

CHAPTER 5. DEVELOPMENT REVIEW PROCEDURES

PART 1. REQUIRED PERMITS AND APPROVALS

5.1.1. Required Permits and Approvals

- (1) Any particular development within the City of Tupelo may require one or more of the various permits and approvals in order to ensure that the development is consistent with the goals and purposes of the Ordinance and with the public health, safety, and general welfare. These include the following:
 - (a) Certificates of occupancy;
 - (b) Building permits;
 - (c) Floodplain development permits;
 - (d) Site plan approvals;
 - (e) Subdivision plat approvals;
 - (f) Planned unit development approvals;
 - (g) Conditional use approvals;
 - (h) Sign permits;
 - (i) Temporary use permits; and
 - (j) Vested rights certificates.
 - (k) Fill Permits

The procedures for reviewing and granting these permits and approvals are set forth in the Chapter.

- (2) In addition, prior to receiving any of the above permits and approvals, the development may require an amendment to the text of this Ordinance or the rezoning of property to a different zoning district. The procedures for such actions are set in Chapter 7 of this Ordinance. The development also may require a "variance" from the terms of the Ordinance due to peculiar hardships that apply to, or exist on, a particular property. The procedures for receiving such variances, which are to be granted only in cases of extreme hardship, are set forth in Chapter 6 of this Ordinance.
- (3) Warning and Disclaimer of Liability. These permits and approvals are reviewed only for general conformance with local codes and ordinances. They are not reviewed for accuracy of data or design, nor does the City of Tupelo warrant such. These permits and approvals do not relieve the owner nor any of his representatives of the responsibility of compliance with the requirements of all local codes and ordinances.

5.1.2. Relationships Between Different Permits and Approvals

Building permits and certificates of occupancy are basically the final forms of approval for most

development within the City of Tupelo. Issuance of building permits and certificates of occupancy therefore may be contingent on the applicant having previously received one or more other permits or forms of approval. Each of the different parts of this Chapter (other than Part 15, which deals with notice and hearing requirements) deals with a different type of permit or approval. These Parts are organized in roughly chronological order, reflecting the relative timing of the different permits and approvals.

5.1.3. Simultaneous Processing of Applications for Different Permits and Approvals for the Same Development

- (1) Where possible without creating an undue administrative burden on the City's decision-making bodies and staff, this Chapter intends to accommodate the simultaneous processing of applications for different permits and approvals which may be required for the same development project, in order to make the review process as short as possible for a development project. Such possibilities for concurrent filing and processing of applications include, but are not limited to, the following:
 - (a) A site plan along with a conditional use;
 - (b) A conditional use along with a preliminary subdivision plat;
 - (c) A preliminary subdivision plat along with a master land use plan for a proposed planned unit development;
 - (d) A site plan along with a preliminary subdivision plat and/or a master land use plan for a proposed planned unit development;
 - (e) A variance along with a conditional use, preliminary subdivision plat, or site plan.
- (2) However, no application for the rezoning of property shall be accepted or processed while an application for any of the permits or approvals listed in Section 5.1.1(1) above is pending for the same property, and vice versa.
- (3) Furthermore, some forms of approval, such as building permits, necessarily depend on the applicant having previously received another form of approval. Some forms of approval, such as site plans, require the applicant to take particular action within some time period following the approval in order to avoid having the approval lapse.

Therefore, even though this Chapter intends to accommodate the simultaneous processing of different types of applications, the applicant should note that each of the permits and approvals set forth in this Chapter has its own timing and review sequence, and should take this into consideration in planning the development.

5.1.4. Processing Fees

Request for approval of the different permits and approvals required by this Ordinance are subject to the payment of various application processing fees in order to defray the City's costs in reviewing such requests. The fees for different types of permits and approvals are periodically determined and changed by the City Council through adoption of the annual operating ordinance or by other methods. As a result, the amount of such fees are not stated in the text of the Ordinance. The fees are summarized, however, in an appendix, which is attached to copies of the Ordinance for distribution to the public. This appendix, which is not part of the text of this Ordinance, shall be updated at least once each year to reflect any changes adopted by the City Council as part of the annual operating budget ordinance.

PART 2. PERMITTED USES

5.2.1. Purpose and Scope

The designation of "permitted uses" is established to provide for the location of particular uses which are considered appropriate within a given zoning district and require no special treatment under this Chapter different from the provisions generally applying to the zoning district in which the use is located. Only those uses which Chapters 8 and 9 of this Ordinance designate as permitted uses in a given district shall be treated as such.

5.2.2. Required Permits and Approvals

- (1) No use designated as a permitted use shall be established until after the person proposing such use has applied for and received all building permits and certificates of occupancy required under Parts 11 and 12 of this Chapter.
- (2) Depending on the nature and location of the use, Parts 7, 8, and 9 of this Chapter may require site plan approval, a flood fringe development permit, and/or stormwater retention plan approval before the permitted use may be established.

5.2.3. Action on Permit Applications

- (1) Upon receiving an application for a building permit for a permitted use, the Building Department shall transmit a copy of the application to the Planning and Development

Department. Before the Building Department issues the permit to the applicant, the Planning and Development Department shall review the application to determine whether the proposed use complies with the applicable terms of this Ordinance.

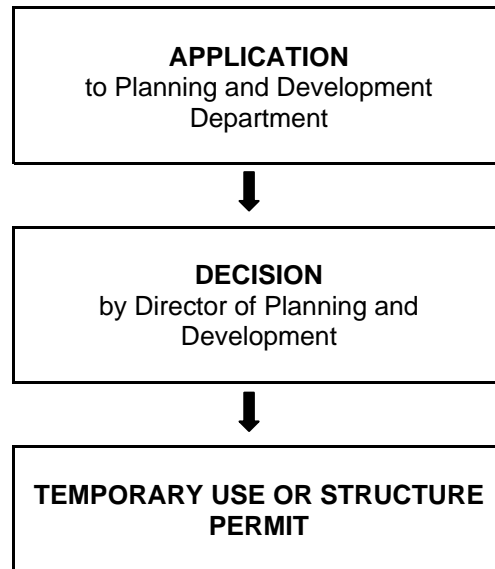
- (2) No building permit or certificate of occupancy shall be issued for a use which does not comply with the terms of this Ordinance applying to that use and the zoning district in which the use is to be located.

PART 3. TEMPORARY USES

5.3.1. Temporary Use Permit Required

No use that is classified as a "temporary use" in the zoning district in which it is located shall be placed or established on the property without first receiving a temporary use permit from the Director of Planning and Development. Figure 5.3.1 illustrates the process for approval of temporary uses.

**Process for Temporary Uses
Figure 5.3.1**



5.3.2. Application Requirements

- (1) An application for a temporary use permit may be filed only by the owner of the property, or by an agent, lessee, or contract purchaser specifically authorized by the owner to file such application. Where an agent, lessee, or contract purchaser files the application, the agent, lessee, or contract purchaser shall provide the City with written documentation that the owner of the property has authorized the filing of the application.
- (2) An application for a temporary use permit shall be filed with the department of Planning

- and Development on a form prescribed by the Department, along with the fee for such permit as prescribed by the City Council.
- (3) Each application for a temporary use permit shall contain the information required on the application form. In addition, the application shall be accompanied by a sketch plan showing the boundaries of the property, the location of the temporary use or structure on the property, and other information sufficient to show that the temporary use or structure complies with the standards set forth in Section 12.3.1 of the Ordinance.
 - (4) The director of Planning and Development shall determine whether the application is complete. If the Director determines that the application is not complete, then he or she shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

5.3.3. Approval Procedure; Time Limit on Duration of Permit

The Director of Planning and Development shall issue a temporary use permit only upon finding that the proposed temporary use satisfies the requirements set forth in Chapter 12, Part 3 of this Ordinance. The temporary use permit shall be valid only for the time period stated on the permit, which in no event shall exceed 90 days.

5.3.4. Temporary Structure Permit Required

No tent, trailer, or other temporary structure governed by the Building Code shall be occupied or used in conjunction with a temporary use until and unless the applicant has received a temporary structure permit from the Building Department pursuant to the Building Code.

PART 4. CONDITIONAL USES

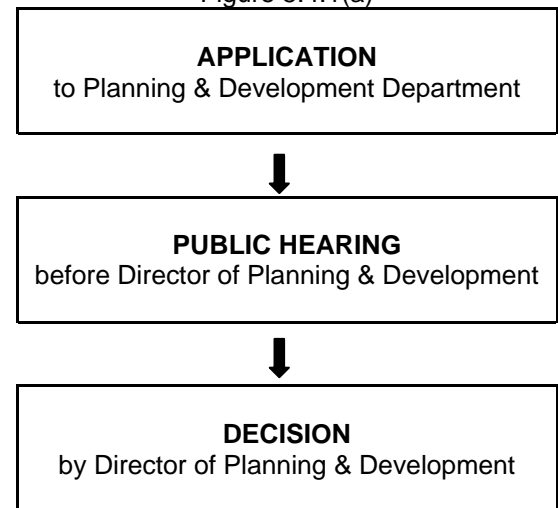
5.4.1. Purpose and Applicability; "Minor Conditional Uses" and "Major Conditional Uses"

- (1) The classification of "conditional uses" is established to provide for the location of those uses which are generally compatible with the other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and the City as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also call for the imposition of individualized conditions in order to

- ensure that the use is appropriate at a particular location.
- (2) Accordingly, any use designated in Chapter 8 or Chapter 9, of this Ordinance as a "minor conditional use" or "major conditional use" in an individual zoning district shall not be established without the approval of the Director of the Planning and Development Department, the Planning Committee or the City Council in accordance with the procedures and requirements set forth in this Part. Final approval of "minor conditional uses" shall be the responsibility of the Director of Planning and Development; Figure 5.4.1(a) illustrates the process for approval of "minor conditional uses." Approval of "major conditional uses" shall be the responsibility of the Planning Committee, and, upon appeal, the City Council. Figure 5.4.1(b) illustrates the process for approval of "major conditional uses."

Process of Minor Conditional Uses

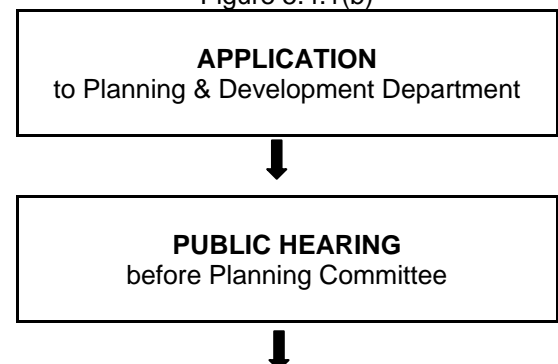
Figure 5.4.1(a)



Note - If minor conditional use and major site plan approvals are required, then only major site plan approval processes should be followed.

Process for Major Conditional Uses

Figure 5.4.1(b)



DECISION
by Planning Committee

Note - If major conditional use and major site plan approvals are required, the major site plan procedures should be used exclusively. If major conditional use and minor site plan approvals are required, both decisions may be made by Planning Committee, at the option of the applicant. If the applicant chooses, the Planning and Development Department can obtain minor site plan approval after Planning Committee approval of the major conditional use.

5.4.2. Coordination with Review of Site Plans; Lapse of Conditional Use Approval for Failure to Obtain Site Plan Approval

- (1) It is the intention of this Part that the review and approval of conditional uses be coordinated with the review and approval of site plans pursuant to Part 7 of this Chapter.
- (2) Recognizing that most of the information which is required to appear in a proposed site plan under Part 7 of this Chapter is valuable to the Director of Planning and Development, the Planning Committee and City Council in reviewing applications for approval of "minor conditional uses" and "major conditional uses" this Part requires such site plans to be filed with the application for conditional use approval, even though final action to approve the site plan shall not occur until after final action to approve the conditional use.
- (3) Unless approvals are obtained simultaneously, approvals of special uses shall be automatically conditioned on the subsequent approval of the site plan required under Part 7 of this Chapter. Accordingly, the approval of any "minor conditional use" or "major conditional use" by the Director of Planning and Development, the Planning Committee, and City Council shall lapse, and become null and void, where the applicant has failed to receive final site plan approval within 12 months of the date of approval of the conditional use.

5.4.3. Conditional Uses Requiring Variances

- (1) If the proposed conditional use involves one or more structures which do not conform to the regulations of the district in which the conditional use is to be located, then no conditional use approval shall be granted unless the applicant has corrected such nonconforming features or the Planning Committee has granted variances with

respect to such nonconforming features pursuant to Chapter 6, Part 1 of this Ordinance.

- (2) In all such cases, unless the applicant has previously obtained the necessary variances from the Planning Committee, the application for conditional use approval shall be accompanied by an application for all such variances. The variance application will be processed simultaneously with the conditional use application and in accordance with Chapter 6, Part 1 of this Ordinance.

5.4.4. Application Requirements; Determination of Completeness

- (1) An application for approval of a conditional use may be filed only by the owner of the lot on which the use is to be located, an agent, lessee, or contract purchaser specifically authorized by the owner to file such application, or any unit of government which is not the owner of the lot but proposes to acquire the lot by purchase, gift, or condemnation.
- (2) Before filing the application, the applicant is strongly encouraged to meet with representatives of the Planning and Development Department to discuss the proposed work and to become more familiar with the applicable requirements and approval procedures of the City.
- (3) An application for approval of a conditional use shall be filed with the Planning and Development Department on a form prescribed by the Department, along with the fee prescribed by the City Council.
- (4) The application shall contain or be accompanied by such information and plans as required on the application form. Where the proposed conditional use will require major site plan approval pursuant to Part 7 of this Chapter, the application shall also be accompanied by a site plan meeting the application requirements of Part 7.
- (5) The Planning and Development Department shall determine whether the application is complete. If the department determines that the application is not complete, then it shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies. Once the application is complete, the Planning and Development Department shall schedule the application for consideration at a public hearing before the Director of Planning and Development or Planning Committee (depending on whether the proposed conditional use is "minor" or "major").

- (6) After determining that the application is complete, the Planning and Development Department shall complete the review of the site plan in accordance with Part 7 of this Chapter and transmit to the Planning Committee prior to the hearing on the application, all applications, plans, and other records pertaining to the proposed conditional use.

