

CHAPTER 2. DEFINITIONS AND RULES OF CONSTRUCTION

2.1.1. General Rules of Construction

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

- (1) In their application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion and protection of the public health, safety and general welfare, and shall be construed to achieve the purposes for which this Ordinance is adopted.
- (2) In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance and applying to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts which are set forth in Chapter 9 shall control in the event of any conflict between those regulations and the regulations which are set forth in Chapter 8 for the underlying zoning district, regardless of whether they are more strict or less strict than the regulations for the underlying district.
- (3) In the event of a conflict or inconsistency between the text of this Ordinance and any caption, figure, illustration, table, or map contained herein, the text shall control.
- (4) The words "shall", "must", and "will", are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive in nature. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.
- (5) Any act authorized by this Ordinance to be carried out by a specific official of the City is implicitly authorized to be carried out by a designee of such official.

2.1.2. Interpretation of District Boundaries

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

- (1) Where the Official Map shows a zoning district boundary line located within or following a street or alley right-of-way, railroad or utility line

right-of-way, easement, or waterway, the district boundary shall be considered to be in the center of the right-of-way, easement, or waterway. If the actual location of such right-of-way, easement, or waterway, as indicated in a recorded legal description of such, varies slightly from the location shown on the Official Map, then the actual location shall control.

- (2) Where the Official Map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall control.
- (3) Where the Official Map shows a district boundary to approximately coincide with a property line or municipal border, the property line or municipal border shall be considered the district boundary, unless otherwise indicated on the map.
- (4) Where the Official Map shows a district boundary to not coincide or approximately coincide with any street, alley, railroad, waterway, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the Official Map.
- (5) Where the Official Map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this Ordinance for the zoning district in which that part is located.

2.1.3. Conflict or Inconsistency with Other Laws, Covenants, or Deed Restrictions

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

lesser number of stories, or a greater percentage of lot to be left unoccupied, or impose other standards which are higher than those set forth in this Ordinance, then the provisions of such statute, ordinance, or regulation shall govern.

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

2.1.4. Definitions

When used in this Ordinance, the following words and terms shall have the meaning set forth in this Section, unless other provisions of this Ordinance specifically indicate otherwise:

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

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

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

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

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

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

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

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

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

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

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

ADULT MOTEL: An establishment which includes the word "adult" in any name it uses or otherwise advertises the presentation of adult material offering public accommodation for any form of consideration, which provides patrons with closed-circuit televised transmissions, films, motion pictures, video

cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

- (1) photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe "specific sexual activities" or "specified anatomical areas"; and,
- (2) instruments, devices or paraphernalia that are designed for use in connection with "specified sexual activities".

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

AMUSEMENT ESTABLISHMENT: An establishment offering sports, theatrical productions, game playing, or similar amusements to the public within a fully enclosed building. This shall include, but are not limited to, theaters, bowling alleys, billiard parlors, and skating rinks. This shall not include recreation centers or such amusements that are an accessory building or structure to churches, schools, or colleges.

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

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

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

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

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

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

AUTOMOBILE SERVICE STATION: Any building, structure, or lot used for one or more of the following:

- (1) dispensing, selling, or offering for retail sale, gasoline, kerosene, lubricating oil, or grease for the operation and maintenance of automobiles, including the sale and installation of tires, batteries and other minor accessories and services for automobiles; or
- (2) the business of repairing automobiles. This shall not include car washes, the retreading and/or recapping of tires, or convenience stores which sell gasoline or lubricating oil, but not other automotive accessories or services.

AVERAGE PER CENT SLOPE: For the purpose of determining required buffers along watercourses, the sum of the slopes adjacent to a watercourse divided by the number of locations at which the slope was calculated. The determination of the average percent slope shall consist of not less than three (3) locations along the watercourse, with a distance of no greater than five hundred (500) feet between locations. All calculations of the average percent slope shall include the location along the watercourse with the steepest slope. For the purpose of measuring

the slope of other land areas, the sum of the slopes of the land area shall be divided by the number of locations at which the slope was calculated. The determination of the average percent slope shall be made at intervals not less than five hundred (500) feet apart, and shall be measured from the top of the slope or the upper boundary of the land area being measured, whichever is lower, to the bottom of the slope or the lower boundary of the land area being measured, whichever is higher.

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

BARNES CROSSING OVERLAY DISTRICT: Any area that is designated by the City of Tupelo, Mississippi as associated with the Barnes Crossing Commercial Area and having specific zoning, subdivision and design requirements that are established to promulgate the overall cohesiveness of the designated area's use, appearance and economic activity.

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

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

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

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

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

BREAKAWAY WALL: Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which is not part of the structural support of the building and which is designed to break away during floods without damage to the structural integrity of the building on which they are used

or any buildings to which they might be carried by flood waters.

BROADCASTING STUDIO: A programming origination studio of a television station, radio station, or cable television provider.

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

BUFFER: A strip of land that is used to separate land uses from each other or to separate development from a stream or other water body, as required by this Ordinance in Chapter 13 Part 2.

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

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

BUILDING, ACCESSORY: See ACCESSORY BUILDING.

BUILDING CODE (S): The Standard Building Code, National Electric Code, Standard Gas Code, Standard Housing Code, Standard Plumbing Code, Standard Swimming Pool Code, Standard Mechanical Code, Standard Fire Prevention Code, and/or Standard Life Safety Code, used singularly or any combination thereof.

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

BUILDING PERMIT: A permit issued by the Building Department pursuant to Chapter 5, Part 11 of this Ordinance and the State building code.

