

CHAPTER 2. DEFINITIONS AND RULES OF CONSTRUCTION

2.1 General Rules of Construction

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

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

In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Code and applying to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts which are set forth in Chapter 5 shall control in the event of any conflict between those regulations and the regulations which are set forth in Chapter 4 for the underlying zoning district, regardless of whether they are more strict or less strict than the regulations for the underlying district.

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

The words "shall", "must", and "will", are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive in nature. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

Any act authorized by this Code to be carried out by a specific official of the City is implicitly authorized to be carried out by a designee of such official.

2.2 Interpretation of District Boundaries

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

- (1) Where the Official Map shows a zoning district boundary line located within or following a street or alley right-of-way, railroad or utility line right-of-way, easement, or waterway, the district boundary shall be considered to be in the center of the right-of-way, easement, or waterway. If the actual location of such right-of-way, easement, or waterway, as indicated in a recorded legal description of such, varies slightly from the location shown on the Official Map, then the actual location shall control.
- (2) Where the Official Map shows a boundary line as being located a specific distance from a street line or other physical feature, this distance shall control.

Where the Official Map shows a district boundary to approximately coincide with a property line or municipal border, the property line or municipal border shall be considered the district boundary, unless otherwise indicated on the map.

- (3) Where the Official Map shows a district boundary to not coincide or approximately coincide with any street, alley, railroad, waterway, or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the Official Map.
- (4) Where the Official Map shows a district boundary dividing a lot, each part of the lot shall be used in conformity with the standards established by this Code for the zoning district in which that part is located.

2.3 Conflict or Inconsistency with Other Laws, Covenants, or Deed Restrictions

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

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

2.4 Definitions

When used in this Code, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Code specifically indicate otherwise.

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

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

ACCESSORY DWELLING UNIT (ADU): A residential unit, also known as a granny flat, guest house, or mother-in-law apartment, that is a second dwelling unit located on a lot with one (1) single-family house and which is no more than thirty-five percent (35%) of the size of the principal unit. An ADU is a complete living unit with kitchen, bathroom, and sleeping facilities; has a separate entrance from the primary dwelling unit; and provides off-street parking.

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

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

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

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

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

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

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

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

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

ADULT MOTEL: An establishment which includes the word “adult” in any name it uses or otherwise advertises the presentation of adult material offering public accommodation for any form of consideration, which provides patrons with closed-circuit televised transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.”

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

ADULT VIDEO STORE: A commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental any form of consideration of any one (1) or more of the following: photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe “specific sexual activities” or “specified anatomical areas”; and, instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities”.

AGRICULTURAL USES: Land used as pasture or in the commercial production of crops, horticultural products, fish hatcheries or aquaculture. Also for the purposes of this Code, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hooved animals such as cattle, horses, goats, sheep and swine; however, residential uses are permitted up to ten (10) hens for personal use. Also included in this definition of agricultural uses are agricultural accessory buildings and sales of agricultural products grown or raised on the premises. The commercial slaughtering of animals is not included as an agricultural use.

AIRCRAFT SALES AND SERVICE: The sale, rental, or repair of aircraft. This use shall not include salvage or scrap operations.

AIRPORT: An area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

ALLEY: A small, low volume street, either publicly or privately owned, which typically serves as secondary access to the rear or side of properties whose principal frontage is on another street.

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

ANIMAL SHELTER: A non-profit or government-owned agency run for the purpose of impounding and caring for lost and abandoned small animals such as dogs and cats. Due to the potential for noise or other adverse effects associated with this use, care shall be taken during site planning to mitigate any effects on surrounding property owners.

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

APARTMENT: Dwelling unit in a multi-family development.

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

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

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

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

ARTERIAL STREET: See **STREET, ARTERIAL:**

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

ASPHALT AND/OR CONCRETE PLANT: A manufacturing plant where concrete, asphalt, macadam, or another form of coated roadstone is mixed before being transported to a construction site.

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

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

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

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

BASEMENT: A story wholly or partially underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (½) of its height is above the average grade level.

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

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

BLOCK: a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

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

BREAKAWAYWALL: Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which is not part of the structural support of the building and which is designed to break away during floods without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

BROADCASTING FACILITY, RADIO AND/OR TELEVISION: A programming origination studio of a television station, radio station, or cable television provider. Such facility shall not include telecommunications facilities or towers. These shall be permitted as separate uses.

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

BUFFER: A portion of property designated to mitigate impacts between land uses or transportation routes, or to protect water features from pollutants. It may contain any combination

of vegetative materials, berms, fences, and walls, and provide separation and screening to minimize potential adverse impacts.

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

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

BUILDING, ACCESSORY: See **ACCESSORY BUILDING OR STRUCTURE**

BUILDING CODE (S): The International Building Code, International Residential Code, International Existing Building Code International Gas Code, International Plumbing Code, International Mechanical Code, International Property Maintenance Code, National Fire Prevention Association Code, used singularly or any combination thereof, as currently adopted by the City of Tupelo.

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

BUILDING PERMIT: A permit issued by the Building Department pursuant to the currently adopted Building Codes of the City of Tupelo.

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

BUILDING SETBACK LINE: A line establishing the minimum allowable distance between the nearest portion of any building and a property line when measured perpendicularly thereto.