5.4.5. Action on "Minor Conditional Uses"

- (1) **PUBLIC HEARING.** Upon receiving the application materials for a "minor conditional use" from the Planning and Development Department, the Director of Planning and Development shall hold a public hearing on the proposed conditional use. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with Part 15 of this Chapter. If the minor conditional use requires major site plan approval in accordance with the provisions of Part 7 of this chapter, then the minor conditional use shall be reviewed and approved in accordance with the provisions of Part 7.
- (2) **REVIEW BY DIRECTOR OF PLANNING AND DEVELOPMENT.** In considering the application, the director of Planning and Development shall review the application materials, the general purpose and standards set forth in this Part for the approval of conditional uses, any additional standards set forth in this Ordinance for approval of the proposed use, and all evidence and testimony received at the public hearing.
- (3) **DECISION BY DIRECTOR OF PLANNING AND DEVELOPMENT.** After conducting the public hearing, the Director of Planning and Development may:
 - (a) deny the application;
 - (b) conduct an additional public hearing on the application; or
 - (c) approve the proposed conditional use. Any approval or denial of the application shall be in writing and state whether the proposed use meets or does not meet each of the standards set forth in Section 5.4.7 below and all other requirements set forth by this Chapter for the proposed conditional use and the standards for minor site plan approval set forth in Section 5.7.7. This letter shall be mailed to the applicant and all known opposition.
- (4) **CONDITIONS ATTACHED TO APPROVAL.** In approving the "minor conditional use," the director of Planning and Development may attach such conditions to the approval as

deemed necessary to the proposed use meet the standards set forth for the proposed conditions in Section 5.4.7 below and elsewhere in this Ordinance, and to protect the public health, safety and general welfare. All Such conditions shall be stated in the resolution approving the application.

- (5) **NATURE OF CONDITIONS.** Such conditions may be stricter than any requirement or limitation stated elsewhere in this Ordinance for the proposed use. Such conditions may include, but are not limited to the following: limitations on the size, bulk and location of structures; requirements for landscaping, signage, and outdoor lighting; the provision of adequate ingress and egress; dedication of rights-of-way for streets or utilities; provision of recreational space and facilities; limitations on the duration of the approval and the time period within which the use will be developed; limitations on hours of operation; limitations on the transfer of such approval to a successor-in-interest or lessee of the property; and the mitigation of environmental impacts.
- (6) **APPEAL TO PLANNING COMMITTEE.** Appeal from the decision of the Director of Planning and Development shall be by petition for appeal to the Planning Committee. Any such petition to the Planning Committee shall be filed with the Planning and Development Department no later than 3 days after the date the decision is filed with the Planning and Development Department. Such appeals shall be processed as a major conditional use, including re-notification of the surrounding property owners. No permit shall be issued until the appeal process has been completed. The appeal will be placed on the Planning Committee agenda for the earliest meeting possible based on current policy.

5.4.6. Action on "Major Conditional Uses"

- (1) **PUBLIC HEARING.** Upon receiving the application materials for a "major conditional use" from the Planning and Development Department, the Planning Committee shall hold a public hearing on the proposed conditional use. If the major conditional use also requires site plan, then such major conditional use shall be reviewed and approved in accordance with the provision of Part 7 of the Chapter for major site plans. If the major conditional use also requires minor site plan approval, then the applicant may request the Planning Committee to approve the site plan along with the conditional use. Notice of the public hearing shall be provided and the public hearing shall be

conducted in accordance with Part 15 of this Chapter.

- (2) REVIEW BY PLANNING COMMITTEE. In considering the application, the Planning Committee shall review the application materials, the general purpose and standards set forth in this Part for the approval of conditional uses, any additional standards set forth in this Ordinance for approval of the proposed use, and all evidence and testimony received at the public hearing.
- (3) DECISION BY PLANNING COMMITTEE. After conducting the public hearing, the Planning Committee may:
 - (a) deny the application;
 - (b) conduct an additional public hearing on the application; or
 - (c) approve the proposed conditional use. Any approval or denial of the application shall state whether the proposed use meets or does not meet each of the standards set forth in Section 5.4.7 below and all other requirements set forth by this Chapter for the proposed conditional use and the standards for major site plan approval set forth in Section 5.7.7. The decision on the application shall be by a simple majority vote of those members of the Planning Committee present at the meeting at which the action is taken.
- (4) CONDITIONS ATTACHED TO APPROVAL. In approving the "major conditional use," the Planning Committee may attach such conditions to the approval as it deems necessary to meet the standards set forth for the proposed conditional use in Section 5.4.7 below and elsewhere in this Ordinance, and to protect the public health, safety and general welfare. All Such conditions shall be stated in the motion approving the application.
- (5) NATURE OF CONDITIONS. Such conditions may be stricter than any requirement or limitation stated elsewhere in this Ordinance for the proposed use. Such conditions may include, but are not limited to the following: limitations on the size, bulk and location of structures; requirements for landscaping, signs, and outdoor lighting; the provision of adequate ingress and egress; dedication of rights-of-way for streets or utilities; provision of recreational space and facilities; limitations on the duration of the approval and the time period within which the use will be developed; limitations on hours of operation; limitations on the transfer of such approval to a successor-in-interest or lessee of the property; and the mitigation of environmental impacts.

- (6) APPEAL TO CITY COUNCIL. Appeal from the decision of the Planning Committee shall be by petition for appeal to the City Council. Any such petition to the City Council shall be filed with the Planning and Development Department no later than 3 days after the date the decision is filed with the Planning and Development Department. Notice of the Council Meeting date shall be sent to the applicant and all known opposition. The City Council shall act on the appeal either by confirmation, modification of conditions or rejection by majority vote.
- (7) APPEAL TO COURTS. Appeal from the decision of the City Council shall be by petition for appeal to the Lee County Circuit Court. Any such petition to the Court shall be filed with the Court Clerk no later than 30 days after the date the decision is entered into the Official Minutes of the City of Tupelo.

5.4.7. Standards of Review

The Director of Planning and Development shall not approve the proposed minor conditional use nor shall the Planning Committee or City Council approve the proposed major conditional use and accompanying major site plan, unless and until they make the following findings, based on evidence and testimony received at the public hearing or otherwise appearing in the record of the case:

- (1) That the proposed use or development of the land will not materially endanger the public health or safety;
- (2) That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region;
- (3) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property;
- (4) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
- (5) That the proposed use or development of the land will generally conform with Comprehensive Plan and other official plans adopted by the City;
- (6) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities;
- (7) That the proposed use will not cause undue traffic congestion or create a traffic hazard.

5.4.8. Effect of Approval or Denial

- (1) **SUBSEQUENT PERMITS AND APPROVALS.** Approval of the application for minor conditional use approval authorizes the applicant to obtain minor site plan approval from the Director of Planning and Development (see Section 5.7.6) and such other permits or approvals which the City Council may require for the proposed development. If the major conditional use included a major site plan, then approval of the conditional use also constitutes approval of the site plan. The Planning and Development Department shall review applications for these permits for compliance with the terms of the conditional use approval. A permit, certificate, or other approval shall be issued and valid only for work that complies with the terms of the conditional use approval.
- (2) **TRANSFERABILITY OF APPROVAL.** A conditional use approval is not transferable from one property to another, but may be transferred to a successor-in-interest to the property, unless specifically prohibited.
- (3) **RESUBMISSION OF DENIED APPLICATIONS.** No application for approval of a Conditional Use shall be filed with or accepted by the Planning and Development Department which is identical or substantially similar to an application which has been denied within the previous 365 days. This waiting period requirement may be waived in an individual case, for good cause shown, by the affirmative vote of three-fourths (¾) of the members of the City Council after recommendation from the Planning Committee.

5.4.9. Changes to Terms and Conditions of Approval

Any changes to the terms or conditions of approval of the conditional use shall require separate review and approval by the Director of Planning and Development, the Planning Committee or the City Council (whichever approved the conditional use). Any application for approval of such a change shall be filed, processed, reviewed, and approved or denied in the manner set forth in the Part for an original application for conditional use approval. This section shall not apply, however, to modifications to the approved site plan for the conditional use, which are governed by Section 5.7.14 of this Ordinance.

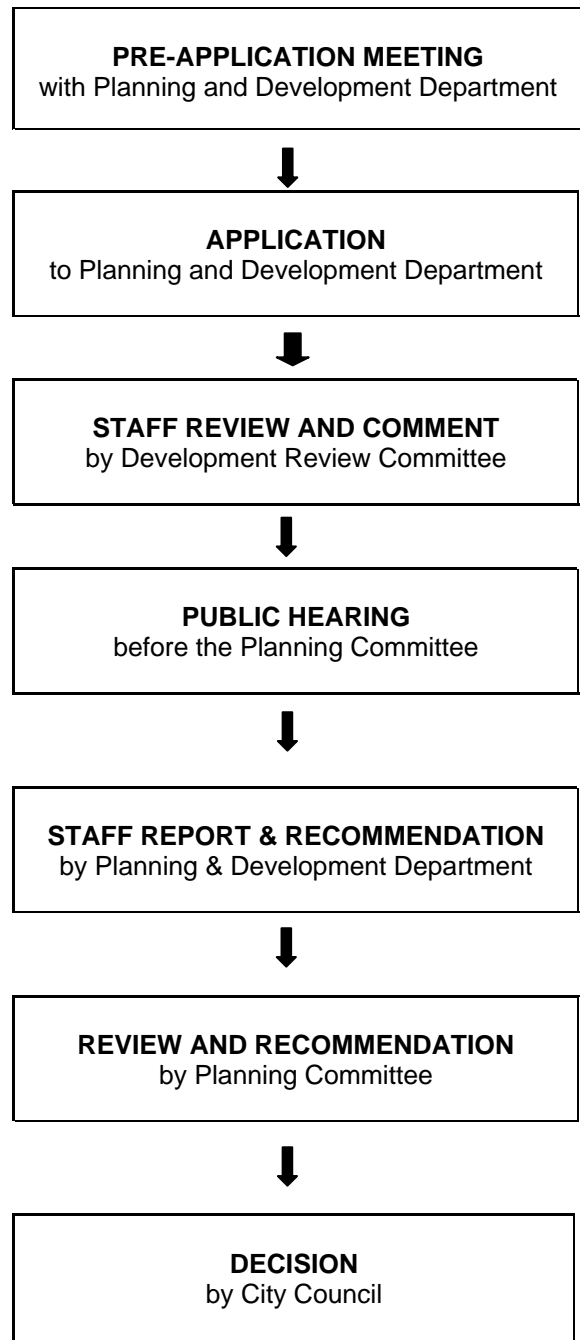
PART 5. PLANNED UNIT DEVELOPMENTS

5.5.1. Purpose and Scope

No approval for construction of any on-site or off-site improvements for a planned unit development

shall be granted until a master land use plan for the planned unit development is approved in accordance with the procedures and requirements of this Part. Figure 5.5.1 graphically describes the process for approval of master land-use plans for planned unit developments.

**Process for Planned Unit Developments
Figure 5.5.1.**



5.5.2. Coordination with Review of Subdivision Plats and Site Plans

- (1) The review and approval of planned unit developments may be coordinated with the review and approval of any preliminary subdivision plat and/or site plan required by Part 6 and/or Part 7 of this Chapter.
- (2) An application for planned unit development approval and any required application for preliminary subdivision plat and/or site plan approval may be filed simultaneously. The review and processing of these applications shall be coordinated and consolidated as much as possible. The Planning and Development Department, the Planning Committee and the City Council, however, shall render separate reports, recommendations and decisions on each application based on the specific standards applicable to each approval.

5.5.3. Application by Owner or Authorized Representative

An application for approval of a planned unit development may be initiated only by all of the owners of the parcel proposed for development as a planned unit development or by any person specifically authorized by all of the owners to file such application.

5.5.4. Pre-filing Meeting

Before filing an application for a planned development approval, the applicant shall meet with the Planning and Development Department in a pre-filing meeting to discuss the proposed planned unit development and to become more familiar with the applicable requirements and approval procedures of the City. The applicant shall provide the Planning and Development Department with the following information at the pre-filing conference:

- (1) Size and location of the parcel proposed for development as a planned unit development;
- (2) Proposed gross density of the proposed planned unit development and net density of individual parcels within the planned unit development;
- (3) A concept plan showing general land uses proposed for the planned unit development including location and acreage;
- (4) A schematic description of utility and circulation improvements for the planned unit development.

5.5.5. Application for a Planned Unit Development Approval

- (1) An application for a planned unit development approval shall be filed with the Planning and Development Department on

- a form prescribed by the Department, along with a fee prescribed by the City Council.
- (2) The application shall be accompanied by a master land use plan and the following items of information:
 - (a) A complete boundary survey showing the total acreage of the planned unit development, present zoning classification(s), date and north arrow;
 - (b) Planned primary and secondary traffic circulation patterns, including an analysis of anticipated traffic volumes using current Institute of Traffic Engineers' Trip Generation manual methodology and showing calculations, and all planned street connections.
 - (c) Planned means of providing for the organization, arrangements for the ownership maintenance, and preservation of common open space.
 - (d) Draft of covenants which create a homeowners association for the maintenance of all privately owned common areas, including, but not limited to, streets, parking areas, easements, and the like.
 - (e) Planned buffers around the perimeter of the proposed planned unit development and adjacent to proposed streets and between proposed parcels. Proposed building setbacks (residential and nonresidential).
 - (f) A description of the relationship of the planned unit development to the surrounding land uses and the uses within the development to each other.
 - (g) Conceptual plans for water and waste water systems to be constructed in accordance with City standards.
 - (h) Preliminary drafts of any proposed declarations to be recorded pursuant to Mississippi Code 1972 Ann. Section 89 Chapter 9.
 - (i) A statement of intent regarding access of fire fighting and refuse disposal equipment and including the method of refuse disposal, such as compactors, dumpsters, etc.
 - (j) Conceptual plans for all utilities to be installed underground, except for City Council approved electric feeder lines.
 - (k) Conceptual plans for an adequate storm drainage system to be constructed in accordance with City standards.
 - (l) The conceptual delineation of areas to be constructed in phases or sections and the sequential order that will be followed in development including a written statement from the applicant indicating the date for beginning each

phase of construction and the estimated date of completion.

(m) Site analysis:

- (i) On-site soils analysis/map.
- (ii) Slope analysis/map.
- (iii) Vegetation analysis/map.
- (iv) Floodplain analysis/map.
- (v) Development suitability analysis/map.

- (3) In considering the master land use plan, the Planning Committee or the City Council may request such additional information as it deems necessary to review the application.

5.5.6. Determination of Completeness

The Planning and Development Department shall determine whether an application for a planned unit development is complete. If the Director determines that the application is not complete, then he or she shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are satisfied.

5.5.7. Scheduling of Public Hearing

Once the Director determines that the application of planned unit development is complete, then he or she shall establish a schedule for consideration of the application for a planned unit development approval and for a public hearing before the Planning Committee.

5.5.8. Public Hearing

A planned unit development may be approved only after the Planning Committee has conducted a public hearing on the application for a planned unit development approval and the proposed master land use plan. Notice of the hearing shall be provided according to Section 5.15.1.(4), and the public hearing shall be conducted in accordance with Section 5.15.2 of this Ordinance.