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

BUILDING SETBACK LINE: A line establishing the minimum allowable distance between the

- nearest portion of any building and a property line when measured perpendicularly thereto.
- BUILDING WALL:** An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and the eaves of the building, used to enclose the space within the building. A porch, balcony, or stoop is part of the building structure and may be considered as a building wall.
- BUILD-TO LINE:** A line establishing the maximum allowable distance between the principal front elevation of a building and the property line when measured perpendicularly thereto. In the Fairgrounds sub-district, the build-to line replaces the front setback line. The principal front elevation must be built to the build-to line.
- CALIPER:** A method of measuring the diameter of a tree trunk for the purpose of size grading. The caliper of the trunk is measured six (6) inches above the ground, up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger sites. Caliper measurement is taken with a "slot" or "pincer" type caliper instrument or diameter tape.
- CANOPY:** A structure constructed of rigid materials, including but not limited to, metal, wood concrete, plastic, canvas or glass, which is attached to and supported by a building, or which is free-standing and supported by columns, poles, or braces extended to the ground.
- CANOPY TREE:** See TREE, CANOPY.
- CAR WASH:** A commercial establishment that washes automobile or other motor vehicles, whether or not in conjunction with other goods or services provided to customers.
- CELL SITE:** A tract or parcel of land that contains the cellular communications antenna, its support structure, accessory buildings, and parking and may include other uses associated with and ancillary to cellular communication transmissions.
- CELLULAR TELECOMMUNICATIONS:** A Commercial Low Power Mobile Radio Service licensed by the FCC in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups of geographic cells within a service area and which are capable of being reused in different cells within the service area.
- CITY COUNCIL:** The City Council of the City of Tupelo, Mississippi.
- CLIFF GOOKIN OVERLAY DISTRICT:** Any area that is designated by the City of Tupelo, Mississippi as being in a commercial zoning district between West Main Street and eight hundred (800) feet east of Lawndale Drive along Cliff Gookin Boulevard. This area has specific zoning, subdivision, and design requirements established to promulgate the overall cohesiveness of the designated area's use, appearance, and economic activity.
- CLINIC:** Any building or portion thereof, the principal use of which is for offices of one or more licensed physicians, ophthalmologists, dentists, veterinarians, physical or occupational therapists, psychologists, or the like for the examination and treatment of persons or animals on an out-patient basis only.
- CLUBS AND LODGES, CIVIC OR FRATERNAL:** Private not-for-profit associations, corporations, or other entity consisting of persons who are bona fide paying members and which own, lease, or use a building, a parcel of land, or a portion thereof, the use of such premises being restricted primarily to members and their guests, including offices for local, state and regional officials of that organization.
- COLLECTOR STREET:** A street that penetrates various land use classifications, and whose primary function is traffic service, collecting traffic from the streets intersecting it and funneling it to thoroughfares.
- COLLEGE:** An institution, other than a trade school, which provides full time or part time education beyond the high school level.
- CO-LOCATION:** Locating wireless communications equipment from more than one (1) provider on a single site or tower.
- COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES:** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.
- COMMON CARRIER:** An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

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

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

CONDITIONAL USE: A land use listed in Chapter 8 or 9 of this Ordinance as a "conditional use" in the zoning district in which it is located, and which is subject to the approval procedures set forth in Chapter 5, Part 4 of this Ordinance.

CONDOMINIUM: A dwelling that is subject to Mississippi Code 1972 Annotated Section 89 Chapter 9, "Condominiums."

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

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

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

CONVENIENCE STORE: A retail store with a floor area of less than five thousand (5,000) square feet, which sells groceries, gasoline, and/or beer and light wine, and is open fifteen (15) to twenty-four (24) hours a day, but not including an automobile service station.

COPING: The finished edge of a roof.

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

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

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

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

CUL-DE-SAC, NON-RESIDENTIAL: A cul-de-sac that serves abutting non-residential land uses.

CUL-DE-SAC, RESIDENTIAL: A cul-de-sac that serves abutting residential land uses.

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

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

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

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

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

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

nursing care, more than occasional medical care and physical therapy.

DETACHED: Not physically connected to another building or structure.

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

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

DEVELOPER: The owner or occupant of a lot or parcel of land, or the person or entity developing such land.

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

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

DIAMETER AT BREAST HEIGHT (DBH): The standard measure of a single stemmed tree at four and one-half (4½) feet above grade. When a tree has grown with cluster stems at

breast height, DBH shall be equal to the sum or aggregate of the diameters of the individual stems measured at four and one-half (4½) feet above the grade.

DIRECTOR OF PARK AND RECREATION: The Director of the Park and Recreation Department, or his or her designee.

DIRECTOR OF PLANNING AND DEVELOPMENT: The Director of the Planning and Development Department, or his or her designee.

DISTRICT: A zoning district established by Chapters 8 or 9 of this Ordinance.

DOWNTOWN OVERLAY ZONE: Any area that is designated by the City of Tupelo, Mississippi as associated with the traditional core area and having specific zoning, subdivision and design requirements that are established to promulgate the overall cohesiveness of the designated area's use, appearance and economic activity.

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

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

DWELLING: A building, or portion thereof, which is designed, arranged, or used for permanent living quarters for one (1) or more families. This term shall not include a motel, hotel, guest house, or other structure designed for transient residence.

DWELLING ATTACHED: A building which contains two (2) to four (4) dwelling units which share one (1) or more common walls for fifty percent (50%) or more of their width, with each dwelling unit located on a separate lot.

DWELLING, DETACHED: A building which is developed with open yards on all sides and contains one (1) dwelling unit, not being attached to any other building or dwelling unit and does not sit on the same lot as any other dwelling unit. This shall not include a manufactured home or mobile home.

DWELLING, DUPLEX: A building which contains two (2) dwelling units which share a no through access common wall and sit on the same lot,

with open yards on all sides and not being attached to any other building.