BUILDING WALL: An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and the eaves of the building, used to enclose the space within the building. A porch, balcony, or stoop is part of the building structure and may be considered as a building wall.

BUILD-TO LINE: A line establishing the maximum allowable distance between the principal front elevation of a building and the property line when measured perpendicularly thereto. In the Fairpark sub-district, the build-to line replaces the front setback line. The principal front elevation must be built to the build-to line.

CALIPER: A horticultural method of measuring the diameter of a tree trunk for the purposes of determining the tree's size. The caliper of the trunk is measured six (6) inches above the ground for trees with a diameter of four (4) inches or less, twelve (12) inches above the ground for trees with a diameter more than four (4) and less than ten (10) inches, and at breast height of four and one-half (4½) feet for trees with a diameter of ten (10) inches or greater. Caliper measurement may be taken with a "slot" or "pincer" type caliper instrument or diameter tape.

CAMPGROUND/RV PARK: Land used or intended to be used, let, or rented for occupancy by vacationing transient campers traveling by automobile or otherwise, or for occupancy by tents, or other movable or temporary sleeping quarters of any kind, together with automobile parking spaces and incidental utility structures and facilities required and provided in connection with the use. This use shall not include manufactured or mobile home sales, repair, or storage.

CANOPY: A structure constructed of rigid materials, including but not limited to, metal, wood concrete, plastic, canvas or glass, which is attached to and supported by a building, or which is free-standing and supported by columns, poles, or braces extended to the ground.

CANOPY TREE: See **TREE, CANOPY**

CARWASH FACILITY: An establishment providing the exterior washing of vehicles, either full-serve or self-serve. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants.

CEMETERY: A place used or to be used and dedicated or designated for interment of human remains or pet animal remains.

CERTIFICATE OF OCCUPANCY: A certificate by the Chief Building Inspector that a building, structure or use conforms to the building permit, all applicable city ordinances and requirements and may be used or occupied as proposed and approved.

CHANGE OF USE: A change of use of a building, structure or property to another use as permitted in the subject property's zoning district.

CITY COUNCIL: The City Council of the City of Tupelo, Mississippi.

CLUBS AND LODGES, CIVIC OR FRATERNAL: Private not-for-profit associations, corporations, or other entity consisting of persons who are bona fide paying members and which own, lease, or use a building, a parcel of land, or a portion thereof, the use of such premises being restricted primarily to members and their guests, including offices for local, state and regional officials of that organization.

CODES DIVISION: The City of Tupelo Codes Enforcement Division of the Development Services Department.

COLLECTOR STREET: See **STREET, COLLECTOR**

COLUMBARIUM: A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person. Such use is permitted by right as an accessory use to a permitted cemetery, funeral home, crematory, or place of assembly and/or worship.

COMMERCIAL: Any nonresidential use of land involving commerce or commercial activity such as wholesale or retail trade, or the provision of services.

COMMERCIAL VEHICLE: A motor vehicle or trailer designed for a commercial or industrial function or marked with commercial advertising. Such vehicle may display letters, numbers, logos, and/or symbols identifying a trade or business or advertising a business product or service (excluding bumper stickers and registration/license numbers or other such information required to be posted by law), have permanently mounted outside brackets or holders for ladders, tools, pipes, or similar equipment, or be licensed as a “for-hire” vehicle (e.g., a taxicab or limousine).

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

COMPATIBLE USE: A land use listed in Chapter 4 or 5 of this Code as a “compatible use” in the zoning district in which it is located, and which is subject to the approval procedures set forth in Section 12.12 of this Code.

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

CONDITIONAL USE: A land use listed in Chapter 4 or 5 of this Code as a “compatible use” or “flexible use” in the zoning district in which it is located, and which is subject to the approval procedures set forth in Chapter 12.12 of this Code.

CONDOMINIUM: A building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all the unit owners on a proportional basis. A condominium is considered a multifamily dwelling that is owner-occupied or rented for a minimum of thirty (30) days or more.

CONFERENCE CENTER: A facility used for conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.

CONGREGATE LIVING: any structure occupied for residential use by a group of six or more adult residents: and/or any structure occupied by a group for residential use where any care or group support services are provided by others, either paid for in whole, in part or in-kind by an agency, business, non-profit corporation, church or organization with rules and regulations as to governing the household, including the household itself serving on a voluntary basis; and/or any “Residential Group” as defined by the International Fire Code (IFC) of 2012 requiring life safety measures of the IFC. Congregate living can be identified as residency ‘plus’ those services or

support defined above, and traditional examples of congregate living include, but are not limited to, transient or nontransient boarding houses, alcohol and drug centers, assisted living facilities, convalescent facilities, group homes, halfway houses, residential board and custodial care facilities, sober living houses, and social rehabilitation facilities.

CONGREGATE LIVING 1: any structure or facility used for congregate living, where services are limited to the provision of shared meals and/or housekeeping, but no medical or personal care services or assistance with activities of daily living, as defined by the State of Mississippi Department of Health, are provided.

CONGREGATE LIVING 2: any structure or facility used for congregate living where services may include medical or personal care services or assistance with activities of daily living as defined by the State of Mississippi Department of Health, or which are required to be licensed by the State of Mississippi for such services.

CONGREGATE LIVING 3: any structure or facility used for congregate living, where residents are placed on release from more restrictive custodial confinement or in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents transitioning back into society; or where residents are treated for substance abuse problems, or placed after such treatment for a period of supervision, rehabilitation, and counseling to assist with transitioning back into society.