5.5.9. Staff Review

- (1) After determining that an application for a planned unit development approval is complete, the Planning and Development Department shall transmit the application and proposed master land use plan to the Public Works Department and the Water and Light Department.
- (2) The Planning and Development Department shall review the application and the proposed master land use plan for compliance with the requirements of this Ordinance including the impact of the proposed planned unit development on adjacent lands and on the City's ability to provide adequate public services to the proposed planned unit development. The

Planning and Development Department may transmit the proposed master land use plan to the Parks and Recreation Department and/or any other board or commission deemed appropriate by the Planning and Development Department or the City Council for review and comment.

- (3) Prior to the public hearing, in regard to an application for a planned unit development approval, the Planning and Development Department shall transmit a staff report on the proposed planned unit development and master land use plan to the Planning Committee along with the comments of the Departments of Planning and Development, Public Works, and Water and Light and any comments submitted by any other board or commission.

5.5.10. Review and Recommendation by the Planning Committee

- (1) The Planning Committee shall consider an application for a planned unit development approval and proposed master land use plan and shall make recommendations to the City Council regarding whether to approve or deny each plan.
- (2) The Planning Committee may consider the proposed master land use plan at its meeting after the public hearing, and shall make its recommendation to the City Council within thirty (30) days after the public hearing. If no recommendation is made within that time, then the Planning Committee may request an extension of time from the City Council of not more than thirty (30) additional days. If the Planning Committee makes no recommendation within the required or extended time period, then the City Council may act on the proposed planned unit development without a recommendation from the Planning Committee.
- (3) In forming its recommendation to the City Council, the Planning Committee may consult with and consider the recommendations of the Parks and Recreation Department the Planning and Development Department, and any other board, commission or department which has considered the proposed planned unit development.

5.5.11. Action by the City Council

- (1) Before acting on an application for planned unit development and master land use plan approval, the City Council shall consider the recommendations of the Planning Committee, the other boards and

commissions, and all testimony and evidence received at the public hearing.

- (2) Upon receiving the report and recommendation of the Planning Committee, the City Council may take one of the following actions:
 - (a) Deny the application;
 - (b) Refer the application back to the Planning Committee further consideration;
 - (c) Conduct an additional public hearing on the application;
 - (d) Approve the proposed planned unit development.

Any approval or denial of the application shall be by motion, stating the reasons for such approval or denial. The decision on an application for a planned unit development and master land use plan approval shall be by a simple majority vote of those members of the City Council present at the meeting at which the action is taken.

5.5.12. Effect of Approval

- (1) The approval of an application for a planned unit development approval and a master land use plan shall not become effective until the applicant has submitted the following information to the Planning and Development Department: a copy of the master land use plan incorporating all changes that were required as conditions to City Council approval and such additional information as the City Council may have required as a condition of planned unit development or master land use plan approval.
- (2) Upon receipt of all required submittals, the Director of Planning and Development shall mark and sign the master land use plan as approved, return a marked and signed copy of the master land use plan to the applicant. A copy marked "ORIGINAL" shall be retained for the records of the Planning and Development Department.
- (3) Actual development of the property comprising the approved planned unit development shall be subject to all applicable subdivision plat approvals, site plan approvals and other permits and approvals otherwise required by this Ordinance.
- (4) When an application for approval of a planned unit development has been approved or denied by the City Council, or has been withdrawn by the applicant after notice has been given of the public hearing on the application, no application covering the same property shall be accepted or considered within 12 months after the date

of the approval, denial, or withdrawal. This restriction shall apply regardless of whether the new application is for a different planned unit development than the original application. The waiting period by this Subsection may be waived in an individual case, for good cause, shown by the affirmative vote of three-fourths ($\frac{3}{4}$) of the members of the City Council.

5.5.13. Changes to Approved Master Land Use Plans

- (1) Except for minor changes authorized pursuant to subsection (2) below, no part of an approved master land use for a planned unit development shall be revised, enlarged, or modified unless such revision, enlargement or modification is approved by City Council in accordance with the requirements of this Part for an application for planned unit development and master land use plan approval.
- (2) Subject to the limitation of subsection (7), the Director of Planning and Development may approve the following minor changes to an approved master land use plan in accordance with (3) and (4) below without the approval of the City Council:
 - (a) Relocation of a road or intersection;
 - (b) A reduction in the width of a required buffer or setback by no more than twenty percent (20%), or an increase in the width of a required buffer or setback;
 - (c) Minor field alterations to accommodate physical site conditions involving interior features of the site design, including relocation of the buildings or uses shown on the approved master land use plan, which represents the same general building relationships, topography, landscaping, and minimum utility standards.
- (3) The Director of Planning and Development shall submit applications for minor changes to an approved master land use plan to the Public Works and Water and Light Departments for review and comment.
- (4) In approving an application for a minor change to an approved master land use plan, the Director of Planning and Development shall make the following findings:
 - (a) That all changes conform to the minimum required standards for the zoning district in which the property is located, or any modifications thereto which were approved by the City Council as part of the master land use plan;
 - (b) That off-street parking is not reduced below the minimum number of spaces

- required by Chapter 12 of this Ordinance;
- (c) That all additions, alterations, and expansions shall be compatible with the existing or approved buildings, structures, and parking area;
 - (d) That the effect of the landscaping, buffers, or screening on the site, or on the approved master land use plan, is not diminished;
 - (e) That the number of access points to public streets is neither increased or substantially relocated;
 - (f) That the circulation pattern provides for the safe, controlled, and orderly flow of pedestrians and vehicles;
 - (g) That the change will result in better or equal performance of the overall objectives of the approved master land use plan and specific zoning district classification;
 - (h) That the changes do not otherwise violate any provision of this Ordinance, the City Code, or other applicable laws;
 - (i) That the use and development of the property is otherwise in full compliance with the requirements of this Ordinance.
- (5) If the Director of Planning and Development determines that an application for a minor change to an approved master land use plan would be a significant departure from the spirit of the master land use plan or the intent of the City Council in approving the master land use plan, the Director may require that the application be considered in accordance with the requirements of this Part for an application for planned unit development and master land use plan approval.
- (6) The applicant shall have the right to appeal the decision of the Director of Planning and Development in regard to an application for a minor change to an approved master land use plan. This appeal would be directed to the Planning Committee and follow the same procedures as a Major Conditional Use.
- (7) Requests for minor changes to an approved master land use plan specified in subsection (2)(a) and (b) shall be limited to one application per twelve (12) month period. Additional application requests for minor changes will not be considered until after a lapse of 12 months from the date of the last action taken on the minor change application. The applicant may waive this twelve-month provision for good cause demonstrated by a three-fourths ($\frac{3}{4}$) affirmative vote of the entire Council. Requests for minor changes under subsection (2)(c) shall not be subject to this twelve-month limitation.

PART 6. SUBDIVISION OF LAND

5.6.1. Plat Approval Required; MAJOR SUBDIVISIONS" AND "MINOR SUBDIVISIONS"

- (1) A building permit or certificate of occupancy may be issued for any building, structure, or improvement located within a "major subdivision" or "minor subdivision," and a plat for a "major subdivision" or "minor subdivision" may be recorded with the Lee County Chancery Clerk's Office, only after a plat for such subdivision has been approved, all required dedications of land have been made, and all required improvements have been installed in accordance with the procedures and requirements of this Part, except as follows:
- (a) The permit application is for a commercial or industrial structure;
 - (b) The permit applicant has a lease agreement with the developer of the subdivision and is not purchasing the lot by reference to a plat or otherwise;
 - (c) The lease agreement clearly states the improvements necessary for the operation of the applicant business that are to be provided by the developer;
 - (d) The agreement states that the lease holder is proceeding with building construction based on the developer, not the City, providing the necessary infrastructure;
 - (e) The applicant provides a bond or other financial instrument, acceptable to the City, executed in an amount sufficient to guarantee construction of the improvements necessary for the operation of the business, and enforceable by the applicant business or by the City.
- (2) The City shall accept and maintain no street, nor shall the City extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land until and unless a plat for such subdivision has been approved and recorded in accordance with the requirements set forth in this Part.
- (3) There are two approval "paths" for subdivisions, depending on the type and size of the subdivision:
- (a) Minor Subdivisions (5 lots or less and no public infrastructure) improvements may be reviewed by the Planning and Development Department and approved by the Director of the Planning and Development Department. See Fig. 5.6.1. (b);
 - (b) Major Subdivisions (6 lots or more and all subdivisions with public infrastructure improvements) shall be reviewed and

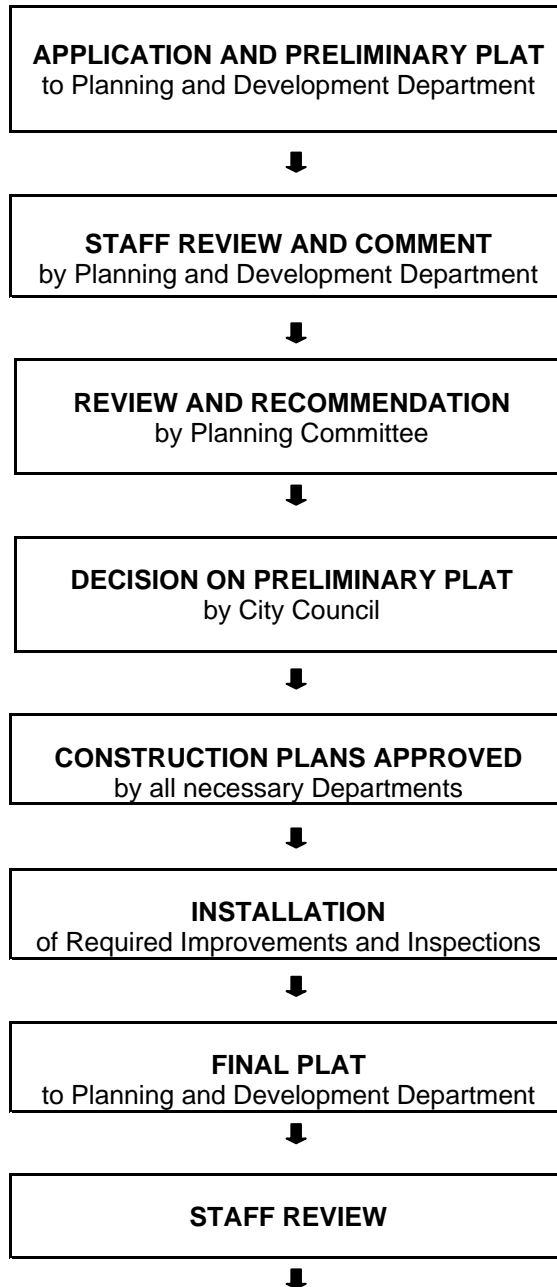
approved by Planning Committee and City Council in accordance with Sections 5.6.3 through 5.6.5 below. See Fig. 5.6.1. (a).

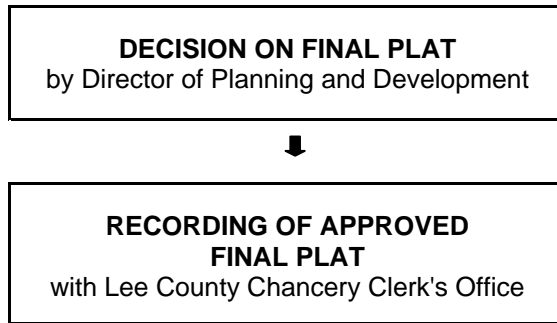
- (4) Nothing in the Part of elsewhere in the Ordinance shall be interpreted to allow the consecutive subdivision of land into not more than five (5) lots for residential use in order to avoid making dedications and improvements for streets and other facilities

otherwise required by the City for "major subdivisions;" no such "minor subdivisions" shall be approved or permitted by the Planning and Development Department.

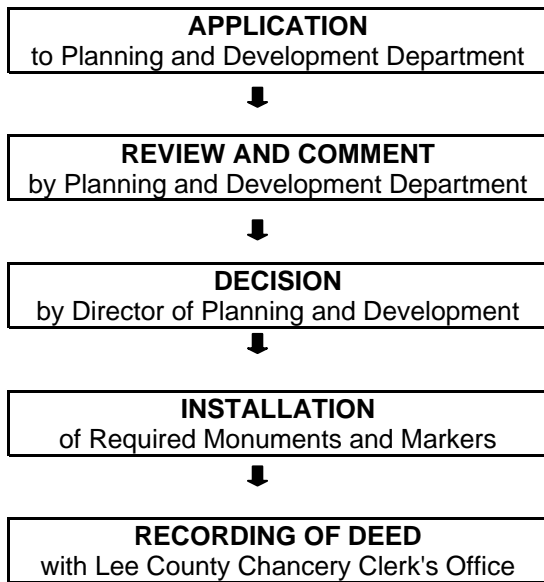
- (5) Refer to Chapter 14, Part 1. Subdivision, for Standards affecting the subdivisions; refer to Chapter 8 for setbacks and yard requirements; and refer to Chapter 13 for Supplemental Standards.

Process for Major Subdivision
Figure 5.6.1(a)





**Process for Minor Subdivision
Figure 5.6.1(b)**



5.6.2. Approval of Minor Subdivisions

All plats for "minor subdivision" shall be reviewed and approved pursuant to the procedures and requirements of this Section.

- (1) Application requirements.
 - (a) An application for plat approval may be filed only by all of the owners of the property or by an agent, lessee, or contract purchaser specifically authorized by all of the owners to file such application for such amendment.
 - (b) An application for plat approval shall be filed with the Planning and Development Department on a form prescribed by the Department, along with the fee prescribed by the City Council.
 - (c) The application shall contain or be accompanied by such information and plans as required on the application form.
 - (d) The Planning and Development Department shall determine whether the application is complete. If the

Department determines that the application is not complete, then it shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

- (2) Required improvements. Prior to approval of the subdivision plat, monuments and markers meeting the requirements of Chapter 14, Part 1 of this Ordinance shall be installed on the property.
- (3) Staff review and approval of plat; Inspections. The application and plat shall be reviewed by the Planning and Development Department for compliance with the requirements of (2) above. The Planning and Development Department shall approve the subdivision plat upon finding that the application is complete and all improvements required in (2) above have been installed on the subject property and that the subdivision meets all requirements of this Ordinance. The Department of Planning and Development shall consult with the Departments of Public Works and Water and Light in making this determination of compliance. In the event that the Planning and Development Department determines that a field inspection is needed to ensure the installation of the required improvements, such inspection shall be conducted by the Planning and Development Department, Water and Light Department, Public Works Department and/or any other department deemed necessary.
- (4) Appeal of Disapproval. In the event the Planning and Development Department disapproves a minor subdivision, an appeal may be filed with the Planning Committee within 3 days of disapproval. If an appeal is filed, the minor subdivision shall be reviewed in accordance with the procedural provisions for major subdivisions in order to affirm, reverse, or modify the disapproval.
- (5) Effect of approval. After obtaining approval the subdivider may sell the lots and record deeds. Lots not conveyed within one (1) year from the date of approval shall not be sold

until re-approved in accordance with the subdivision standards in effect at that time.