DWELLING, MULTI-FAMILY: A building, other than a townhouse, which contains three (3) or more dwelling units attached along and sharing one (1) or more common walls between and two (2) units and/or stacked one (1) above the other, or one (1) or more dwelling units located in the same building as a non-residential use in a non-residential zoning district. This shall include any such building regardless of the form of ownership (condominium or rental) of the individual dwelling units therein.

DWELLING, TOWNHOUSE: A building which contains two (2) to eight (8) dwelling units which share one common wall between two (2) adjacent units, with each unit on a separate lot.

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

EASEMENT: A grant by a property owner, to the public, a corporation, or other person or persons, of the right to use an identifiable piece of land for specified purposes, such as for utility lines or green ways.

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

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

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

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

ENCROACHMENT: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

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

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

EXISTING CONSTRUCTION (FOR THE PURPOSE OF FLOODPLAIN MANAGEMENT): Any structure for which a valid building permit was issued prior to January 17, 1978.

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

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

FAA: Shall mean the Federal Aviation Administration.

FAMILY: One person or a group of persons related by blood or marriage, plus up to three (3) additional unrelated persons.

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

FARM MARKET: An area which is used on a temporary basis by one (1) or more operators of bona fide farms for the sale of agricultural products which are not grown or raised on the same premises as the market.

FCC: Shall mean the Federal Communications Commission.

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

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

FLEX SPACE: Commercial property designed to accommodate office, service, and limited retail uses in combination with warehouse/distribution facilities. Flex space properties must have separate areas for customer access and for truck and service vehicle access and must meet additional building and landscaping requirements.

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

FLOOD FRINGE: That part of an area of special flood hazard that is not located in the floodway.

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

FLOOD INSURANCE RATE MAP: An official map of a community, issued by the Federal Emergency Management Agency, which delineates both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report, provided by the Federal Emergency Management Agency, which contains flood profiles as well as the Flood Hazard Boundary Map or Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN: Any land area susceptible to flooding.

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

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

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

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

FURNITURE SALES AND SHOWROOM: An establishment that sells and warehouses furniture in a showroom display.

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

GREEN WAY: A linear open space, either privately-owned or owned by the Town or another unit of government, which contains a trail for walking, bicycling, horseback riding or other passive recreation, but not for use by vehicles for purposes other than maintenance of the green way.

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

GROUP HOME: A dwelling shared by four (4) or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long term, family-like environment. The staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible in order to reach their maximum potential.

As used herein, the term "handicapped" shall mean having: 1) a physical or mental impairment that substantially limits one or

more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include alcoholism or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

HALFWAY HOUSE: A licensed home (state or federal) for inmates on release from more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

HARDSHIP (as related to variances of this ordinance): The exceptional hardship that would result from a failure to grant the requested variance. The City of Tupelo requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval on one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the owner to build elsewhere or put the parcel to a different use than that originally intended.

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

HISTORIC DOWNTOWN CONSERVATION OVERLAY DISTRICT: The area designated by the City of Tupelo, Mississippi with the historic downtown residential neighborhood shown in Figure 9.5.1 and having specific zoning, landscaping and design requirements that are established to maintain and preserve the area's residential character (the "Downtown Neighborhood").

HISTORIC STRUCTURE: Any structure that is:
(a) listed individually in the National Register of Historic Places or preliminarily determined by

the Secretary of Interior as meeting the requirements for individual listing in the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district; (c) individually listed on the Mississippi inventory of historic places; (d) individually listed on a Tupelo or other local inventory of historic places in communities with historic preservation programs that have been certified

- (1) by an approved state program as determined by the Secretary of Interior, or
- (2) directly by the Secretary of Interior in states without approved programs.

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

HOME BUSINESS: A home occupation that allows customers and other activities as specified in this ordinance.

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

HOSPITAL: A public or private institution, whether organized for profit or not, which is devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of two (2) or more unrelated persons, whose principal residence is located elsewhere, and who are admitted for overnight stay or longer in order to obtain medical or psychiatric treatment for illnesses, diseases, injuries, and deformities.

HOSPITAL, ANIMAL: A public or private institution, whether organized for profit or not, which is devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of animals which are admitted for overnight stay or longer in order to obtain veterinary treatment for illnesses, diseases, injuries, and deformities.

HOTEL OR MOTEL: A building or a group of buildings containing sleeping rooms, designed for and rented to temporary guests.

IMPERVIOUS AREA: That portion of the land area, which, due to human modification, allows little or no infiltration of precipitation into the soil. Impervious areas shall include, but not be limited to, streets, driveways, parking area, patios, and rooftops.

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

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

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

JUNK VEHICLE: Any motor vehicle that does not have a current Mississippi inspection sticker and motor vehicle registration plate and that meets one or more of the following requirements:

- a. is partially dismantled or wrecked; or
- b. cannot be self-propelled or moved in the manner in which it was originally intended to move; or;
- c. is more than ten (10) years old and has an approximate fair market value equal only to the approximate value of the scrap in it.”

For the purpose of this Ordinance, a trailer, camper or boat without a current registration plate shall be considered a junk vehicle.

JUNKYARD: Any land used, in whole or in part, for commercial or industrial storage, dismantling, and/or sale of waste paper, rags, scrap metal, motor vehicles, machinery, or other junk outside of an enclosed building. This shall not include a publicly-owned landfill, solid waste transfer facility, or other public utility facility, or a recycling and salvage operation.

LAKE OR NATURAL WATERCOURSE: Any stream, river, swamp, canal, or other

waterway, and any reservoir, lake, or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by the accumulation of sediment.