CONTRACTOR SHOP: A business for a contractor, plumber, electrician, or similar trade which includes office space as well as indoor or outdoor storage of materials or vehicles and which may include retail sales to other businesses or the public.

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

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

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

CONVENIENCE STORE: A retail establishment which offers for sale primarily the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, light wine, candy, papers and magazines, and general hardware articles. Fast food may be offered but only as a secondary activity. Gasoline is not offered for sale. Vehicular maintenance and service are not provided. This use is regulated under the retail sales and/or service use.

CONVENIENCE STORE WITH FUEL SALES: A retail establishment which offers for sale gasoline dispensed by the customer. Such store may also have a car wash and sell groceries, tobacco and beer and light wine. Vehicular maintenance and service are not provided.

COPING: The finished edge of a roof.

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

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

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

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

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

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

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

DEMOLITION: The intentional removal of fifty (50) percent or more of a structure's external walls.

DEMOLITION BY NEGLIGENCE: Conditions of neglect in the maintenance of a building that constitutes or substantially contributes to deterioration threatening the structural integrity of the structure.

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

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

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

DESIGN COMPATIBILITY: A condition occurring between two (2) of the same or two (2) different use types where the buildings harmonize together through the use of common scale, setbacks, heights, materials, design treatments, roof forms, orientation, or other features.

DETACHED: Not physically connected to another building or structure.

DETACHED DWELLING: A residential unit such as a single-family home that is the primary structure on a lot and is not physically connected to another building or structure.

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

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

DEVELOPER: Any person engaged in the development or redevelopment of land, buildings or structures, or any person dividing or proposing to divide land so as to constitute a subdivision.

DEVELOPMENT: The initiation, construction, change, or enlargement of any use or structure, the disturbance of land through the removal of ground cover, or the division of land into two (2) or more parcels. "Development" shall include, but not be limited to, the following:

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

DEVELOPMENT PLAN: A document submitted in support of an application for zoning change, consisting of written and graphic description of various elements of the proposed use of property, including the type and intensity of land uses, sensitive and protected areas of the site, use limitations, dedications, reservations, design guidelines, a phasing plan, and other elements if applicable. Submittal of the development plan represents a binding commitment to execute the proposal as described. The development plan is required as provided in Section 12.8 and as further described in Section 12.9 of the Development Code.

DIAMETER AT BREAST HEIGHT (DBH): The standard measure of a single (1) stemmed tree at four and one-half (4½) feet above grade. When a tree has grown with cluster stems at breast height, DBH shall be equal to the sum or aggregate of the diameters of the individual stems measured at four and one-half (4½) feet above the grade.

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

DIRECTOR OF DEVELOPMENT SERVICES: The Director of the Development Services Department, or his or her designee.

DISTRICT: A zoning district established by Chapters 4 or 5 of this Code.

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

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

DRUG STORE OR PHARMACY WITH DRIVE-THROUGH SERVICE: A freestanding establishment including one (1) or more drive through lanes for customer service that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

DRUG STORE OR PHARMACY WITHOUT DRIVE-THROUGH SERVICE: A freestanding establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies. This use does not include drive through services and shall be permitted under the retail sales and/or service use category.

DUPLEX: A residential unit that contains two (2) housing units which share a no-through access common wall in a single structure on a single lot. Individual units may be located on separate floors or side-by-side. A duplex shall have open yards on all sides and not be attached to any other building.

DWELLING: One (1) room or rooms connected together and comprising a minimum of three hundred-ninety (390) square feet, constituting a separate, independent housekeeping establishment with independent cooking and sleeping facilities for owner occupancy, or rental or lease on a

monthly or longer basis. This term shall not include a motel, hotel, guest house, or other structure designed for transient residence of thirty (30) days or less.

DWELLING, ATTACHED: A building which contains two (2) or more dwelling units which share one (1) or more common walls for fifty percent (50%) or more of their width, with each dwelling unit located on a separate lot. This definition may include a townhouse or zero-lot-line house.

DWELLING, DETACHED: A residential unit such as a single-family home that is the primary structure on a lot and is not physically connected to another building or structure.

DWELLING, MULTI-FAMILY: A structure containing multiple individual dwelling units, with the units often stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors and ceilings. This definition shall include apartment developments and condominiums. It shall not include duplexes, semi-attached houses, townhouses, patio homes, or zero-lot-line houses.

DWELLING, PATIO HOME: A single family dwelling on a separate lot with open space setbacks on three (3) sides.

DWELLING, ZERO LOT LINE: A single family dwelling on a separate lot with open space setbacks on three (3) sides, which shares a common wall with another dwelling.

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

EASEMENT: A grant by a property owner, to the public, a corporation, or other person or persons, of the right to use or occupy designated land for specified purposes, such as for access, drainage, conservation, greenways, or the location of public improvements such as utility lines. An easement does not constitute fee simple ownership of the land.

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

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

EDUCATIONAL FACILITY, K-12: A privately-owned or publicly-owned elementary school, middle school, junior high school, or high school which does not provide lodging for students. This use may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, and other facilities that further the educational mission of the school.