5.6.3. Approval of Major Subdivisions

Approval required. The approval of the preliminary plat for "major subdivisions" is a multi-step process. A proposed preliminary plat first undergoes review by the Planning and Development Department, with the applicant making revisions and corrections to the preliminary plat in response to the the City Council. The City Council then reviews and either, rejects or approves the preliminary plat. After the City Council approves the preliminary plat, the applicant then proceeds to submit construction plans to the Department of Planning and Development for approval. Construction may begin after the construction plans have received the necessary approvals from the City of Tupelo, State of Mississippi, and other jurisdictions, as applicable. Upon carrying out the improvements, the applicant submits a final plan for approval by the Planning Development Department. The final plat is approved when the applicant has properly installed all improvements (or necessary guarantees for the installation of improvements) which are required by this Ordinance and the approved preliminary plat.

5.6.4. Preliminary Plat Approval

- (1) Application requirements.
 - (a) An application for plat approval may be filed only by all of the owners of the property or by an agent, lessee, or contract purchaser specifically authorized by all of the owners to file such application for such amendment.
 - (b) An application for preliminary Subdivision Plat approval consists of twelve (12) copies of the plat map (at a minimum scale of 1 inch equals 100 feet on a sheet no larger than 24 x 36 inches) and other required items which do not have to be recorded at the Chancery Clerk's Office on a 24 x 36 inch sheet at a minimum scale of 1 inch equals 50 feet. Data provided shall be accurate. Incorrect measurement or mathematical results shall be grounds for rejection or refusal to act on the application.
 - (c) An application for plat approval shall be filed with the Planning and Development Department on a form prescribed by the Department, along with the fee prescribed by the City Council, and shall include the following information;
 - (i) Site data table:
 - 1) Name of owner of the tract, surveyor and land planner
 - 2) Zoning of the tract

comments of the Planning and Development Department. The preliminary plat and the comments and recommendations made by the Planning and Development Department regarding the preliminary plat are then reviewed by the Planning Committee. The Planning Committee then submits their recommendations regarding the preliminary plat to

- 3) Acreage of tract
- 4) Total number of lots proposed
 - a) Calculation of traffic load, when fully developed, using Institute of Traffic Engineers' Trip generation manual methodology.
- 5) Indicate proposed minimum lot size in square feet
- 6) Setbacks; Provide a table of minimum building setbacks, including:
 - a) Front setback
 - b) Side setback aggregate (total of two yards)
 - c) Side setback minimum
 - d) Rear setback
 - e) Corner yard setback
 - f) Building setbacks from buffer
 - g) Buildable area per lot, in square feet.
- (ii) The location of all existing, previously platted, property lines, municipal boundaries, county lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts and drainpipes, and water mains.
- (iii) Indicate the names of adjoining property owners or subdivisions.
- (iv) Indicate the zoning and existing land use of all adjoining property.
- (v) Indicate the location of all proposed property lines, lot numbers, with dimensions.
- (vi) Indicate the location of the existing property boundaries by metes and bounds.
- (vii) Indicate the location of any buffers, required under the provisions of Section 13.1.5 (landscape, buffers, and streetscape).
- (viii) Indicate the location of special areas affecting the subdivision, i.e. wooded areas, marshes, wetlands, floodplains, regulatory floodways, etc. If the subdivision is to be a cluster subdivision, the boundaries of the area proposed for preservation shall be accurately delineated, the area

- calculated, and the basis for the designation shown.
- (ix) Indicate the location of proposed parks, school sites, or other public open space, if any.
 - (x) Provide a title, date, arrow point, and graphic scale bar.
 - (xi) Indicate proposed streets, street names, rights-of-way, and roadway widths.
 - (xii) Phasing plan; provide a time table for construction of the entire subdivision including:
 - 1) Proposed date of submission of final construction drawings for each phase.
 - 2) Proposed date of submission of Final Plat, including utility plans (as built) for each phase.
 - 3) Lots to be included in each phase.
 - 4) Preliminary drainage/stormwater management plan.
- (2) Staff review:
- (a) The Planning and Development Department shall review the preliminary plat for compliance with the design standards and plat requirements set forth in this Part and in Chapter 14, Part 1, of this Ordinance. The comments of the Planning and Development Department, which may include necessary or suggested revisions to the submitted plat, shall then be made available to the applicant.
 - (b) The applicant shall review these comments, adjust the plat accordingly, including any necessary or suggested changes to the preliminary plat.
 - (c) As part of the above review, the Planning and Development Department shall transmit the proposed preliminary plat to other applicable boards, commissions, and departments for their comments.
- (3) Review and Action by Director of the Planning and Development Department. Upon receipt of the preliminary plat for minor subdivisions, the Director of Planning and Development shall review the plat, the comments of staff of the Planning and Development Department and other applicable boards and commissions and shall approve or disapprove the preliminary plat.
- (4) Appeal of Disapproval to Planning Committee. In the event the Director of Planning and Development disapproves a preliminary plat under the provisions of subsection (3) above, an appeal may be filed with the Planning Committee within 3 days of disapproval. The preliminary plat shall then be reviewed in accordance with the procedural provisions for major subdivision plans and the Planning Committee shall affirm, reverse or modify the Department's disapproval at the Committee's next regularly scheduled meeting.
- (5) Review and Action by Planning Committee:
- (a) If the preliminary plat plan is for a major subdivision, the Planning and Development Department shall forward the application and preliminary plat to the Planning Committee at least six days prior to a regularly scheduled meeting of the Committee, along with the recommendations of the Planning and Development Department, any comments received from the other boards and commissions, and the applicant's response.
 - (b) The Planning Committee shall review the preliminary plat, the recommendations of the Planning and Development Department, the comments from the other boards and commissions, the responses and comments of the applicant, and the requirements of this Ordinance and shall formulate a recommendation to the City Council for appropriate action on the preliminary plat.
 - (c) The Planning Committee may request the applicant to revise the preliminary plat before it is submitted to the City Council for approval.
- (6) Action by City Council:
- (a) The applicable sections of the preliminary plat application, the recommendations and comments of appropriate review bodies shall then be forwarded to the City Council for action. The City Council shall either review this information and approve, conditionally approve, or reject the preliminary plat.
 - (b) Except as provided in Section 5.6.4(7), approval of the preliminary plat shall authorize the applicant to proceed with obtaining the necessary construction permits of the necessary improvements indicated on the preliminary plat in preparation for approval of the final plat pursuant to Section 5.6.5 below.
 - (c) If approval is conditional, it shall authorize the applicant to proceed with construction of the improvements indicated on the preliminary plat, but with approval of the final plat being contingent on satisfaction of the conditions imposed by the City Council on the approval. Any such conditions

and the reasons therefore, shall be stated in the record of approval of the preliminary plat. Such conditions may include but are not limited to, the following matters: the size and configuration of lots and streets; the arrangement of utility networks on the property; the location of dedicated land and rights-of-way; the payment of fees in lieu of such dedications; and the location of required improvements.

- (d) If the City Council rejects the preliminary plat, then the reasons therefore shall be stated in the record of action on the preliminary plat, along with recommendations for ways to revise the preliminary plat so that it could be approved.
 - (e) Failure of the City Council to act on the preliminary plat within 90 days of receiving the plat and recommendations from the Planning Committee shall be deemed approval of the preliminary plat, authorizing the applicant to proceed with construction of the improvements indicated on the preliminary plat in preparation for approval of the final plat pursuant to Section 5.6.5. below.
- (7) Submission and approval of Final Construction Drawings:
- (a) Final construction drawings, covenants, and restrictions shall be submitted to the Planning and Development Department in accordance with the approved phasing plan. Failure to submit the final construction drawings and covenants and restrictions within this approved time period shall result in the lapse of approval of the subdivision plat. This approval period may be modified for good and sufficient reason by the subdivider or developer resubmitting a new phasing plan 30 days prior to the expiration of this approval.
 - (b) The final construction drawings and covenants and restrictions shall be reviewed by the Departments of Public Service, Water and Light, and Planning and Development. If the City Engineer determines that the final construction drawings and covenants and restrictions comply with all requirements of this Ordinance and the applicable city specifications for such improvements, then the City Engineer shall mark the preliminary plat and final construction drawings as approved and approval of the preliminary plat shall become final.
 - (c) Final construction drawings shall include but not be limited to profiles of Water,

Sanitary Sewer Lines and similar appurtenances in accordance with City of Tupelo "Water and Sewer Utilities Construction Standards" and Profiles of Streets Drainage Piping and Culverts and similar appurtenances in accordance with Tupelo Public Works Department "Street and Storm Sewer Construction Standards and Specifications."

- (d) No construction shall commence, except for preliminary grading approved by the City Engineer, until the Planning and Development Department give a letter of final construction plan approval.
 - (e) In no way is any provision of this Part meant to circumvent any required approvals from any State of Mississippi department.
- (8) Modification of design standards and improvement requirements:
- (a) In approving the preliminary plat, the City Council may modify any of the design standards or improvement requirements set forth in Chapter 14, Part 1, where necessary to make the approved preliminary plat conform to any master land use plan which the City Council has approved for a planned unit development on the property.
 - (b) In all other cases, and only upon the request of the applicant, the City Council may modify any of the design standards or improvement requirements set forth in Chapter 14, Part 1, upon finding the following:
 - (i) That the topography or other physical conditions of the subject property are such that compliance with these standards and requirements would cause an unusual and unnecessary hardship on the applicant, above and beyond what other subdividers would face;
 - (ii) That the modifications will not have the effect of nullifying the intent and purposes of this Ordinance.
 - (c) Where any such modification is granted, the reasons therefore shall be stated in the minutes of the City Council meeting at which final action is taken on the preliminary plat.

5.6.5. Acceptance of Improvements for City Maintenance

- (1) Inspections. The installation of improvements shall in no case bind the city to accept any such improvements for public maintenance and operation thereof, until the proper departments have inspected and

accepted the improvements as meeting all applicable requirements; provided, however, that the city shall not accept drainage easements for maintenance except as provided herein. Street and storm sewers which are properly constructed, enclosed, and subterranean within the right of way of any dedicated street shall be accepted for public maintenance. "Major drainage easements" as defined in Chapter 2 of the Tupelo Development Code shall be accepted for public maintenance. The city shall accept an irrevocable license to enter upon all other surface water drainage systems for emergency work to prevent or alleviate property damage or public damage, or to alleviate the failure of the subdivider or developer to maintain the drainage system which has or could result in property damage to the public, public danger or detrimentally affect public health. The city will not accept such systems for maintenance, which shall remain the responsibility of the subdivider or property owner.

- (2) Warranty period following acceptance. If the City Engineer determines the installed improvements meet all applicable city standards, final construction plans are approved and the plat is recorded according to the procedures in Chapter 5, Part 6 of this code. A one-year warranty period begins with the first working day of the calendar year after "As-Built Plans" are accepted by the City Engineer. During this warranty period any deficiencies in accepted improvements that are documented by the City Engineer or other city departments shall be the responsibility of the developer or subdivider to correct or repair. Failure to make required repairs within three months of the date on which the developer or subdivider is notified of the deficiency shall result in the revocation of any building permits issued to the developer or subdivider, and in the suspension of further issuance of additional building permits for construction on lots within the subdivision owned by the developer or subdivider. The city may perform the necessary repairs and make every effort to collect payment from the subdivider or developer by all legal means including the placement of liens on lots owned by the subdivider or developer.

5.6.6 Final Plat Approval

- (1) Application requirements:
 - (a) In accordance with the approved phasing plan, the applicant shall file a final plat for approval, for the portion of the approved preliminary plat which the

applicant proposes to record and develop at the time, with the Planning and Development Department and shall include the following information:

- (i) In accordance with the Statutes of the State of Mississippi relating to subdivision plats, the final plat "shall in every case be made on a scale of not less than two hundred feet (200') to an inch on sheets of good muslin-backed paper, eighteen inches by twenty-four inches (18" x 24") in size; data shall be accurate in nature. Two copies of this plat shall be submitted for approval. One of these copies shall be marked as a "Certified Copy." Incorrect measurement or mathematical results are or shall be grounds for rejection or refusal to act on the application;
- (ii) The final plat shall show:
 - 1) The lines of all streets and roads;
 - 2) Lot lines and lot numbers;
 - 3) Minimum building setback lines;
 - 4) Reservations, easements, alleys and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations;
 - 5) Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including true north point. This should include the radius, central angle, and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets;
 - 6) Accurate location and description of all monuments and markers;
 - 7) The names and location of adjoining subdivisions and streets, and the location and ownership of adjoining unsubdivided property;
 - 8) Title, date, name and location of subdivision and graphic scale;
 - 9) Name of owner(s), surveyor and engineer;
- (iii) Restrictive covenants;
- (iv) Utility plans (As built):

- 1) Water;
- 2) Sanitary Sewer;
- 3) Storm drainage;

(2) Forms for final certification. The following certificates shall be placed on the final plat in substantially the following form:

(a) Certificate of ownership and dedication. This certifies that the undersigned is (are) the owner(s) of the property shown on this map, having acquired title thereto by deed(s) recorded in the Lee County, Mississippi Chancery Clerk's Office or otherwise as shown below and that by submission of this plat or map by approval, I/we do dedicate to the City of Tupelo, Mississippi for public use all streets, easements (except minor drainage easements), rights-of-way and parks shown thereon for all lawful purposes to which the city may devote or allow the same to be used and upon acceptance thereof and in accordance with all city policies, ordinances and regulation or conditions of the City of Tupelo for the benefit of the public, said dedication shall be irrevocable.

The undersigned grants an irrevocable license to the City of Tupelo to enter upon designated surface water drainage areas for emergency work to prevent or alleviate the failure of the owner to maintain such drainage area, the responsibility for which shall remain with the undersigned.

/s/ _____
Signature(s) of Owner(s)

(b) Certificate of accuracy. I, _____, (Registered Professional Land Surveyor), do hereby certify that at the request of _____, the Owner(s), I have subdivided and platted the following described land as follows to wit: (Insert legal description here)

I hereby certify that the plan shown and described hereon is a true and correct survey of the accuracy required by the City of Tupelo and that the monuments have been placed as shown hereon, in accordance with the requirements of the subdivision regulations.