LAND DEVELOPMENT PROJECT: An interrelated set of developments, approved by the City pursuant to a subdivision plat, planned unit development, master land use plan, or other plan for development.

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

LAND-DISTURBING ACTIVITY: Any use of the land by any person for residential, industrial, educational, institutional, or commercial development, or for highway and road construction and maintenance, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Within watershed management areas, land-disturbing activity shall include the clear cutting of trees unless specifically exempted under Section 5.9.1 of this Ordinance.

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

LANDSCAPED AREA: A portion of the site or property containing vegetation to exist after construction is completed. Landscaped areas can include, but are not limited to, natural areas, buffers, streetscapes, lawns, and plantings.

LANDSCAPED BUFFER: A unit of land, together with a specified type and amount of planting, that may be required between land uses to eliminate or minimize conflicts between them.

LANDSCAPING PLAN: Those site-plan application requirements listed in Section 5.7.5 and 13.2.

LIFE CARE COMMUNITY: A building or group of buildings which contains dwelling units where the occupancy is restricted to persons who are at least sixty-two (62) years of age, or married couples in which one (1) of the persons is at least sixty-two (62) years of age, and which provides nursing and/or medical care as well as support services, such as common dining facilities, retail stores, and personal service

establishments, which are operated by the owner of the life care community or lessees of the owner. Life care communities are those designed to meet the residents' basic needs for shelter, food, and health care, regardless of the level of independence of the individual resident and regardless of how these needs may change over time.

LIGHT, CUTOFF: An artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

LIGHT, NON-CUTOFF: An artificial outdoor lighting fixture designed to allow light to be directly emitted above a horizontal line parallel to the ground.

LIMITED ACCESS THOROUGHFARE: See THOROUGHFARE, LIMITED ACCESS.

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

LOOP STREET: A street that originates and terminates at intersections with the same street.

LOOP STREET, RESIDENTIAL: A loop street that serves abutting residential land uses.

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

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

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

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

LOT WIDTH: The width of a lot that complies with the minimum lot width requirements (Chapter 8) calculated by any one of the following three methods:

- (1) the average of the distances between the side lot lines, measured along the rear and the front lot lines; or
- (2) the distance between the side lot lines, measured at the midpoint of each side lot line between the front lot line and the rear lot line; or
- (3) the distance between the side lot lines as measured at the building setback line; provided that the width at the street property line is not less than twenty (20) feet.

LOWEST FLOOR: The lowest floor of the lowest enclosed area of a building, including the basement. An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access, or storage, in an area other than a basement area, shall not be considered the lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Chapter 5, Part 8 of this Ordinance.

MAJOR ENTRANCE: An entrance or entrances leading from collector streets, major thoroughfares, or highways to subdivisions, multi-family uses, planned unit developments, industrial, commercial, or office and institutional subdivisions as determined by the Director of Planning and Development.

MANUFACTURED HOME: A structure, transportable in one (1) or more sections, which in the traveling mode is at least eight (8) feet wide or forty (40) feet long, or which when erected on site is at least three hundred, twenty (320) square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. This includes any structure that meets all of the requirements of this definition, except for the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), as amended. This term does not include a "Recreational Vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel, or contiguous

parcels, of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME PARK OR

SUBDIVISION, NEW: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (at a minimum including the installation of utilities, the construction of streets, and either final site grading or pouring concrete slabs) is completed on or after January 1, 1993.

MANUFACTURING, HEAVY: The assembly,

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

MANUFACTURING, LIGHT: The assembly,

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

MARGINAL ACCESS STREET: A street that serves traffic generated by adjacent land uses that are non-residential.

MEAN SEA LEVEL: The average height of the sea for all stages of the tide.

MINOR ENTRANCE: A street entrance or entrances leading from collector streets or marginal access streets to subdivisions, multifamily developments, industrial, commercial, office and institutional uses, and planned unit developments as determined by the Director of Planning and Development.

MOBILE HOME: A movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis, for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two (2) or more such units which are separately towable but designed to be joined into one (1) dwelling unit.

MOBILE HOME PARK: Any site of tract of land, with two (2) or more lots provided for lease or rental only, upon which mobile home spaces are provided for mobile home occupancy. Service buildings and areas necessary to provide laundry, sanitation, storage, vending machines, and other similar services provided by the facility operator primarily for the use and convenience of mobile home occupants, recreation buildings, areas, and customary accessory buildings and facilities necessary for the operation and serving of the mobile home park in which they are located.

MOBILE HOME SPACE: A plot of land within a mobile home park designed for the accommodation of a single mobile home.

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

MULTI-FAMILY DEVELOPMENT: Two (2) or more multi-family dwellings located on a single property.

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

NATIONAL GEODETIC VERTICAL DATUM

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

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

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

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

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

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

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

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

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

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

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

NURSING HOME: A home for elderly, chronically ill, infirm, or incurable persons, or a place of rest for those suffering bodily disorders, in which three (3) or more persons, not members of a family residing on the premises, are provided with food, lodging, and medical care, including congregate care facilities but not including hospitals, clinics, or live care communities (even though a life care community may include a nursing home as one (1) of its components).

NURSING HOME DWELLING UNIT: A room or other portion of a nursing home intended for no more than two (2) persons.

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

OFFICE: A use or building where the business conducted which does not primarily involve the sale or transfer of goods by the business to the customer at that location. This includes, but is not limited to, general business offices, government offices, insurance offices, law offices, real estate sales, and management offices.

OFFICE PARK: A subdivision or planned unit development containing more than one office building.

OPEN SPACE: Any portion of a parcel or area of land or water which is open and unobstructed by structures from the ground to the sky including areas maintained in a natural and undisturbed character. Open space may include recreational facilities such as swimming pools, golf courses, green ways, and tennis courts.