EDUCATIONAL FACILITY, UNIVERSITY AND/OR COLLEGE: An institution, other than a trade school, which provides full time or part time education beyond the high school level. This

use may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

EDUCATIONAL FACILITY, VOCATIONAL TRAINING: A public or private school offering vocational, industrial, or trade instruction to students and that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes and meets the state requirements for a vocational training facility. Such uses may include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

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

ELEVATION: The front, side, or rear of a structure.

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

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

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

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

ESCROW: A deposit of cash with the city in lieu of an amount required and still enforced on a performance or maintenance bond.

EXCESSIVE GROWTH: The growth of weeds, grass or plants which are not cultivated or landscaped or regularly tended and which may reach a height in excess of twelve (12) inches.

EXISTING CONSTRUCTION FOR THE PURPOSE OF FLOODPLAIN

MANAGEMENT: Any structure for which a valid building permit was issued prior to January 17, 1978.

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:

The preparation of additional sites on which manufactured homes are to be permanently placed.

FAA: Federal Aviation Administration.

FAÇADE: The exterior wall on the front, side, or rear elevation of the building regardless of whether the building side faces a street.

FAMILY: Up to five (5) adult persons, who occupy a dwelling and live as a single housekeeping unit.

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

FARMERS MARKET: An occasional or periodic public market held in a structure or open area where farmers sell produce and other farm products they have grown, gathered, or raised directly to consumers. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold.

FCC: Federal Communications Commission.

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

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

FLAG LOT: See “LOT, FLAG”

FLEXIBLE USE: A land use listed in Chapter 4 or 5 of this Code as a “flexible use” in the zoning district in which it is located, and which is subject to the approval procedures set forth in Section 12.12 of this Code.

FRONTAGE: The length of the property line for a parcel which runs parallel to and along a road right-of-way or street exclusive of alleyways.

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

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

FLOODPLAIN: Any land area susceptible to flooding.

FLOOD INSURANCE: The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM): An official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard, the Future Conditions Flood Hazard Areas and the risk premium zones.

FLOOD INSURANCE STUDY (FIS): A report that includes an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMS.)

FLOOD ZONE: A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

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

FLOODWAY FRINGE: The portion of the Special Flood Hazard Area that is outside of the Floodway.

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

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

GOLF COURSE: A course with nine (9) or more holes for playing golf, including any accessory driving range, clubhouse, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility, or similar accessory use or structure. This term shall not include

miniature golf courses as a principal or accessory use, nor shall it include driving ranges that are not accessory to a golf course.

GREENWAY: A linear open space, owned privately or by the City of Tupelo or another unit of government, which contains a trail for walking, bicycling, horseback riding or other passive recreation, but not for use by motorized vehicles for purposes other than maintenance of the greenway.

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

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

HEIGHT: The vertical distance between the average finished grade of a structure and the highest point of a structure with a flat roof, or the midpoint of the peak and eave heights of a structure with a pitched roof.

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

HISTORIC DISTRICT: A group of parcels and their buildings, structures, and objects that are linked by historical association or historical development, and that is designated by the City of Tupelo or the National Register of Historic Places.

HISTORIC LANDMARK: A structure of exceptional individual significance, typically outside an historic district, and that is designated by the City of Tupelo or the National Register of Historic Places.

HISTORIC LANDMARK SITE: A location where a primary architectural or historical resource formerly stood or a significant historic event took place, or an important archaeological resource remains, and that is designated by the City of Tupelo or the National Register of Historic Places.

HISTORIC PRESERVATION COMMISSION: The Historic Preservation Commission of the City of Tupelo, Mississippi.

HISTORIC STRUCTURE: Any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing in the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district;
- (3) Individually listed on the Mississippi inventory of historic places;
- (4) Individually listed on a Tupelo or other local inventory of historic places in communities with historic preservation programs that have been certified by;
 - (a) An approved state program as determined by the Secretary of Interior, or
 - (b) Directly by the Secretary of Interior in states without approved programs.

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

HOME BUSINESS: A home occupation that allows customers and other activities as specified in Chapter 7 of this Code.

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

HOSPITAL: An institution providing human health services primarily for in-patient medical and surgical care for the physically or mentally sick and injured and which may include related support facilities such as laboratories, out-patient departments, staff offices, food services, and gift shop.

HOTEL OR MOTEL: A building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or a boarding/rooming house.

HOUSEHOLD: A person or group of people occupying a dwelling as a single housekeeping unit.

IMPERVIOUS AREA: A portion of land which, due to human modification, allows little or no infiltration of precipitation into the soil. Impervious areas shall include, but are not limited to, buildings, decks and porches, parking and driveway areas, sidewalks, and paved recreation areas.

IMPERVIOUS SURFACE RATIO (ISR): A measurement of intensity of hard surfaced development on a site. An impervious surface ratio is the relationship between the total impervious surface area on a site and the gross land area. The ISR is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the gross land area.

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

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

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

JUNK VEHICLE: Any motor vehicle, trailer, camper, or boat that does not have a current state-issued inspection sticker and motor vehicle registration plate and that meets one (1) or more of the following requirements:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or;
- (3) Is more than ten (10) years old and has an approximate fair market value equal only to the approximate value of the scrap in it.