_____ 20 ____ (SEAL)
/s/ _____
Surveyor Mississippi Registration Number

(c) Certificate of acknowledgment. Personally appeared before me, _____, the Owner(s), and _____, (Registered Professional Engineer) each of whom acknowledged to me that he signed and delivered this plat and the certificates thereon as their own act and deed, on the day and year herein mentioned.

Given under my hand and seal of office on his the ____ day of _____, 20 ____.

/s/ _____ My Commission Expires: _____
Notary Public

(d) Certificate of approval for recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the City of Tupelo and has been approved by the Planning Committee and/or the City Council for recording in the Lee County Chancery Clerk's Office.

_____ 20 ____ (SEAL)
/s/ _____
City Clerk

(e) Certificate of approval and acceptance of dedications. I _____ the City Clerk of Tupelo, Mississippi, do certify that the City of Tupelo approved this plat or map and accepted dedication of the streets, easements, rights-of-way and public parks shown thereon, but assume no responsibility to open or maintain the same, until in the opinion of the governing body of the City of Tupelo it is in the public interest to do so.

_____ 20 ____ (SEAL)
/s/ _____
City Clerk

(f) Chancery Clerk's Certificate. I, _____, Clerk of the Chancery Court in and for Lee County, Mississippi, do hereby certify that the Final Plan of (name of subdivision), was filed for record in my office on this the ____ day of _____, 20 ____, and was duly recorded in Plat Cabinet _____, Slide _____ of the records of maps and plats of land of Lee County, Mississippi
Given under my hand and seal of office on this the ____ day of _____, 20 ____.

/s/ _____ (SEAL)
Chancery Clerk

- (g) Restrictive Covenants. The property located in (Name of Subdivision), as shown on this plat is subject to restrictive covenants which are set out in an instrument recorded in book _____ at page _____ of the deed of records of Lee County, Mississippi.

/s/ _____

Chancery Clerk

- (3) Failure to file an application for final plat approval within the time period in subsection (1) above shall render the preliminary plat null and void.
- (4) The application shall contain or be accompanied by such information, final plat, other plans, and final certifications as required on the application form.
- (5) Required dedications, improvements, payments, and guarantees: Prior to approval of the final plat, all dedications and improvements, or payments and guarantees in lieu thereof, which are required by Chapter 14, Part 2 of this Ordinance shall be installed on the property.
- (6) Staff review and approval of final plat:
- (a) Approval of the final plat shall be the responsibility of the Planning and Development Department. The final plat shall be approved if it is in substantial conformity to the preliminary plat and the applicant has carried out the improvements shown on the preliminary plat and made all dedications and improvements, or payments and guarantees in lieu thereof, as indicated in the approved preliminary plat and required by Chapter 14, Part 1 of this Ordinance.
- (b) If all conditions and requirements for approval of the final plat have been met, the Director of Planning and Development shall mark approval on all copies of the final plat, and then the City Clerk shall sign the plats for recording. The Planning and Development Department shall return the approved and signed copies to the applicant, one of which the applicant shall file with the Lee County Chancery Clerk's Office, and one for the City.

The application for building permits as this Ordinance may require for development of the property shall be accepted upon return of the copy of the plat marked "Certified Copy" from the Chancery Clerk.

5.6.8. Actions by Lee County Chancery Clerk's Office

The City shall file a copy of this Ordinance with the Lee County Chancery Clerk's Office. The Chancery Clerk shall not thereafter file or record a plat of subdivision located within the corporate limits of the City without the approval of the City as required in this Part. The landowner shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the corporate limits of the City. Section 5.6.5(2)(b) will satisfy this requirement. The filing or recording of a plat of a subdivision without the approval of the City as required by the Part, shall be null and void. The clerk of the Lee County Chancery Court shall not order or direct the recording of a plat where such recording would conflict with this Part.

5.6.9. Restriction on Sale or Transfer of Subdivided Land Without an Approved Final Plat

Any person who transfers or sells any land located within the corporate limits of the City by reference to a plat which has not been approved by the City and recorded with the Lee County Chancery Clerk's Office shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The city also may enjoin such transfer or sale by filing and action for an injunction. A deed transferred in whole will not be subject to this requirement.

5.6.10. Revisions to Approved Plats

Any amendment or revision to a recorded final plat or portion thereof shall be accomplished in the same manner as for original approval of a plat.

5.6.7. Effect of Approval of Final Plat

- (1) After obtaining approval of the final plat from the Planning and Development Department, the subdivider may file the plat with the Lee County Chancery Clerk's Office. The approved plat shall be recorded within 30 days after approval by the Planning and Development Department.
- (2) The recording of the approved plat with the Chancery Clerk shall authorize the subdivider, or any subsequent developer of the property, to proceed with the sale of lots.

PART 7. SITE PLANS

5.7.1. Exemptions From Site Plan Approval Requirements

- (1) No use designated as a permitted use shall be established until after the person proposing such use has applied for and received all building permits and certificates

APPLICATION
to Planning and Development Department



STAFF REVIEW AND COMMENT
by Planning and Development Department



REVIEW AND RECOMMENDATION
by Planning Committee



DECISION
by City Council

of occupancy required under Parts 11 and 12 of this Chapter.

- (2) Depending on the nature and location of the use, Parts 7, 8, and 9 of this Chapter may require site plan approval, a flood fringe development permit, and/or stormwater retention plan approval before the permitted use may be established.
- (3) One and two family residential buildings and residential accessory buildings and structures.
- (4) Non-residential building additions less than 25% of the size of the building.
- (5) Non-residential accessory buildings less than 25% of the size of the building or buildings on the property.
- (6) Non-residential interior renovations and repair.
- (7) Non-residential exterior renovations and repair with cost less than 25% of the value of the building as per the records of the Lee County Tax Assessor.
- (8) Temporary buildings allowed by Part 3 of this Chapter.

**Process for Minor Site Plans
Figure 5.7.1(a)**

APPLICATION
to Planning and Development Department



STAFF REVIEW AND COMMENT
by Planning and Development Department



DECISION
by Director of Planning and Development

**Process for Major Site Plans
Figure 5.7.1(b)**

5.7.2. Buildings and Developments Requiring Major Site Plan Approval

The following buildings and developments shall require major site plan approval by the City Council, after review by the Planning Committee, in accordance with the procedures of this Part prior to the issuance of any building permit:

- (1) Multi-family developments.
- (2) Mobile home and manufactured home parks.
- (3) Shopping centers and malls.
- (4) Division of property by leasehold for multiple tenants.

5.7.3. Buildings and Developments Requiring Minor Site Plan Approval

All other buildings and developments not included in 5.7.1 and 5.7.2 above shall require minor site plan approval by the Director of the Planning and Development Department in accordance with the procedures of this Part prior to the issuance of any building permits.

5.7.4. Approval of Site Plan with Major Conditional Use Approval and Coordination with Review of Preliminary Subdivision Plats

It is the intention of this Part and Part 4 of this Ordinance to conduct the review and approval of major conditional uses and site plans at the same time to the maximum extent possible. The review and processing of the two applications shall be coordinated and consolidated as much as possible. However, the Planning and Development Department and the Planning Committee shall render separate reports and recommendations and the City Council shall render a separate decision on each application, recognizing the applications as distinct and subject to different standards for approval.

5.7.5. Application Requirements

- (1) An application for site plan approval may be filed only by all of the owners of the property or by an agent, lessee, or contract purchaser specifically authorized by all of the owners to file such application.

- (2) An application for site plan approval shall be filed with the Planning and Development Department on a form prescribed by the Department, along with the fee prescribed by the City Council.
- (3) The application shall contain or be accompanied by such information and plans as required on the application form and shall include the following:
 - (a) General Layout Plan;
 - (i) Provide a map of the property with metes and bounds labeled along all existing and proposed property lines, gross acreage, and all property corners;
 - (ii) Show existing utilities and easements;
 - (iii) Show all proposed and existing buildings/structures on the site along with finished floor elevations;
 - (iv) Show lot dimensions and required yards and setbacks;
 - (v) Building height;
 - (vi) List owner(s) of project/property;
 - (vii) Label adjacent property owners;
 - (viii) Label square footage of all buildings;
 - (ix) Show dumpster location and screening;
 - (b) Grading Plan; (For major site plans and where required by City Engineer for all other site plans.) Delineate existing ground contours at a maximum two (2) foot intervals relative to sea level and proposed contours to be followed as part of the development plan;
 - (i) Delineate the denuded area; or the limits of grading;
 - (ii) Provide a benchmark elevation;
 - (iii) Indicate slope ratios;
 - (iv) Provide erosion control plan to conform to Erosion Control Specifications in City of Tupelo Street and Stormwater Specifications Manual.
 - (c) Street and Driveways Layout Plan;
 - (i) Label all proposed streets and access drives including width, right of way, radii, horizontal curvatures, driveways, etc.;
 - (ii) Provide a pavement design for all proposed public street improvements, including both new and existing streets to be widened, as shown on the Thoroughfare Plan. The applicant may cross-reference the City of Tupelo Standard Specifications and details;
 - (iii) Show the location of any proposed or existing greenway and park land;
 - (iv) Show all parking areas including bay width, bay length, travel aisle, angle and directional flow;
 - (v) Show existing streets adjacent to the site showing width, right of way and driveway access points;
 - (vi) Designate number of parking spaces proposed;
 - (vii) Calculate square footage of vehicular use area.
 - (d) Utilities plan
 - (vii) Plan view of proposed utility improvements and easements;
 - (viii) Designate type and volume of wastewater generated by the proposed development, for major site plans.
 - (d) Stormwater Plan; (For major site plans and where required by the City Engineer to conform to stormwater management requirements contained in Chapter 5, Part 9., and in City of Tupelo Street and Stormwater Specifications manual)
 - (i) Plan view of all existing and proposed systems including ditch and channel calculations, pipes, junction boxes, manholes, inlets, etc., along with dimensions and pipe sizes and pipe size calculations;
 - (ii) Layout designation all erosion control measures included as a part of the project;
 - (iii) Designate all existing and proposed stormwater management structures and provide all supporting calculations;
 - (iv) Label all 100-year floodplain and regulatory floodway boundaries on the plan.
 - (e) Landscape Plan;
 - (i) Show and label all buffer areas that are a part of the development plan requirements for buffering of adjoining residential areas.
 - (ii) Show representative plantings; a table of all materials to be planted is not required;
 - (iii) Show location of existing trees eight (8) inches in diameter or larger; show trees to be preserved and/or planted in accordance with the terms of Chapter 13, Part 2 of this Ordinance.
 - (iv) Calculate total area of landscape plantings.
 - (g) Building Plans. Submit drawings of building elevations showing the proposed exterior building materials and

colors, height of proposed building, number of stories including basement. Height, location, and general design of structure or equipment proposed above the building height limit, and their screening (if required, see 6 above). Building facades shall be designed to be compatible and consistent with adjacent developments.

If the exterior of an existing structure is to be changed, both the proposed and existing elevations of such structures shall be shown.

- (h) Traffic load information. Show calculation of traffic load when fully developed, using Institute of Traffic Engineers' Trip Generation Manual methodology. Show basis for calculations, i.e. number of dwelling units by type, or square footage of commercial uses by type.
- (i) Other Plans. Submitting any other plan or document showing compliance with all other terms of this Ordinance including lighting standards from 13.1.3.

5.7.6. Staff Review

- (1) The application and site plan shall be reviewed by the Planning and Development Department for compliance with the standards and requirements set forth in Chapter 13, Parts 1 and 2 and in Chapter 14, Part 2 of this Ordinance. The comments of the Planning and Development Department, which may include necessary or suggested revisions to the submitted site plan, shall then be made available to the applicant.
- (2) As part of this review, the Planning and Development Department may transmit the proposed site plan to the Tupelo Clean and Beautiful Committee and/or the Tree Advisory Board for recommendations.

5.7.7. Action by Planning and Development Department on "Minor Site Plans"

- (1) Unless approved by the City Council along with a major conditional use or by the Planning and Development Department along with a minor conditional use, the Planning and Development Department shall review the site plan, any comments and recommendations from other departments or committees, the responses and comments of the applicant, and the requirements of this Ordinance, and either approve or reject the site plan.
- (2) The Planning and Development Department may approve a site plan only if it meets the

standards and requirements set forth in Section 5.7.9. (2), Chapter 13, Parts 1 and 2 of this Ordinance and provides for the dedications and improvements, or payments and guarantees in lieu thereof, required by Chapter 14, Part 2 of this Ordinance.

- (3) The Planning and Development Department shall reject the site plan on any of the following grounds:
 - (a) That it fails to fully comply with any specific requirement of this Ordinance;
 - (b) That it fails to adequately protect other property, or residential uses located on the same property, from the potential adverse effects of a nonresidential use;
 - (c) That it fails to provide harmony and unity with the development of nearby properties;
 - (d) That it fails to provide safe conditions for pedestrians or motorists, such as by presenting a dangerous arrangement of pedestrian and vehicular ways.
 - (e) if it finds the site plan to be of inferior or unacceptable quality based on the standards set forth in Section 5.7.9. (2) (v).

If the Planning and Development Department rejects the site plan, then the reasons therefore shall be stated in the record of action on the site plan.

- (4) Failure of the Planning and Development Department to act on a "minor site plan" within 30 days of receiving the site plan application shall be deemed approval of the site plan, authorizing the applicant to proceed with development of the property in accordance with the site plan submitted to the Planning and Development Department. This time limit shall not apply where the delay in site plan approval is caused by the applicant's failure to obtain any conditional use approval required of the proposed development.
- (5) In the event the Planning and Development Department disapproves a minor site plan, an appeal may be filed with the Planning Committee within three (3) days of disapproval. If an appeal is filed, the minor site plan shall be reviewed and approved or rejected in accordance with the procedural provisions for major site plans.

5.7.8. Review by the Planning Committee on Major Site Plans

- (1) After receiving the comments from the Planning and Development Department, the applicant shall adjust the major site plan accordingly and, by the date indicated on a schedule maintained by the Planning and Development Department, submit copies of

revised site plan to the Planning and Development Department.

- (2) The Planning and Development Department shall transmit these materials to the Planning Committee, along with the comments from the Planning and Development Department and any other department and committee, no later than two weeks before a regularly scheduled meeting of the Planning Committee.
- (1) For "major site plans," as defined in Section 5.7.2 above, the Planning Committee shall review the site plan, the comments and recommendations of the Planning and Development Department and any other department and committee and the responses and comments of the applicant, and the requirements of this Ordinance, and formulate a recommendation to the City Council for appropriate action on the site plan.