OVERLAY DISTRICT: A district, as established in Chapter 9 of this Ordinance, which applies supplementary or replacement regulations to land which is classified into a general use district or conditional use district.

PARAPET WALL: That portion of a building wall that extends above the level of the roofline.

PARK: Land owned by the City of Tupelo, the State of Mississippi, or another unit of

- government, which is used or intended to be used for public recreation, including, both active or passive recreation.
- PARKING SPACE, OFF-STREET:** A space designed for the parking or temporary storage of one automobile, and is located outside of a dedicated street right-of-way.
- PEAK HOUR TRIPS:** The greatest number of vehicle trips generated by a unit of new development during any sixty (60) minute period in a given day.
- PENNANT:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string, or pole, usually in series, and which is designed to move in the wind.
- PERMITTED USE:** A land use listed in Chapter 8 or 9 of this Ordinance as a "permitted use" in the zoning district in which it is located, and which is subject to the approval procedures set forth in Chapter 5, Part 2 of this Ordinance.
- PERSON:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution utility cooperative interstate body, or other legal entity.
- PERSONAL CARE HOME:** A home or institution that gives personal care to aged or infirm, ambulant persons who are not in need of nursing care.
- PERSONAL COMMUNICATION SERVICE (PCS):** Digital or analog wireless telecommunications technology such as portable telephones, pagers, faxes and computers; also known as Personal Communication Network (PCN).
- PERSONAL SERVICE ESTABLISHMENTS:** A business which provides personal services directly to customers at the site of the business, or which receives goods from or returns goods to the customer which have been treated or processed at that location or another location. This includes, but is not limited to, travel agencies, dry-cleaners, laundries, tailors, hair stylists, cosmeticians, toning or tanning salons, banks, postal stations, package delivery drop-off and pick-up stations, photocopy centers, shoe repair shops, appliance repair shops, interior design studios, dance and martial arts studios, and domestic pet services. This shall not include automobile service stations.
- PHASE OF GRADING:** One (1) of two (2) types of grading: rough or fine.
- PLANNED UNIT DEVELOPMENT:** A tract of land under single ownership, or under common control, evidenced by duly recorded contracts or agreements approved by the City Council, that is planned and developed as an integral unit in a single development operation or in a programmed series of development operations in accordance with a master land use plan and detailed engineering and architectural plans as approved by the City Council.
- PORCH:** A projection from an outside wall of a dwelling which is covered by a roof and/or sidewalls (other than the sides of the building to which the porch is attached) and which is no more than two (2) feet in height. A porch which projects beyond a required yard, setback, or building restriction line may be screened, but may not be enclosed with glass, жалousies, canvas, plastic, or any solid material to a height greater than two (2) feet.
- POROUS PAVEMENT:** A pavement surface used for vehicular use areas that are privately maintained, in which water can penetrate the surface so as to percolate to the soil beneath.
- PORTICO:** A porch or walkway, open to the outside air that is covered by a roof which is supported by columns or pillars, typically leading to the entrance of a building.
- PROPERTY:** All real property, subject to the provisions of this Ordinance.
- PROTECTIVE COVER:** See GROUND COVER.
- PROTOTYPE PROCESS AND PRODUCTION PLANTS:** A building or operation in which processes planned for use in production elsewhere can be tested, or in which goods are produced only in a quantity necessary for full investigation of the merits of a product, but not including the production of any goods on the premises primarily or customarily for sale or for use in production operations off the premises.
- PUBLIC SAFETY STATION:** A police, fire, or paramedic station operated, franchised, or regulated by a government agency.
- PUBLIC UTILITIES:** Any City approved water and/or sanitary sewer system, including collection and distribution lines, which is constructed to City standards, sizes, and specifications, conforms to the requirements of this Ordinance, and has been dedicated to and accepted by the City for operation and maintenance. For the purpose of this Ordinance, commercial wireless telecommunication services shall not be

considered public utility uses and are defined separately.

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

RADIO FREQUENCY (RF) EMISSIONS: Electromagnetic radiation emitted from antennas of varying strengths. RF emissions are regulated by the FCC.

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

RECREATIONAL CENTER: A building, enclosed structure, or facility for use by the public for recreational clubs and activities, such as country clubs, tennis courts, swimming pools, and/or gymnasiums. This shall include outdoor amphitheaters.

RECREATIONAL VEHICLE: A vehicle which is:
(a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or towable by a light duty truck; and (d) designed primarily for uses temporary living quarters for recreational, camping, travel or seasonal use.

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

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

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

REPEATER: A low-power mobile radio service telecommunications facility that extends coverage of a cell to areas not covered by the originating cell.

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

RESEARCH LABORATORY: A facility which is designed or equipped for basic or applied research or experimental study, testing, or analysis in the natural sciences or engineering, including any educational activities associated with and accessory to such research.

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

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

RESIDENTIAL STREET: A street whose primary function is to serve the immediately abutting residential land uses (that is, only local traffic generated by the residents near the street, with traffic volumes flowing from other intersecting residential streets not exceeding the traffic volumes generated by the land uses abutting the street.

RESOURCE CONSERVATION FACILITIES: Fish hatcheries and fishponds; game preserves; botanical and zoological gardens; water reservoirs and dams.

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

RESTAURANT: A business whose principal purpose is the sale of food in a state that is ready to eat, either on or off the premises.