JUNKYARD: A building, structure or parcel of land, or portion of a building, structure, or parcel of land, used for the collection, storage and sale of junk vehicles or used vehicle parts, paper, rags, scrap metal, bottles, or discarded material. Where such materials are a byproduct of a permitted use, such activity shall be considered outdoor storage and must comply fully with all applicable provisions. This definition shall not include a publicly-owned landfill, solid waste transfer facility, or other public utility facility, or a recycling and salvage operation.

KENNEL: An establishment engaged in boarding, breeding, buying, selling, grooming or training of pet animals.

LAKE OR NATURAL WATERCOURSE: Any stream, river, swamp, canal, or other waterway, and any reservoir, lake, or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by the accumulation of sediment.

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

LAND-DISTURBING ACTIVITY: Any use of the land by any person for residential, industrial, educational, institutional, or commercial development, or for highway and road construction and

maintenance, that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Within watershed management areas, land disturbing activity shall include the clear cutting of trees unless specifically exempted.

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

LIFE CARE COMMUNITY: A building or group of buildings which contains dwelling units where the occupancy is restricted to persons who are at least sixty-two (62) years of age, or married couples in which one (1) of the persons is at least sixty-two (62) years of age. Such facility may be composed of apartments, nursing home facilities, and facilities that provide nursing and/or medical care as well as support services, such as common dining facilities, retail stores, and personal service establishments, which are operated by the owner of the life care community or lessees of the owner. Life care communities are those designed to meet the residents' basic needs for shelter, food, and health care, regardless of the level of independence of the individual resident and regardless of how these needs may change over time.

LIMITED ACCESS THOROUGHFARE: (See **THOROUGHFARE, LIMITED ACCESS**)

LOCAL STREET: See **STREET, LOCAL**

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

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

LOT, FLAG: An irregularly shaped lot which is connected to a street with an appendage or extension which does not meet the lot width requirements of the district.

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

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

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

LOT WIDTH: The horizontal distance between the side line lots of a lot, or for corner lots, between a corner side lot line and the opposite side lot line, as measured along the minimum required front setback line.

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

MANUFACTURED OR MOBILE HOME SUBDIVISION: A parcel of land under single (1) ownership or management which is operated as a business engaged in providing a place where manufactured homes or mobile homes permitted as of July 29, 2003 are installed for non-transient living or sleeping purposes and where sites or lots are set aside or offered for lease for use by manufactured or mobile homes for living or sleeping purposes.

MANUFACTURED HOME, CLASS A OR B: A structure built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, fabricated in an offsite manufacturing facility after June 15, 1976, in one or more sections, which includes the plumbing, heating, air conditioning, and electrical systems contained therein, with each section bearing the HUD Code Seal certifying compliance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, designed to be transported for installation or assembly at the building site. Such structure shall also meet or exceed the construction standards for Class A or B Manufactured Homes promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction. This definition does not include recreational vehicle or Class C manufactured home, mobile home, travel trailer, or modular home.

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

MANUFACTURING, LIGHT: The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place. Such use shall occur entirely within a building, and the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing shall not exceed twenty-five percent

(25%) of the floor area of all buildings on the lot. This shall not include uses that constitute heavy manufacturing, resource extraction, or recycling and salvage operations.

MEAN SEA LEVEL: The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

MIXED-USE: A building, development, block, or zoning district with more than one (1) use. Uses may be mixed horizontally within one structure or development, or they may be mixed vertically, with multiple uses on different floors of one structure.

MOBILE HOME: A structure built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, fabricated in an offsite manufacturing facility before June 15, 1976, in one or more sections, designed to be transported for installation or assembly at the building site. Sections do not carry the HUD Code Seal. This definition does not include recreational vehicle, Class A, B, or C manufactured home, travel trailer, or modular home.

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

MODULAR HOME: A structure that is transportable in one or more sections; designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; certified by its manufacturers as being constructed in accordance with a nationally recognized building code; and designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974 or mobile homes. Because they are built to the same building code as site built homes, modular homes are treated in this Code in the same manner as a single-family detached dwelling.

MULTIPLE FRANCHISE BUSINESS: A business that, pursuant to franchise agreements, markets the goods or services of more than one company or manufacturer.

MULTIPLE TENANT BUILDING: A single building that contains two (2) or more distinct occupants internally separated by firewalls or demising walls.

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

MULTI-USE TRAIL: A hard-surface, off-road pathway used by bicyclists, pedestrians, and other non-motorized traffic typically located within or along a greenway or parallel to a street.

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

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

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

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

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

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

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

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

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

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

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

NURSERY: The growing, storage, and wholesale or retail sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials. Such use may include greenhouses and irrigation systems. Such use may include outdoor storage of goods, materials, and equipment

that exceeds the size permitted by accessory use standards; however, all other standards for outdoor storage shall apply.

NURSING HOME: Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of three or more non-related individuals, including facilities known by varying designations such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities, hospices, and infirmaries. This does not include the home or residence of any individual who cares for or maintains only persons related to him or her by blood or marriage. This does not include hospitals, clinics, or life care communities, even though a life care community may include a nursing home as one of its components. This use must comply with state statutes regarding licensure for institutions of the aged or infirm.

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

OFFICE: A room, group of rooms, or building whose primary use is the conduct of a business, professional service, or governmental activity of a non-retail nature, including administration, record keeping, clerical work, and similar functions. This use shall not include manufacturing, processing, repair, or storage of materials, products, or vehicles.