5.7.9. Action by City Council on "Major Site Plans"

- (1) The application, the recommendation of the Planning Committee and other pertinent materials shall then be forwarded to the City Council for action. The City Council shall review this information and either approve or reject the site plan.
- (2) The City Council shall approve the Major Site Plan if it finds that:
 - (i) The site plan meets the standards and requirements set forth in Chapter 13, Part 1 and 2 of this Ordinance and provides for the dedications and improvements, or payments and guarantees in lieu thereof, required by Chapter 14, Part 2 of this Ordinance.
 - (ii) The exterior design features of the development will not be detrimental to the harmonious and orderly growth of the City.
 - (iii) The plan for the proposed development indicates that it will reasonably protect against external and internal noise, vibrations, and other conditions which detract from the desirability of the surrounding environment. Loading and storage area are located away from street views, and are screened by landscaping and screening walls consistent with the building design and materials.
 - (iv) The exterior materials and design features do not reflect excessive similarity to or difference from existing development on adjacent

properties and within the neighborhood.

- (v) The plan for the proposed development reflects that the architectural features are adequate and appropriate for the style of building. In those instances where the subject property adjoins residentially zoned land, the proposed development is designed to be compatible with the character of single-family residential structures within the community, reflecting a continuity of size, scale, design, materials, and roof form with residential structures.
- (vi) The plan for the proposed development is of an appropriate and acceptable quality. The proposed development may be considered of an inferior quality in its design and appearance if the City Council finds that:

- (a) The detailing and building materials do not convey a quality of craftsmanship and permanence, and do not include use of the highest quality materials available.
- (b) Uninterrupted and unarticulated monochromatic expanses of wall plane are proposed.
- (c) Texture of materials is not used to add interest to the building or articulate the design.
- (d) Imitation materials are used instead of natural materials.
- (e) All sides of the building do not reflect the same level of detailing and/or quality of materials.
- (f) The design elements of the building are not consistently applied throughout the project.
- (g) On buildings with exposed, pitched roofs, the roof form does not periodically change height, orientation, or shape as part of the building's overall design. The slope of the pitched roof is 3:12 or less.
- (h) On parapet roofs, long uninterrupted horizontal lines of parapet are proposed, without being broken by vertical or horizontal offsets or the changing of roof forms. The reverse side of the parapet is visible to the public.
- (i) Mechanical and electrical equipment is not screened or incorporated into the building design.
- (j) The plan for the proposed development includes:
 - Arresting and spectacular effects

Violent contrast of materials and/or colors

A multiplicity or incongruity of details resulting in a disturbing appearance
The absence of unity or coherence in composition

Lack of consonance with the present structure in the case of remodeling or enlargement.

(vii) Burden of proof: In presenting any application for Major Site Plan approval, the burden of proof shall rest with the applicant to provide the necessary evidence required by either the Planning Department or the City Council, as applicable, to clearly show that the proposed plan meets the minimum design standards listed.

(vii) If the City Council rejects the site plan, then the reasons therefore shall be stated in the record of action on the site plan.

(3) Conditions of approval: In approving a Major Site Plan application, the City Council may impose such reasonable conditions as deemed necessary to meet the spirit and intent of the standards. The conditions may include, but are not necessarily limited to:

- (i) Performance standards,
- (ii) Height limitations,
- (iii) Minimum yard requirements,
- (iv) Sign regulations,
- (v) Off-street parking and loading requirements,
- (vi) Architectural elevations of any proposed structures or alterations to existing structures,
- (xiv) In those instances where those conditions deemed necessary involve minimum requirements or standards set by other ordinances or other sections of the Development Code, the conditions may be more restrictive than the minimum requirement or standard, but they may not be used as a substitute for a variance, or otherwise as a method of implementing standards that are less restrictive than those required by the applicable ordinance.

(4) Failure of the City Council to act on the site plan within 60 days of receiving the site plan and recommendations from the Planning Committee shall be deemed approval of the site plan, authorizing the applicant to proceed with development of the property in accordance with the site plan submitted to the City Council. This time limit shall not

apply where the delay in site plan approval is caused by the applicant's failure to obtain any conditional use approval required for the proposed development.

5.7.10. Recording of Deed for Required Dedications

Approval of a site plan by the City Council or Director of Planning and Development shall automatically be conditioned on the applicant recording with the Lee County Chancery Clerk an original warranty deed from the owner to the City of Tupelo containing a metes and bounds description of any and all lands and rights-of-way dedicated as part of the approved site plan referencing the file number of the site plan and the date of approval. Such deed shall be recorded within 30 days after the date the site plan is approved, with the applicant causing the Lee County Chancery Clerk to mail a copy of the original recorded deed to the Planning and Development Department. Failure to satisfy this requirement shall render approval of the site plan null and void.

5.7.11. Submission and Approval of Final Construction Drawings

- (1) Approval of the site plan also shall automatically be conditioned on the Planning and Development Department's approval of final construction drawings for all improvements required in the site plan and final covenants and restrictions.
- (2) Such drawings and final covenants and restrictions shall be submitted to the Planning and Development Department no more than 1 year after the date the City Council approves the site plan. Failure to submit the final construction drawings and final covenants and restrictions within this 1 year shall, pursuant to (1) above, result in the lapse of approval of the site plan.
- (3) The final construction drawings and all covenants and restrictions shall be reviewed by the Planning and Development Department. If the Planning and Development Department determines that the final construction drawings comply with all requirements of this Ordinance and the applicable City specifications for such improvements, then the Director of Planning and Development shall mark the site plan and final construction drawings as approved and approval of the site plan shall become final.
- (4) If the Director of the Planning and Development Department determines that the final construction drawings and covenants and restrictions do not comply with all applicable requirements, or that meeting the applicable requirements would require a change to the site plan which could not be approved by the Director of Planning and Development pursuant to

Section 5.7.13 below, then the Director of the Planning and Development Department shall deny approval of the final construction drawings and the site plan.

5.7.12. Effect and Duration of Site Plan Approval

- (1) Approval of the site plan and final construction drawings shall authorize the applicant to proceed with any applications for building permits, and other permits and approvals required in order to develop the property in conformity with the approved site plan. A permit, certificate, or other approval may be issued by the City only if it conforms to the approved site plan and final construction drawings, except where the non-compliance is the subject of a minor change to the site plan approved by the Director of Planning and Development pursuant to Section 5.7.13. below.
- (2) A building permit or certificate of occupancy may be issued for any building or structure on the property, and a building or structure on the property may be occupied, only where the applicant has complied with the approved site plan and final construction drawings and made all dedications and improvements required by Chapter 14, Part 2 of this Ordinance, except where the non-compliance is the subject of a minor change to the site plan approved by the Director of Planning and Development pursuant to Section 5.7.13 below.
- (3) An approved site plan shall become null and void under the following conditions:
 - (i) If a building permit is not applied for within six (6) months following the date of Site Plan approval; OR
 - (ii) If work on the project is not commenced within six (6) months following the date of issuance of the building permit;; OR
 - (iii) If work on the project is not completed within two (2) years following the date of issuance of the building permit.
- (4) Extensions: upon request of the applicant, and after good cause is shown, the Planning Director may grant one (1) extension of an additional thirty days within which a building permit may be issued. Any further extensions will require review and approval by the Planning Committee.
- (5) Effect of expiration: If the period of validity expires, no building permit shall be issued until a new application for a Site Plan is approved.

5.7.13. Changes to Approved Site Plans

- (1) Allowable changes. Upon request of the applicant, the Director of Planning and Development may approve the following minor changes to an approved site plan without further review by the Planning Committee or City Council:

- (a) Expansion of an existing building or structure, or construction of an accessory building or structure, representing ten percent or less of the floor area of the existing or proposed buildings or structures on the lot or project of the approved site plan;
 - (b) Alteration to any approved element of the building elevation, expansion of an approved building or structure, or addition of an accessory building or structure, representing no more than ten percent of the floor area of the buildings or structures approved on the site plan;
 - (c) Expansion or changes in off-street parking representing twenty percent or less of the area of the existing or proposed parking;
 - (d) Minor field alterations to accommodate physical site conditions involving interior features of the site design, including relocation of the buildings or uses shown on the approved site plan, which represents the same general building relationships, topography, landscaping, and minimum utility standards; or
 - (e) Where the approved plant materials are unavailable, substitution of the approved plant materials for plant materials which will accomplish the intent of Chapter 13, Part 2 of this Ordinance and the approved site plan.
- (2) New site plans are required to show the proposed changes as allowed in section (a) above.
 - (3) Standards of review. Before approving any such change, the Director of Planning and Development shall make the following findings:
 - (a) That all changes conform to the minimum required standards for the zoning district in which the property is located;
 - (b) The off-street parking is not reduced below the minimum required by Chapter 11 of this Ordinance;
 - (c) That all additions, alterations, and expansions shall be compatible with the existing or approved buildings, structures, and parking area;
 - (d) That any additional required landscaping shall be comparable to the approved site plan and shall follow City specifications and guidelines;
 - (e) That the effect of the landscaping, buffers, or screening on the site, or on the approved site plan, is not diminished;

- (f) That the number of access points to public streets is neither increased or substantially relocated;
- (g) That the circulation pattern provides for the safe, controlled, and orderly flow of pedestrians and vehicles;
- (h) That the change will result in better or equal performance of the overall objectives of the approved site plan and specific zoning district classification;
- (i) That the changes do not otherwise violate any provision of this Ordinance, the City Code, or other applicable laws;
- (j) That the use and development of the property is otherwise in full compliance with the requirements of this Ordinance.

(4) Modifications to an approved Major Site Plan beyond the scope of Section 5.7.13. (1) shall require review and approval by the Planning Committee and City Council according to the requirements of Sections 5.7.8. and 5.7.9. for new site plans.

PART 8. DEVELOPMENT IN FLOOD HAZARD AREAS

5.8.1 Designation of Flood Damage Prevention Ordinance Administrator

The City Engineer is designated as the administrator of the flood damage prevention provisions of the Tupelo Development Code, and is herein referred to as the Floodplain Administrator and/or the administrator.

5.8.2. Permit and Approval Requirements

- (1) Compliance required. No development shall occur in an area of special flood hazard unless it complies with the procedures set forth in this Part and the flood damage prevention standards set forth in Chapter 13, Part 3 of this Ordinance.
- (2) Development requiring other forms of City approval. The City requires no separate permit to demonstrate that the proposed development meets the flood damage prevention standards set forth in Chapter 13, Part 3 of this Ordinance when this Ordinance requires some other form of approval for the proposed development (such as a building permit, certificate of occupancy, conditional use permit, site plan approval, or subdivision plat approval). However, the applications for those other forms of development approval shall require the submission of additional information relating to flood hazards as part of the application package. As part of the staff review process for those other forms of development approval, the Floodplain

Administrator and/or the Building Department shall review the application to ensure that it meets the flood damage prevention standards set forth in Chapter 13, Part 3.

- (3) Development requiring no other forms of City approval; Floodplain development permit required. In those cases where no other form of approval is required for the proposed development, the development shall not proceed until and unless the Floodplain Administrator and/or the Building Department has issued a floodplain development permit for the proposed development. The person undertaking such development shall file an application for a floodplain development permit with the Building Department. The application shall be filed on a form provided by the Building Department and shall contain or be accompanied by such information and plans as required on the application form. The Floodplain Administrator and/or the Building Department shall review the application and shall issue the permit only upon finding that the proposed development conforms to the flood damage prevention standards set forth in Chapter 13, Part 3 of this Ordinance.

5.8.3. Interpretation

In the interpretation and application of this Part and the standards set forth in Chapter 13, Part 3 of this Ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body, and;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

5.8.4. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. Neither this part nor does any other part of this ordinance implies that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages.

5.8.5. Duties and Responsibilities of the Floodplain Administrator

Duties of the Floodplain Administrator shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;

- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit;
- (3) Notify adjacent communities and the Mississippi Emergency Management Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved building, in accordance with Section 5.8.5.(5)
- (6) Verify and record the actual elevation (in relation to mean sea level to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 5.8.5.(5)
- (7) When flood-proofing is utilized for a particular building, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect in accordance with Section 5.8.5.(5)
- (8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.
- (9) When base flood elevation data of floodway data have not been provided in accordance with 13.3.2. (2), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Chapter 13, Part 3 of this Ordinance.
- (10) All records pertaining to the provisions of this ordinance shall be maintained by the Department of Planning and Development and shall be open for public inspection.

5.8.6. Permit Procedure

- (1) Upon receiving any application for development within an area of special flood hazard, the Floodplain Administrator shall determine whether the proposed development meets the flood damage

prevention standard set forth in Chapter 13, Part 3 of the Ordinance.

- (2) If the Floodplain Administrator determines that the proposed development does not meet these standards, the City shall issue no permit, certificate, or other form of approval for the proposed development.
- (3) In those cases where this Ordinance requires some other form of approval for development in an area of special flood hazard, the Floodplain Administrator shall report its determination to the body or agency responsible for the issuance of that other form of development approval, within a reasonable amount of time for that body to act accordingly in approving or denying the proposed development.
- (4) In those cases where no other form of approval is required for the proposed development in an area of special flood hazard, the Floodplain Administrator shall notify the applicant of its determination within a reasonable amount of time.
- (5) In the event application is made, information relating to the area of special flood hazard shall include but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposes structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 - (a) Application Stage.
 - (i) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
 - (ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
 - (iii) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Section 13.3.3. (2);
 - (iv) Description of the extent to which any watercourse will be altered or relocated as result of proposed development, and;
 - (b) Construction Stage.
 Provide a floor elevation or flood-proofing certification after the lowest floor is completed. Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, flood-proofed elevation, whichever is

applicable, as build, in relation to mean sea level. Certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the survey or failure to make correction required shall be cause to issue a stop-work order for the project.

5.8.7. Variance and Appeal Procedure

- (1) The Planning Committee as established by this Ordinance shall hear and decide appeals and request for variances and appeals from the requirements of this Part based on the procedures set forth in Chapter 6 of this Ordinance.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (3) In reviewing such applications, the Planning Committee shall consider, in addition to the standards for review provided for in Section 6.1.5., all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (f) The availability of alternative location, not subject to flooding or erosion damage, for the proposed use;

- (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (5) Conditions for Variances:
 - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historical character and design of the building;
 - (b) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship, and;
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - (d) The City Engineer shall maintain the records of all appeal actions and report

any variance to the Federal Emergency Management Agency upon request.