RETAIL STORE: A building, property, activity, or portion thereof, the principal use or purpose of

- which is the sale of goods, products, or materials directly to the consumer. This includes, but is not limited to, clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, bookstores, florists, furniture stores, hardware stores, pet stores, toy stores, and variety stores. It does not include restaurants, personal service establishments, convenience stores, or amusement establishments.
- RETENTION FACILITY:** Any type of detention facility not provided with a positive outlet.
- RIGHT-OF-WAY:** An area owned or maintained by the City, the State of Mississippi, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.
- SATELLITE DISH ANTENNA:** Any antenna, including any supporting structure, designed to receive signals from orbiting satellites or similar sources, excluding microwave antennae.
- SCHOOL:** A privately-owned or publicly-owned elementary school, middle school, junior high school, or high school, which does not provide lodging for students, including any accessory athletic fields and recreational facilities.
- SECURED:** Placed in a concrete footing, holes with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure.
- SEDIMENT:** Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
- SEDIMENTATION:** The process by which sediment resulting from accelerated erosion has been or is being transported away from a land-disturbing activity or into a lake or natural watercourse.
- SHOPPING CENTER:** A building or group of buildings, either connected or free-standing, under unified or multiple ownership of land parcels, that is designed and has been approved by the City Council as a shopping center with common parking, pedestrian movement, ingress, and egress, and used or intended to be used primarily for the retail sale of goods and services to the public.
- SHRUB:** A low self-supporting (usually multi-stemmed) woody plant.
- SIGN:** Any object, device, or structure, or part thereof, which is placed outdoors or placed indoors so as to be seen from the outdoors, and 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 works, letters figures, designs, symbols, fixtures, colors, illumination, or projected images.
- SIGN, ATTACHED:** Any sign directly attached to an exterior wall of a building and dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure upon which the sign is affixed. Signs directly painted on walls are considered as attached signs.
- SIGN, AWNING:** A sign located on an awning.
- SIGN, BANNER:** Any sign that is made of a non-rigid material with no enclosing framework such as but not limited to cloth, fabric, or paper.
- SIGN, BILLBOARD:** A permanent sign, which is not dependent upon a building for support, with a surface displaying renewable or replaceable messages, using pasted bills, paint, or other media, regardless of the content of the message, and usually communicating a commercial or non-commercial message related to an activity conducted, a service rendered or commodity sold at a location other than where the sign is located. All off-site, non-attached signs the advertising surface for which is for rent, lease or periodic fee, whether collected or not, shall be deemed a billboard sign.
- SIGN, CHANGEABLE COPY:** Any sign designed so that letters or numbers attached to the sign can be periodically changed to indicate a different message.
- SIGN, CONSTRUCTION:** Any non-illuminated sign bearing the names of contractors, architects, engineers, and the like which is placed at a construction site which has received approval for development.
- SIGN, ON SITE DIRECTIONAL:** Any sign that provides on-site directional assistance for the convenience of the public, such as a sign indicating the location of exits, entrances, and parking lots.
- SIGN, GROUND:** Any sign not attached to a building and permanently mounted to the ground.

SIGN, ILLEGAL: Any sign erected or maintained in violation of a prior sign ordinance or erected, altered, removed, or replaced in violation of this Ordinance, or any amendments hereto.

SIGN, ILLUMINATED: A sign illuminated by electrical or other artificial devices.

SIGN, NONCONFORMING: Any sign that met all legal requirements when constructed but that does not comply with this Ordinance or a sub-segment amendment hereto. An illegal sign is not a nonconforming sign.

SIGN, OFF-SITE: Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location that is not located on the premises upon which the sign is located. This shall not include traffic, directional, or regulatory signs or notices erected by a federal, state, county, or municipal government agency.

SIGN, POLITICAL: A sign attracting attention to political candidates or political issues.

SIGN, PORTABLE: Any sign that is not permanently affixed to a building, structure, or the ground or that is not designed to be permanently affixed to a building, structure, or the ground.

SIGN SURFACE AREA: The size of the surface of a sign, including any border or trim and all the elements of the matter displayed, but excluding the base, apron, supports, and other supportive structural members. In the case of three-dimensional letters or painted letters directly attached to a wall surface, the surface area shall be that rectangular area encompassing the individual letters themselves, including any trim or border, and excluding the background behind the letters.

SIGN, TEMPORARY: A sign that can be used only for a designated period of time.

SIGN, TRAFFIC: A sign indicating federal, state, or municipal regulation for automobile, truck bicycle, and/or pedestrian movement.

SIGN PLAN, UNIFORM: A plan establishing parameters for the size, location, and design of signs on a property that is being constructed and/or managed as a single development.

SIGN, WINDBLOWN: Any banner, pennant, spinner, streamer, moored blimp, or gas balloon that is designed to inform or attract attention of persons not on the premises on which it is located.

SIGN, WINDOW: Any sign which is applied to the glassed area of a building and located such that the message, symbol, insignia, visual representation, logo, or other materials which communicates information can be read from off the property.

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

SIGNIFICANT WORK: In reference to vesting rights under the provisions of Chapter 5, Part 14 of this Ordinance, the placement of permanent evidence of an improvement on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings, the cost for which represents a major part of the total cost of construction of the project.

SILTATION: Sediment which results from accelerated erosion, which has been deposited or is in suspension in water, which may be settled or removed by properly designed, constructed, and maintained control measures, and which has been transported from its point of origin within the site of a land-disturbing activity.

SITE PLAN: A plan depicting the proposed development of a property, in terms of the location, scale, and configuration of buildings and other features.

SITE PLAN, MAJOR: A site plan which is submitted to the City Council for approval pursuant to Chapter 5, Part 7 of this Ordinance.

SITE PLAN, MINOR: A site plan which is submitted to the Planning and Development Department for approval pursuant to Chapter 5, Part 7 of this Ordinance.

SITE SPECIFIC DEVELOPMENT PLAN: A site plan containing all information required of site plans under Chapter 5, Part 7 of this Ordinance, or a plat of subdivision containing all such information in addition to the information required of subdivision plats under Chapter 5, Part 6 of this Ordinance.