OFFICE, MEDICAL: Any building or portion thereof, the principal use of which is for offices of one (1) or more licensed physicians, ophthalmologists, dentists, physical or occupational therapists, psychologists, or other medical staff for the examination and treatment of persons on an out-patient basis only. Such use may include a laboratory where diagnostic or therapeutic medical procedures of a non-surgical nature are administered.

OFFICE WITH STORAGE: This use functions primarily as an office and includes indoor or outdoor storage of materials and/or vehicles used for business purposes. It may include retail sales or services to other businesses or the public as a secondary use. Such use may include but is not limited to construction or trade businesses such as contractors, plumbers, electricians, and similar businesses that have storage needs. It may also include transportation businesses such as taxicab companies, trucking companies, and private companies that provide ambulances or other vehicular transportation to hospitals, doctors' offices, or private individuals.

OPEN SPACE: Any portion of a parcel or area of land or water which is open and unobstructed by structures from the ground to the sky including areas maintained in a natural and undisturbed character. Open space may include recreational facilities such as swimming pools, golf courses, green ways, and tennis courts, and areas designed to enhance the privacy or general appearance of a development. Private open space is open space that is owned by a corporation, individual, or house owners association. Public open space is open space owned by a governmental jurisdiction.

OUTPARCEL: A portion of land in a subdivision, shopping center, or other development that does not contain the primary building associated with the development, that is intended for development of one (1) or more smaller independent buildings and that is usually located adjacent to a development's street frontage. Outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the primary building or buildings.

OVERLAY DISTRICT: A district, as established in Chapter 5 of this Code, which applies supplementary or replacement regulations to land which is classified into a general use district.

PARAPET WALL: That portion of a building wall that extends above the level of the roofline, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

PARCEL: Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from another parcel that is designated by its owner or developer as land to be used or developed as a unit, or that has been used or developed as a unit.

PARK: Publicly or privately owned land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty. This use does not include commercially operated amusement parks.

PARKING FACILITY, OFF-SITE: An off-street parking area provided on a different parcel than the use it is intended to serve.

PARKING LOT: The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas. A parking lot shall not include the storage of vehicles for sale, wrecked or abandoned vehicles, vehicle parts, or the repair of vehicles.

PARKING SPACE, OFF-STREET: A space designed for the parking or temporary storage of one automobile and located outside of a dedicated street right-of-way.

PASSENGER TERMINAL: A station and related facilities intended for the transition of the general public, including bus and railroad passenger stations.

PEAK HOUR TRIPS: The greatest number of vehicle trips generated by a unit of new development during any sixty (60) minute period in a given day.

PENNANT: A sign composed of lightweight plastic, fabric, or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string, or pole, usually in series, and which is designed to move in the wind.

PERMITTED USE: See **USE BY RIGHT**

PERSON: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution utility cooperative interstate body, or other legal entity.

PERVIOUS PAVING: Surface improvements such as interlocking concrete paving blocks, brick pavers, grid pavers, or other similar improvements which permit the infiltration of water through the improved surface. Gravel shall not be considered a pervious paving surface.

PHASE OF GRADING: One (1) of two (2) types of grading: rough or fine.

PLACE OF ASSEMBLY AND/OR WORSHIP: A place used for regular religious or cultural activities, entertainment, or meetings. This includes churches, chapels, mosques, synagogues, and other places of worship. It also includes non-profit organizations such as civic and fraternal clubs and lodges. This use shall include accessory uses and structures such as such as administrative facilities, schools, day care centers, cooking and eating facilities, cemeteries, recreational facilities, or dwellings located on the same lot. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses.

PLANNED UNIT DEVELOPMENT: A tract of land under single (1) ownership, or under common control, evidenced by duly recorded contracts or agreements approved by the City Council, that is planned and developed as an integral unit in a single (1) development operation or in a programmed series of development operations in accordance with a master land use plan and detailed engineering and architectural plans as approved by the City Council.

PLANNING COMMITTEE: The Planning Committee of the City of Tupelo, Mississippi.

PLAT: A map, chart or plan of a tract or parcel of land which is to be or which has been, subdivided.

PORCH: A roofed structure not more than seventy-five (75%) percent enclosed by walls, no more than two (2) feet in height, attached to the main building, and not heated or cooled. A porch which projects beyond a required yard, setback, or building restriction line may be screened, but may not be enclosed with glass, jalousies, canvas, plastic, or any solid material to a height greater than two (2) feet.

PORTICO: A porch or walkway open to the outside air that is covered by a roof which is supported by columns or pillars, typically leading to the entrance of a building.

PRIMARY ENTRANCE: The place of pedestrian ingress and egress to a building, parcel, or development used most frequently by the public.

PRINCIPAL USE OR PRIMARY USE: The main use of land or buildings as opposed to a secondary or accessory use.

PROPERTY: All real property, subject to the provisions of this Code.

PROTECTIVE COVER: See **GROUND COVER**.

PUBLIC FACILITY: A building or area owned or used by any department or branch of the City of Tupelo, Lee County, the State of Mississippi, or the Federal Government.

PUBLIC RIGHT-OF-WAY: Property dedicated for public use, usually for a public street, public infrastructure and/or waterway. For the purposes of this code, such Public Rights-Of-Way shall be considered to extend a minimum of ten (10) feet from the edge of the pavement, or to the dedicated right-of-way boundary, whichever is farther.