PART 9. STORMWATER MANAGEMENT PLANS

5.9.1. Purpose and Scope

- (1) The purposes of this part is to establish administrative and enforcement procedures to evaluate and regulate on a case by case basis the impact that proposed developments of all types have to stormwater run-off on that development and on surrounding areas and to require if needed that all proposed developments provide for adequate stormwater retention and detention and drainage.
- (2) It is also intended that this Part prevent or alleviate future drainage problems stemming from development of property within the city. Realizing that development is crucial to the promotion of industry and jobs, business and commerce, housing, and private and public revenue, it is also important to prevent future drainage problems which waste private and public resources when the situation can be controlled through measures which will not make the cost of development prohibitive.
- (3) This Part shall apply to all proposed developments of real property where a building permit is required prior to commencement of development.

5.9.2. Department of Planning and Development Responsibility

- (1) The City Engineer is hereby designated as the Administrator of this Part, and shall have the primary responsibility for its implementation and enforcement.
- (2) The City Engineer shall review each application for a building permit submitted to the Building Division and will evaluate the proposed development on a case by case basis to determine whether that development will significantly increase stormwater runoff. This determination will be based on the following factors:
 - (a) Location and size of the development;
 - (b) Slope and soil condition;
 - (c) Capacity of existing drainage systems;
 - (d) Other considerations which may pertain to the discharge of stormwater from the development of this site.
- (3) Before filing a stormwater management plan, the applicant shall meet with the city Engineer in a pre-filing meeting to discuss the proposed stormwater management plan.

5.9.3. Submittal of Plan Required

- (1) For each development which the City Engineer determines that stormwater runoff will be significantly increased, the City Engineer shall require the owner, developer, or agent applying for the building permit to submit a stormwater management plan as part of the site plan.
- (2) The stormwater management plan required by (a) above shall comply with the standards of Chapter 13, Part 3, and shall be submitted according to Chapter 5, Part 7.

5.9.4. Standards for Stormwater Management

Stormwater management plans may be required to provide different levels of detail according to the type of project and the review process. Minimum requirements, for submittal with preliminary subdivision plats and PUD master plans, shall show the planned location and size of stormwater lines, inlets, outfalls, easements, open ditches, and detention facilities, along with arrows indicating general direction of flow. Full stormwater plans shall include all of the above required information plus additional details as set forth in the City of Tupelo Street and Stormwater Specifications manual.

5.9.5. Compliance with Plan

- (1) If any or all of the criteria in this Part or Chapter 13, Part 3 cannot be met, the City Engineer may reject the stormwater management plan. The rejection of the stormwater management plan shall prevent the granting of any building permit for the development until such time that an acceptable stormwater management plan is approved by the City Engineer. In making the decision to reject the plan, the City Engineer shall consider the following factors:
 - (a) The degree of compliance with the standards set forth in Chapter 13, Part 3;
 - (b) The detrimental impact on surrounding property and existing drainage systems and facilities caused by a failure to comply;
 - (c) The cost to the developer of a required stormwater management plan which would comply.

The City Engineer is empowered and directed to make inspections of each development once the stormwater management plan is approved and a building permit issued. Failure to comply with the specifications of the approved site plan will result in a revocation of the building permit.

PART 10. FILL AND DUMPING PERMITS.

5.10.1. Purpose and Scope

It is the purpose of this Part to promote the public health, safety, and general welfare and to prevent or alleviate problems due to fill and illegal dumping by provisions designed to:

- (1) Regulate the fill of lots, parcels or portions thereof;
- (2) Prohibit illegal dumping on lots, parcels or portions thereof;
- (3) Ensure proper fill quality;
- (4) Reduce or eliminate increased stormwater runoff;
- (5) Prevent or alleviate beautification problems associated with improper fill and/or illegal dumping;
- (6) Prevent potential construction and development problems due to improper fill and/or illegal dumping;
- (7) Prevent or alleviate drainage problems occurring because of unregulated dumping and filling of land within the City;
- (8) Ensure that filling of land is in accordance with sound environmental, construction and engineering principals.

5.10.2. Fill and Dumping Permit Required

- (1) Fill-only. Where a fill is to be conducted when no building permit application is contemplated within one year, the Planning and Development Department shall issue a permit, the amount of which to be determined by Resolution of the governing authority. It shall be the responsibility of the Planning and Development Department to design the permit and administer its use. The permit at a minimum shall require of the permittee the following information:
 - (a) Elevation and area of fill area prior to fill.
 - (b) Elevation and area of fill area subsequent to fill.
 - (c) Elevation and area of unfilled area on that lot.
 - (d) Elevation and location of adjoining lots and parcels.
 - (e) Percentage composition of fill material.
 - (f) Method of compaction.
 - (g) Location of the regulatory floodway.
- (2) Construction-fill. Where a fill is to be conducted on a site intended for construction within one year or when a building permit is simultaneously applied for, the Planning and Development Department shall require the permittee the following information:
 - (a) Elevation and area of fill area prior to fill.
 - (b) Elevation and area of fill area subsequent to fill.

- (c) Elevation and area of unfilled area on that lot.
 - (d) Elevation and location of adjoining lots and parcels.
 - (e) Percentage composition of fill material.
 - (f) Method of compaction.
 - (g) Location of the regulatory floodway.
- (3) No fill shall be conducted without obtaining a building permit with the requisite information listed above. No building permit shall be issued which does not:
 - (a) Meet the minimum fill quality specifications for the category of the fill to be conducted.
 - (b) Has not met stormwater retention requirements as outlined in Part 9 of this Chapter.

5.10.3. Requirements with Stormwater Retention/Detention Plans

All fill permits shall be reviewed under part 9 of this chapter, and no fill permit shall be issued prior to this review. If a stormwater retention/detention plan is needed, no fill permit shall be issued prior to stormwater retention/detention plan approval.

5.10.4 Standards for Fill and Dumping

Specifications for the quality of fill material shall be as follows:

- (1) Fill--only.
 - (a) Dirt.
 - (b) Concrete--nothing larger than that which will pass through an eighteen (18) inch opening and no longer than eighteen (18) inches in any direction.
 - (c) Asphalt--nothing larger than that which will pass through an eighteen (18) inch opening and no longer than eighteen (18) inches in any direction.
 - (d) Brick, stone and rock--nothing larger than that which will pass through an eighteen (18) inch opening and no longer than eighteen (18) inches in any direction.
 - (e) No rubbish or degradable material.
 - (f) Cover minimum of thirty six (36) inches of permeable select borrow material only.
- (2) Construction--fill
 - (a) Dirt.
 - (b) Concrete--nothing larger than that which will pass through an eighteen (18) inch opening and no longer than eighteen (18) inches in any direction.
 - (c) Asphalt--nothing larger than that which will pass through an eighteen (18) inch opening and no longer than eighteen (18) inches in any direction.

- (d) Brick, stone and rock--nothing larger than that which will pass through an eighteen (18) inch opening and no longer than eighteen (18) inches in any direction.
- (e) No rubbish or degradable material.
- (f) Cover minimum of thirty six (36) inches of permeable select borrow material only.

5.10.5. Compliance by City Departments

- (1) All City departments desiring to fill any lot or property within the city and not owned by the city shall fully comply with this Part.
- (2) Any City department wishing to fill property owned by the City is exempt from compliance with this Part.

5.10.6. Unauthorized Fill or Illegal Dumping

- (1) Should unauthorized fill or illegal dumping occur on property owned by a City resident and without that resident's permission, notice must be given by the resident to the Police Department and/or the Planning and Development Department within four days of the unauthorized fill or illegal dumping.
- (2) Where unauthorized fill or illegal dumping occurs on property owned by a non-resident property owner, the non-resident property owner must give notice to the Planning and Development Department and/or the Police Department within 14 days.
- (3) The Planning and Development Department and the Police Department will keep and maintain records of any notices received by City residents or non-resident property owners concerning unauthorized fill or illegal dumping on property.
- (4) Clean up cost;
 - (a) If notice is not given by the landowner, the landowner must bear all the cost of cleanup.
 - (b) If notice is given by the landowner, then the cost of the cleanup will be reviewed by the Planning Committee with the approval of the governing authority of the City as to any particulars of cleanup cost or conditions.

PART 11. BUILDING PERMITS

5.11.1. Building Permit Required

A building or structure which is governed by the City construction codes, as included in Chapter 7, Code of Ordinances, City Tupelo, Mississippi, or a fence located in a residential district, shall be erected, added to, structurally altered, moved, or demolished only after the Building Department has issued a building permit for such work. A building

permit shall be issued only for work which conforms to the requirements and standards of this Ordinance and the terms and conditions of any other permits, approvals, or variances granted pursuant to this Ordinance.

A building permit shall expire one year from the date of issuance. The permit may be renewed prior to expiration at no cost.

5.11.2. Building and Other Construction Codes Adopted

As per Chapter 7, Code of Ordinances, City of Tupelo, Mississippi, the following building and other construction codes are in effect for the City of Tupelo:

- Standard Building Code
- Standard Plumbing Code
- Standard Gas Code
- Standard Mechanical Code
- Standard Fire Prevention Code
- Standard Housing Code
- Standard Swimming Pool Code
- National Electrical Code

Said Chapter 7, Code of Ordinances, City of Tupelo, Mississippi, as amended from time to time, specifies the editions of these building and other construction codes which are in effect. Said Chapter 7 also specifies any requirements which are more restrictive or less restrictive than the provisions of these standard, nationally recognized codes.

5.11.3. Building Permit, Inspection and Other Procedures

Building permits shall be obtained in accordance with the procedures of the building and other construction codes as adopted by Chapter 7, Code of Ordinances, City of Tupelo, Mississippi. Inspection requirements and procedures and all other requirements and procedures of said codes shall be adhered to except where specifically modified by this Ordinance.

5.11.4. Contractor Licensing and Bonding Requirements

All contractors obtaining building permits in the City of Tupelo shall be licensed and bonded in accordance with Chapter 7, Code of Ordinances, City of Tupelo, Mississippi.

5.11.5. Requirements for Repair and Demolition of Dilapidated and Unsafe Buildings

All dilapidated and unsafe buildings shall be repaired or demolished in accordance with the procedures of Chapter 7, Code of Ordinances, City of Tupelo, Mississippi.

PART 12. CERTIFICATES OF OCCUPANCY

5.12.1. Certificate of Occupancy Required

- (1) A new building or part thereof, an addition or enlargement of any existing building, or an existing building may be occupied after being altered or moved, and a change in the use or occupancy of any building may be made in any existing building or part thereof, only after the Building Department has issued a certificate of occupancy therefore, stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. This requirement applies to establishment of home occupations and home businesses, including use of the home as an office or address of convenience for a business carried on outside the home.
- (2) A certificate of occupancy shall be required for the purpose of maintaining, renewing, changing or extending a nonconforming use.
- (3) A certificate of occupancy shall be required on all property within designated "Neighborhood Protection Districts" for any new utility service or any transfer of utility service to a new owner. An existing certificate of occupancy shall be acceptable if issued less than two (2) years prior to the transfer of service.
- (4) Inspection of existing residential structures for use as home occupations or home businesses may be waived at the discretion of the Building Official, if no changes are made that would require a building permit.

5.12.2. Approval Procedure

- (1) The Building Department shall issue a certificate of occupancy when, after examination of the building, structure, landscaping and/or other improvements or changes to the property, the Department finds that the building complies with the applicable provisions of this Ordinance and other applicable ordinances and construction codes of the City.
- (2) The building Official Department shall issue the certificate of occupancy after the erection or structural alteration of the building or part thereof to be occupied has been completed in conformity with the applicable provisions of this Ordinance and other applicable ordinances and construction codes of the City.
- (3) The Building Official may issue a conditional certificate of occupancy, which shall be valid only for the period of time stated in the certificate, for a specified portion or portions of a building which may safely be occupied prior to final completion of the entire building

and/or site. Conditions that are attached to the conditional certificate of occupancy must be completed prior to the expiration date of the conditional certificate; the certificate of occupancy shall immediately expire. Upon receipt of a written application to the Building official stating satisfactory reasons for the failure to complete work within the given time period, the Building Official may renew the certificate for a specified period of time, not to exceed 90 days.

PART 13. SIGN PERMITS

5.13.1. Purpose and Scope

The purpose of this Part is to set out the procedures for obtaining a sign permit from the City.

A sign, for which Chapter 12, Part 13 of this Ordinance requires a sign permit, may be erected within the corporate limits of the City after a sign permit has been issued by the Planning and Development Department in accordance with the procedures and requirements of this Part and Chapter 12, Part 2 of this Ordinance.

5.13.2. Application Requirements

- (1) An application for a sign permit may be filed only by the owner of the property on which the sign is to be erected, or by an agent, lessee, or contract purchaser specifically authorized by the owner to file such application.
- (2) An application for a sign certificate shall be filed with the Planning and Development Department on a form prescribed by the Department, along with the fee for such certificate as prescribed by the City Council.
- (3) Each application for a sign permit shall contain the information required on the application form, and such other information regarding the proposed sign as the Planning and Development Department may deem necessary in order to determine whether the proposed sign complies with the applicable requirements of this Ordinance and other applicable ordinances of the City.
- (4) The Planning and Development Department shall determine whether the application is complete. If the Department determines that the application is not complete, then it shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

5.13.3. Approval Procedure; Lapse of Approval

- (1) The Planning and Development Department shall issue a sign permit only upon finding that the proposed sign satisfies the

requirements set forth in Chapter 12, Part 2 of this Ordinance.

- (2) The sign certificate shall become null and void if the sign is not erected within 120 days after the date the certificate is issued.

PART 14. VESTED RIGHTS CERTIFICATE

5.14.1. Purpose and Authority

The purpose of this part is to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the land-use planning process, secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in the area of land-use planning in recognition that city approval of land-use development typically follows significant landowner investment in site evaluation, planning, development costs, consultant fees, and related expenses.

5.14.2. Establishment of Vested Right

A vested right shall be deemed established with respect to any property upon the approval of a site specific development plan after notice and public hearing in accordance with Part 15 of this Chapter. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan.

5.14.3. Procedure

- (1) An application for a vested rights certificate for a site specific development plan shall be filed with the Planning and Development Department, accompanied by a fee, required by Section 5.1.4. of this Ordinance.
- (2) Where the proposed development requires preliminary subdivision plat approval: The applicant shall submit the number of copies of the preliminary subdivision plan and an application for a vested rights certificate as determined by the Planning and Development Department. The preliminary subdivision plat plus the additional information required for a site specific development plan shall be routed directly to City Council for consideration, public hearing and a decision.
- (3) Where neither major site plan nor preliminary subdivision plat approval is required: The applicant shall submit a site-specific development plan and an application for a vested rights certificate. The site plan and/or preliminary subdivision plat and site specific development plan shall be considered simultaneously, following the same procedure as for a site plan. After review by the Planning Committee, the City

Council shall hold a public hearing and reach a decision.