SPECIAL EVENT: Any activity or circumstance of a business or organization that is not part of its daily activities. Such activities may include, but are not limited to, grand openings, close-out sales, and fund-raising membership drives, or temporary events conducted by civic,

philanthropic, educational, or religious organizations.

SPECIFIED ANATOMICAL AREAS: Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible turgid state even if completely or opaquely covered.

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

SPECULATIVE CONSTRUCTION: Construction of a shell building for the purpose of leasing individual spaces to prospective tenants who do not share any legal affiliation with each other. Examples of speculative construction shall include but are not limited to the following: shopping centers, malls, and office buildings that meet the above description.

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

STORM WATER RUNOFF: The direct runoff of water resulting from precipitation in any form, which cannot percolate into the surface or be accommodated satisfactorily by the existing drainage system and which therefore travels overland to the nearest channel.

STREET: A public or private right-of-way designed, dedicated, or used principally for vehicular traffic.

STREET, COLLECTOR: See COLLECTOR STREET.

STREET, LOOP: See LOOP STREET.

STREET, MARGINAL ACCESS: See MARGINAL ACCESS STREET.

STREET, RESIDENTIAL: See RESIDENTIAL STREET

STREETSCAPE: An area along a street that may be required by this Ordinance to provide special plantings or other treatment. See Chapter 13 Part 2.

STRUCTURE: Any improvement upon land, other than the land itself, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. This includes but is not limited to buildings, signs, manufactured or mobile homes, gas or liquid storage tanks, and impervious surfaces.

SUBDIVIDER: Any person, firm, or corporation who divides or develops any land in a subdivision.

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

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

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure where the cost of restoring the structure to the before-damaged condition equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: As used in Chapter 5, Part 8 of this Ordinance, which addresses flood damage prevention, any repair, reconstruction, or improvement of a structure, taking place during the life of the structure, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure either:

- (1) Before the improvement or repair is started;
- (2) If the structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term does not, however, include either:

- (1) Any project for improvement of a structure necessary to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions;
- (2) Any alteration of a structure that is listed on the National Register of Historic Places or a state inventory of historic places.

SUBSTANTIAL PROGRESS: For the purposes of determining whether substantial progress has been made on the site of an approved site plan, continuous construction activity toward the completion of a site or subdivision plan, including but not limited to one or more of the following:

- (1) Obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days;
- (2) Installation and approval of on-site infrastructure; or
- (3) Obtaining a building permit for the construction and approval of the building foundation.

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

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

TEMPORARY USE: A land use identified as a "temporary use" in Chapter 12, Part 3 of this Ordinance, and which is subject to the approval procedures set forth in Chapter 5, Part 3 of this Ordinance.

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

THOROUGHFARE: A street which serves as a primary traffic artery serving major centers of

activity and carrying traffic between such centers at moderate speeds. Its primary function is the carrying of traffic, which has an origin and destination removed from that street itself; its primary access is by at-grade intersections, which may be signal-controlled.

THOROUGHFARE, LIMITED ACCESS: A thoroughfare whose sole function is to carry large volumes of traffic safely and expediently through developed areas, and access to which is controlled to occur only at intersections with other thoroughfares or streets, with such intersections spaced at intervals which promote traffic progression with the absolute minimal delays incurred. Speeds on limited access thoroughfares are typically limited to no greater than forty-five (45) miles per hour.

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

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

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, meteorological devices, or similar apparatus above grade. The term includes radio and television transmission towers, common-carrier towers, cellular telephone towers, pager towers, and alternative tower structures.

TRACT: All contiguous land and bodies of water under single ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time. A tract may consist of one or more parcels or lots.

TRADE SCHOOL: A school, other than a college, which provides part-time education beyond the high school level, principally in the vocational arts, and does not provide lodging or dwelling units for students or faculty.

TRAFFIC SIGN: A sign indicating federal, state, or municipal regulations for automobile, truck, bicycle, and/or pedestrian movement.

TRANSPORTATION FACILITIES: Stations and related facilities intended for the transition of the general public, including bus and railroad passenger stations.

TREE: Any self-supporting woody plant of a species that normally grows, or is capable of

growing, to an overall height of a minimum of fifteen (15) feet. This term includes canopy trees and under story trees, but does not include shrubs or groundcover.

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

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

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

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

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

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

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

UTILITY SUBSTATIONS: Water storage tanks; radio, television, and microwave transmission or relay towers; and electric or gas substations, water or wastewater pumping stations, telephone repeater stations; or similar structures used as an intermediary switching, boosting, distribution, or transfer station of electricity, natural gas, water, wastewater, cable television, or telephone services

between the point of generation or treatment and the end user. This shall not include broadcasting studios or satellite dish antennas.

VARIANCE: A grant of relief from the requirements of this ordinance that permits construction in a manner otherwise prohibited by this ordinance.

VEHICLE SALES AND RENTAL: The sale or rental of motor vehicles, boats, trailers, or farm equipment. This shall not include salvage operations or scrap operations.

VEHICULAR USE AREA: Any portion of the site or property, paved or unpaved, designed to receive or accommodate vehicular traffic, including the driving, parking, temporary storage, loading, or unloading of any vehicle.

VELOCITY, FLOW: The average velocity of flow through the cross-section of the main channel of a watercourse at the peak flow of the storm. The cross-section of the main channel is that area defined by the geometry of the channel, plus the area of flow below the flood height, which is defined by vertical lines at the banks of the main channel. Overload flows shall not be included for the purpose of computing velocity of flow.