PUBLIC SAFETY STATION: A police, fire, or paramedic station operated, franchised, or regulated by a government agency.

PUBLIC UTILITY: A business or service that provides the public with electricity, gas, water and sewer service, telephone or cable television service. Any such use must be approved by the City of Tupelo, constructed to City standards, sizes, and specifications, conform to the requirements of this Code, and be dedicated to and accepted by the City for operation and maintenance. For the purpose of this Code, commercial wireless telecommunication services shall not be considered public utility uses and are defined separately.

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

QUORUM: The minimum number of board members that must be present for a board to conduct official business or take official action.

RADIO FREQUENCY (RF) EMISSIONS: Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna-supporting structure, building, or other vertical projection. RF emissions are regulated by the FCC.

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

RECREATIONAL FACILITY, INDOOR: An establishment offering sports, theatrical productions, game playing, or similar amusements to the public within a fully enclosed building. This shall include, but is not limited to, theaters, bowling alleys, billiard parlors, tennis courts, swimming pools, gymnasiums, and skating rinks. This shall not include recreation centers or such amusements that are an accessory building or structure to schools or places of assembly and/or worship.

RECREATIONAL FACILITY, OUTDOOR: Any premises (whether public or private) where the principal use is the provision of outdoor amusements, sports, games, athletic facilities, or other outdoor recreational facilities and/or services except golf courses.

RECREATIONAL VEHICLE: A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or towable by a light duty truck; and
- (4) Designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK: A parcel of land upon which sites are rented or leased for the temporary or periodic placement of recreational vehicles as temporary living quarters for recreational or vacation purposes.

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

RECYCLING DROP-OFF STATION: One (1) or more outdoor containers designed and intended for the depositing of clean, separated, and recyclable paper, metal, glass, or plastic materials and the collection of such materials for processing at another location, but itself having no mechanical facilities for the processing of such materials.

REDEVELOPMENT: Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot, site, or area. Redevelopment may also include changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

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

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

RESEARCH AND DEVELOPMENT FACILITY: A facility that engages in research, or research and development, of innovative ideas in medical, optical, scientific, photographic

processing facilities, or technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use. Such use is primarily the research, testing and development of goods, materials, foodstuffs or products.

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

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

RESIDENTIAL STREET: See **STREET, LOCAL**

RESOURCE CONSERVATION FACILITIES: Areas with important or valuable natural resources, such as fish hatcheries and fishponds; game preserves; botanical and zoological gardens; water reservoirs; and dams.

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

RESTAURANT WITH DRIVE-THROUGH SERVICE: An establishment where meals or prepared food are served to customers in their motor vehicles or at counters within the establishment. Such a facility may include indoor or outdoor seating.

RESTAURANT WITHOUT DRIVE-THROUGH SERVICE: An establishment where meals or prepared food are served to customers for consumption on or off the premises. Such a facility may include indoor or outdoor seating.

RESTRICTED COLORS: Fluorescent and full chroma colors.

RETAIL SALES AND/OR SERVICE: A business which sells or leases goods, products, or materials directly to the consumer or provides a personal service directly to the consumer. This includes, but is not limited to, clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, bookstores, florists, furniture stores, hardware stores, pet stores, toy stores, variety stores, travel agencies, dry-cleaners, laundries, tailors, hair stylists, cosmeticians, toning or tanning salons, banks, postal stations, package delivery drop-off and pick-up stations, photocopy centers, shoe repair shops, appliance repair shops, interior design studios, dance and martial arts studios, and domestic pet services. It does not include restaurants, convenience stores with fuel sales, vehicle sales and/or rental, or amusement establishments. Accessory uses may include temporary outdoor sales and outdoor storage.

RETENTION FACILITY: Any type of detention facility not provided with a positive outlet.

RIGHT-OF-WAY: An area owned or maintained by the City, the State of Mississippi, the United States, a public utility, a railroad, or a private concern for the placement of such utilities and/or

facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.

SATELLITE DISH ANTENNA: Any antenna, including any supporting structure, designed to receive signals from orbiting satellites or similar sources, excluding microwave antennae.

SECONDARY ENTRANCE: An additional entrance to a building, parcel, or development used less frequently than a primary entrance.

SECURED: Placed in a concrete footing, holes with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure.

SEDIMENT: Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION: The process by which sediment resulting from accelerated erosion has been or is being transported away from a land-disturbing activity or into a lake or natural watercourse.

SELF-SERVE STORAGE FACILITY: A building or group of buildings also called “mini-warehouse” divided into separate compartments offered for rent and used for temporary or long-term off-site storage needs.

SEMI-ATTACHED HOUSE: A residential unit that shares a common wall along a property line with another semi-attached house. In appearance it is similar to a duplex.

SETBACK: The shortest horizontal distance from a lot line of a lot or abutting right-of-way to the nearest point of a structure on the lot. A parcel of land typically consists of a front setback on a street, two (2) side setbacks, and a rear setback. A corner lot shall typically have a front setback on each street it abuts and side setbacks on other sides.

SHOPPING CENTER: A building or group of buildings, either connected or free-standing, under unified or multiple ownership of land parcels, that is designed and has been approved as a shopping center with common parking, pedestrian movement, ingress, and egress, and is used or intended to be used primarily for the retail sale of goods and services to the public.