- (4) Action by the City Council:
 - (a) Notice and Public Hearing. No vested rights certificate shall be approved by the City Council until after public hearing notice and hearing in accordance with the provisions of Part 15 of this Chapter.
 - (b) No application for a vested rights certificate covering the same property will be considered until after a lapse of twelve (12) months from the date of denial or withdrawal of the application. This twelve-month provision may be waived for good cause shown by a three-fourths (3/4) vote of the entire Council.
 - (c) After holding a public hearing, the City Council may take action on the application, approve the application, deny the application or approve the application with additional conditions which the Council may attach.

5.14.4. Two-year vested rights period

Notwithstanding the terms of Sections, 1.1.4. and 1.1.5. of this Ordinance, and except as provided in Sections 5.13.6. through 5.13.7. below, any development for which the City has approved a "site specific development plan" prior to the effective date of any subsequent amendment to this Ordinance which renders the development nonconforming, may be carried out in accordance with the approved plan and shall be deemed lawfully existing under the terms of this Ordinance, provided that the development conforms to all terms and conditions of the approved site specific development plan. This right to carry out the development in accordance with the approved plan shall attach to and run with the land, rather than being personal to the recipient of plan approval. This right shall terminate, however, two years after the effective date of approval of the site specific development plan with respect to all buildings and uses for which the developer has not, by that time, filed a valid building permit application in accordance with Chapter 5, Part 11 of this Ordinance.

5.14.5. Vested rights certificate required

In order to be entitled to the vested rights period set forth in Section 5.14.4. above, the owner or developer of the property must apply for and receive a vested rights certificate from the City. The application for a vested rights certificate shall be filed in conjunction with the application for approval of the site specific development plan, and shall be processed in conjunction with the site specific development plan. A vested rights certificate shall not be issued until and unless there is a public

hearing on the proposed development in conjunction with the City Council meeting at which the site specific development plan is considered or approved. In approving the vested right certificate, the City Council may extend the two-year vested rights period provided in Section 5.14.4. to a period of up to five years, where warranted in light of all relevant circumstances, including, but not limited to , the size and phasing of development, economic cycles, and market conditions. This determination shall be at the sound discretion of the City Council.

5.14.6. Exceptions

The provision of Section 5.14.5. shall not apply in the following instances:

- (1) Where the property owner consents, in writing, to making the development conform to the requirements of this Ordinance, or any amendment thereto, which would make the development nonconforming;
- (2) Where the City Council finds, after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed in accordance with the approved site specific development plan;
- (3) Where the City Council finds, after notice and a public hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the City approval of the site specific development plan;
- (4) Where the State or Federal government has enacted or promulgated a law or regulation which precludes developing the property in accordance with the approved plan, in which case the City Council may, by ordinance, modify the affected provisions of the approved plan upon finding, after notice and a public hearing, that the change in State or Federal law has fundamental effect on the approved site specific development plan;
- (5) Where the City has compensated the property owner for all costs, expenses, and other losses, not including any diminution in the value of the property, which the owner has incurred after approval of the site-specific development plan by the City together with interest thereon at the legal rate until paid.

5.14.7. Effect of changes to approved plan

This Ordinance provides for situations in which the property owner or developer may obtain City approval for particular changes to a site-specific development plan that the City has

already approved. The effect of such changes is as follows:

- (1) Where the change is a conditional use of a temporary nature that may be approved by the Director of Planning and Development under the terms of this Ordinance, such as under Section 5.7.12, then approval of the change shall have no effect on the vested rights period and vested right certificate provided for in Sections 5.14.4. and 5.14.5. The Director's approval of the proposed change shall not be deemed to extend or renew the vested rights period.
- (2) Where the change is one that requires the approval of the City Council under the terms of this Ordinance, such as major change to a site plan, then the property owner or developer must submit an application for a new vested right certificate along with the application for approval of the plan change in order to extend or renew the vested rights period. In no case shall the total period of vesting for any piece of property be longer than five (5) years, no matter how many major changes are made to the property. The new vested rights certificate may be issued only in accordance with the requirements of Section 5.14.5. above.
- (3) Where the change is one that requires a variance from the Planning Committee, pursuant to Chapter 6, Part 1 of this Ordinance, then the vested rights period set forth in Section 5.14.4. shall terminate immediately upon the Planning Committee's approval of the variance.

5.14.8. Provisions to which vesting does not apply

The provision of Section 5.14.3. shall not preclude the City from applying zoning regulations which do not affect the allowable type or intensity of use, regulations governing nonconformities which appear in Chapter 16 of this Ordinance, or regulations which are general in nature and apply to all property within the City's jurisdiction. All other regulations shall become effective with respect to the property upon the expiration or termination of the vested rights period set forth in Section 5.14.4.

PART 15. NOTICES AND PUBLIC HEARINGS

5.15.1. Notice Requirements

- (1) Content of Notices. All notices which this Section requires for public hearings shall identify the date, time, and place of the public hearing and the nature and character of the proposed action. Where the hearing involves the rezoning of property, the approval of a planned unit development, the

approval of a conditional use or variance, the notice shall also identify the address or location of the subject property and the name of the applicant.

- (2) Published notice. For any public hearing required by this Ordinance for amending the text of this Ordinance, for rezoning property, for approval of a planned unit development or for the comprehensive rezoning and adoption of a new zoning map, the Planning and Development Department shall cause a notice to be published in a newspaper having general circulation in the area. The notice shall be published at least 15 days before the scheduled hearing date. (In computing such period, the day of publication shall not be counted, but the day of the hearing shall be counted.)
- (3) Posted notice. For any public hearing required by this Ordinance for rezoning property pursuant to this Ordinance or for approval of a planned unit development, the Planning and Development Department shall cause a notice to be posted on the property for at least seven days before the scheduled date of the hearing.
- (4) Personal notice to nearby property owners. For any public hearing required by this Ordinance for approval of a rezoning of property, a conditional use, variance, Planned Unit Development or for approval of a vested rights certificate, the Planning and Development Department shall compile a list of all owners of all properties located within 500 feet of the subject property and their current addresses, compiled from the current records of the City of Tupelo Tax Collector. The Planning and Development Department shall deliver a notice of the hearing to those property owners by first class mail, with such notices being mailed no later than seven days before the scheduled date of the hearing; provided, however, that the failure of the property owner to receive notice duly mailed to the address listed in the tax records shall not invalidate the hearing. (Ordinance of 11-05-96)

5.15.2. Public Hearing Procedures

- (1) The procedures and requirements set forth in this Section shall supply to all public hearings regarding the rezoning of property, the approval of a planned unit development, the approval of a conditional use or variance, the approval of a vested rights certificate or an administrative appeal pursuant to Chapter 6, Part 2 of this Ordinance.
- (2) When the Director of Planning and Development has determined that an application is complete and that a public

hearing is required by this Ordinance, the Director shall schedule a date, time, and place for the required hearing, and shall ensure that all notices are provided pursuant to Section 5.15.1 above.

- (3) Any person may appear at the public hearing and submit evidence in explanation or rebuttal, either individually or as a representative of an organization, upon receiving proper recognition from the chairperson of the body conducting the hearing.
- (4) Each person who appears at a public hearing shall identify himself or herself and his or her address and, if appearing on behalf of an organization, shall state the name and mailing address of the organization. Anyone representing an organization shall present written evidence of his or her authority to speak on behalf of the organization in regard to the matter under consideration, unless the chairperson waives this requirement.
- (5) All testimony and evidence given in a public hearing in front of the Planning Committee and the City Council in a hearing on a major conditional use shall be given under oath or by affirmation to the body conducting the hearing.
- (6) Any person participating in the hearing may, upon receiving proper recognition from the chairperson of the body conducting the hearing, question or cross-examine other persons appearing as witnesses who present adverse evidence or testimony.
- (7) The body conducting the hearing may exclude any testimony, evidence, or questioning that it finds to be incompetent, irrelevant, immaterial, or unduly repetitious.
- (8) At any time upon reasonable request, any person may examine the application and materials submitted in support of or in opposition to an application for development approval. The Director of Planning and Development shall make copies of such materials available at cost.

PART 16. CLUSTER SUBDIVISIONS

5.16.1. Purpose

The purpose of the cluster subdivision process is to promote the responsible and efficient use of land with special natural or cultural resource characteristics, by allowing flexibility in development of unrestricted portions of such parcels while preserving resource areas.

5.16.2. Scope

Cluster subdivision applications may be submitted for property which meets the following requirements:

- (1) located in zoning district where single family residences are permitted uses;
- (2) five acres or larger
- (3) not less than 10% (ten per cent) and not more than 50% (fifty per cent) of the property to be divided can be identified as one or more of the following:
 - (a) wetlands as designated by the U. S. Corps of Engineers
 - (b) floodplains or floodways as designated by the Federal Emergency Management Agency
 - (c) cultural resource sites or areas as designated by the Mississippi Department of Archives and History
 - (d) riparian buffer, defined as the area within 30 (thirty) feet of the center of an existing natural watercourse as mapped by the Natural Resource Conservation Service
 - (e) mature woodland, as delineated by the City of Tupelo arborist or environmental coordinator, or Mississippi Forestry Commission.
 - (f) natural or constructed lake, including dam structure and areas identified for stormwater detention.

5.16.3. Procedure

Applications for cluster subdivisions will follow the procedures and requirements of Chapter 5 Part 6 of the Tupelo Development Code, except as follows:

- (a) The preliminary plat (5.6.4) must also show all resource areas designated for protection.
- (b) The remaining portion of the property may be subdivided into lots not less than 4,000 square feet, up to the number of lots which could have been obtained by platting the entire parcel under the applicable zoning district lot dimension standards.
- (c) Setbacks may be reduced to 20 feet on the front, 5 feet on the sides, and 20 feet in the rear.
- (d) Street and right of way dimensions maybe reduced as follows:
 - (i) Cul de sac of 500 feet or less: 16 foot pavement width, 40 foot right of way
 - (ii) Standard streets: 22 foot pavement width, 46 foot right of way
- (e) The final plat (5.6.6.ii) shall also show the protected areas of the tract and the type and location of preservation agreements or covenants.

PART 17. REDEVELOPMENT DISTRICTS

5.17.1. Purpose and Scope

- (1) General purpose. The City hereby establishes the 'Redevelopment District' designation in order to implement goals for residential development set forth in the Tupelo 2010 Comprehensive Plan.
- (2) Specific purpose. The 'Redevelopment District' designation is further established for the following specific purposes:
 - (a) Promote the development and construction of additional housing units;
 - (b) Provide housing in the price ranges not adequately served under current market conditions;
 - (c) Increase the city tax base;
 - (d) Promote efficiency in development of land within existing utility service areas; and
 - (e) Support business and economic development within the city through increased residential growth and housing for labor force.

5.17.2 Authority

The 'Redevelopment District' designation is authorized under Section 17.21.5 and Section 17.21.7 of the Mississippi Code of 1972, as amended, and the city is authorized to establish criteria and procedures to implement the designation, and to abate city ad valorem taxes applicable in such designated 'Redevelopment Districts'.

5.17.3 Requirements for designation

Properties within the City of Tupelo may be designated as 'Redevelopment Districts' if they meet the following requirements:

- (1) Located within zoning districts where single family detached dwellings are permitted uses.
- (2) Minimum parcel size of one acre.
- (3) Statement of intent filed with development permit application must indicate that the intended use and development of the property is for single family detached houses which will be marketed at prices not to exceed 115% of the median value of owner occupied dwellings in the City of Tupelo, as reported in the 2000 United States Census and adjusted for inflation.
- (4) The property will be subdivided into a minimum of six lots.

[NOTE: the median value is \$92,800; the price limit is therefore set initially at \$106,720. We would need to increase this

amount each year based on the percent change in median household income.]

5.17.4 Review procedures

- (1) Preliminary subdivision plat applications and applications for rezoning to 'Planned Unit Development' may include a request for designation of the subject property as a 'Redevelopment District'. Such request for designation shall be made in letter form, executed by all owners of the property, and shall include the following information:
 - (a) Statement of intent to develop the property for single family housing to be sold at prices not to exceed 115% of the median value of owner-occupied housing in the City of Tupelo, adjusted for inflation, in conformance with the requirements of the 'Redevelopment District' program.
 - (b) Number of lots in the development and phasing plans if applicable.
 - (c) Copy of the most recent tax bill for the property.
- (2) The request for designation as a 'Redevelopment District' shall be reviewed and approved as part of the general review of the development proposal, according to the applicable procedures in Section 5 of the Tupelo Development Code.
- (3) The date of initial designation of the property as a 'Redevelopment District' shall be noted on the final plat.

5.17.5 Term, annual reporting and recertification

- (1) 'Redevelopment District' designation shall expire at the end of the second calendar year after the filing of the final plat, unless the original developers, or their successors in interest, file an acceptable report disclosing the sales price of any homes constructed within the designated district during the year. Such report shall include documentation of development costs incurred during the year and copies of all executed sales contracts for the district, shall be signed and certified by all owners, and shall be submitted to the City of Tupelo Planning Department by the tenth working day of the year.
- (2) In each following year the 'Redevelopment District' designation shall expire unless the sales price report is received and accepted by the City of Tupelo Planning Department. To qualify for continuing designation, the report must document that:
 - (a) No more than ten per cent of the homes sold in the district have been sold at a price exceeding 115% of the median value of owner occupied housing,

adjusted according to the percentage change in Lee County household median income as reported by the U. S. Department of Commerce.

- (b) The average of the selling price of all houses sold does not exceed 115% of the median value of owner occupied housing, as adjusted.
 - (c) If no houses have been sold in the district, continuing designation will be made only if the report documents a good faith investment in infrastructure and development costs.
- (3) The Planning department will review reports from each district and will compile a list for presentation to the City Clerk and to the Lee County Tax Collector, certifying the redesignation of those districts which meet the intent of the program, and requesting the Tax Collector to adjust the tax bill to reflect the City's abatement of the additional tax increment that would otherwise be assessed as a result of the platting of subdivisions on property in the qualifying districts.
 - (4) This report will also include any new districts designated during the year.
 - (5) The report will include calculation of the selling price ceiling for the next year based on the percentage change in household median income as reported by the U. S. Department of Commerce.
 - (6) In no case shall the 'Redevelopment District' designation be in effect for more than seven years.

5.17.6 Enforcement

Failure to provide the annual sales report or to adequately meet with intent of this section for the construction of affordable housing as determined by the annual sales report shall be a violation of this ordinance and enforceable according to Section 17.1.3, except that the penalty for violation shall be the assessment of a fine in an amount which is the greater of \$1000.00 or the amount of taxes which would have been assessed had there been no designation of the property as a redevelopment district.