VESTED RIGHT: The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

WAREHOUSING OR DISTRIBUTION

ESTABLISHMENT: A business or government agency operation for which the primary purpose of which is (1) the storage of goods, materials, vehicles, trailers, or boats, or (2) or the distribution of goods and materials to another location for the purposes of resale or use at the place distributed to. This shall include offices located on the same property in conjunction with such uses. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

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

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

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

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

WETLANDS: Those areas that are defined as wetlands by the United States Army Corps of Engineers from time to time. Generally wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WHOLESALE OR JOBBING ESTABLISHMENT: The sale of goods and materials in large quantity for resale to retail customers. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

WORKING DAYS: Days exclusive of Saturdays, Sundays, and legal holidays observed by the City.

YARD: An open space on a lot which is unoccupied by any building or structure, except as otherwise allowed in this Ordinance.

YARD, FRONT: The portion of a lot that bounded by the side lot lines, a street right-of-way, and the required front yard line. (See Figure 2.1.)

YARD, REAR: The portion of a lot bounded by the side lot lines, the rear lot line, and the required rear yard line. (See Figure 2.1.)

YARD, SIDE: The portion of a lot bounded by a side lot line, a required side yard line, the rear yard line, and the front yard line. (See Figure 2.1.) Any such yard abutting a street shall be treated as a "front yard."

YARD LINE: A line in a lot which is parallel to the lot line along which an applicable yard or setback requirement extends, and which is at no point nearer to such lot line than the required width or depth of the applicable yard or setback.

ZONING DISTRICT: A district established in Chapter 8 or Chapter 9 of this Ordinance.

ZONING DISTRICT, RESIDENTIAL: An A-O, R-1E, R-1L, R-1M, R-1S, R-2, or R-3 District established under this Ordinance.

ZONING DISTRICT, NON-RESIDENTIAL: An R-O, O, C-1, C-2, C-3, CBD, M-1, I-1, or I-2 District established under this Ordinance.

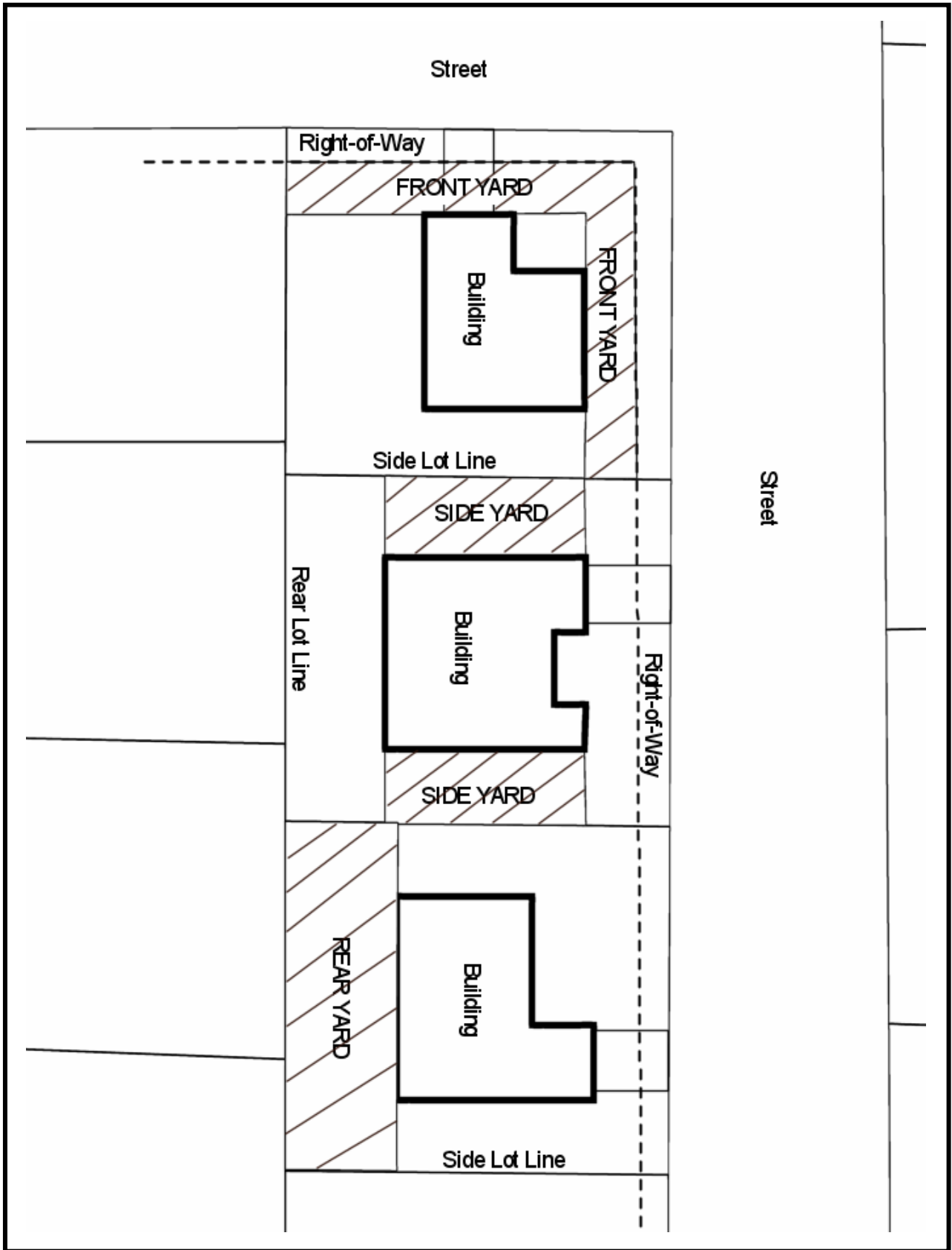


Figure 2.1. Yards

