirable, also, because canopy trees in planters can create a shaded environment for sitting.
7. Existing MDOT traffic signals, City of Biloxi traffic signals and downtown street light poles shall be modified to reflect the design treatments described in the MUTCD.
8. Bury or relocate overhead utility lines in the Redevelopment area.