SHRUB: A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

SIDEWALK: A hard-surfaced, all-weather pedestrian way, usually within a right-of-way line.

SIGHT VISIBILITY TRIANGLE: A triangular area at each corner of intersecting roadways, or at the intersection of a roadway and driveway, within which the structures and vegetation are regulated to ensure safe sight distance for drivers of vehicles approaching the intersection. A sight triangle is measured from the point where the extended curb or edge-of-pavement line of a roadway meets the extended curb or edge-of-pavement line of the intersecting roadway or the edge of the driveway, to a point a certain distance along the initial roadway curb or edge-of-pavement line,

and then diagonally to a point a certain distance along the along the curb or edge-of-pavement line of the other roadway or the edge of the driveway.

SIGN: Any device, fixture, placard, or structure that uses color, form, graphics, words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, designs, trade names, or trademarks by which anything is made known such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, which are legible from any public street or adjacent property and used to attract attention. This definition includes the structure or the face on which a sign message is displayed. Specific types of signs are defined further in Chapter 10.

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

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

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

SITE PLAN: An accurately scaled development plan that shows existing conditions on a site as well as depicting details of proposed development.

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

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

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

STORM WATER RUNOFF: The flow of water resulting from precipitation that flows over the surface or as concentrated flow in ditches, channels, storm sewers, or watercourses.

STREET: A public or private thoroughfare that affords the principal means of access to abutting property. The term includes all facilities that normally occur within the right-of-way. The following may also be considered streets: highways, parkways, throughways, roads, avenues, boulevards, lanes, places, courts, and alleys.

STREET FRONTAGE: The distance that a lot line adjoins a public or private street from one (1) lot line intersecting the street to the furthest lot line intersecting the same street.

STREET, ARTERIAL: A street carrying the highest traffic volume, serving major centers of activity and providing primary routes into and out of the city. A street designed and intended primarily to channel moderate to high volumes of vehicular traffic at moderate to high speeds between collector streets and other arterial streets and freeways and provide limited direct vehicular access to and from adjacent developments and properties. Such street may also be known as a thoroughfare or major thoroughfare.

STREET, COLLECTOR: A street collecting traffic from within a specific land use zone and connecting it to the arterial street system. A street which serves as a connection between local and residential streets and arterial streets. It typically provides limited direct vehicular access to adjacent developments and properties.

STREET, LOCAL: A street designed and intended primarily to provide direct access to and from adjacent developments and properties through intersecting driveways, as well as to provide travel mobility by connecting driveways and other local streets to collector streets. Local streets generally handle low to medium vehicular travel speeds and traffic volumes and do not connect to high-traffic streets. Local streets may also be known as residential streets.

STREETSCAPE: Visual elements of a street, including the road, adjacent buildings, street furniture, trees, open spaces, and related features, that help shape the function and appearance of the street.

STRUCTURE: Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently, and it includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, gas or liquid storage tanks, and impervious surfaces such as paved parking lots.

STUB OUT: A temporary extension of a street to an external property line to facilitate future roadway connection, increase connections within a neighborhood for public safety and other vehicles, and reduce traffic impacts on the road network.

SUBDIVIDER: Any person, firm, or corporation who subdivides land deemed to be a subdivision as defined by this Code.

SUBDIVISION: The division of a tract of land into two (2) or more lots, building sites, or other divisions (such as condominium units through a vertical subdivision) for the purpose, whether immediate or future, for sale or building development.

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

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

SUBSTANTIAL ALTERATION: Any work on a structure that reduces the load bearing capacity of, or imposes additional loads on, a primary structural component, and which may include the rearrangement of spaces through the construction of walls or partitions or a change in ceiling height, the addition or elimination of doors or windows, the extension or rearrangement of systems, or the installation of additional equipment or fixtures.

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

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the Lee County Tax Assessor's stated value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term does not include any project for improvement of a structure necessary to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure that is listed on the National Register of Historic Places or a state inventory of historic places.

SUBSTANTIAL PROGRESS: A measure used to determine whether substantial progress has been made on the site of an approved site plan. Substantial progress shall include but is not limited to one or more of the following: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; installing and obtaining approval of on-site infrastructure; or obtaining a building permit for the construction and approval of the building foundation.

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

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

TELECOMMUNICATIONS FACILITY, OTHER: Equipment, operational building, or other facility associated with wireless telephone or similar communication purposes and utilized by one (1) or more commercial, governmental, or other public or quasi-public users. This use shall not include towers.

TELECOMMUNICATIONS TOWER: A structure erected on the ground and used primarily for the support of antennas for wireless telephone and similar communication purposes and utilized by one (1) or more commercial, governmental, or other public or quasi-public users. The term includes microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This use does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the FCC.

TEMPORARY USE: A use established for a temporary period of time with the intent to discontinue such use upon the expiration of the time period, and which is subject to the approval procedures set forth in Sections 7.8 and 12.14 of this Code.

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

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

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

TOWNHOUSE: A single family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

TRACT: Contiguous land under one (1) ownership or under multiple ownership either developed as a single unit or recorded as a single unit.

TRADE MARKET FACILITY: A facility that sells and warehouses furniture or other goods in a showroom display. Such facility may be open to the public year-round or during special events only.

TREE: Any self-supporting woody plant of a species that normally grows, or is capable of growing, to an overall height of a minimum of fifteen (15) feet. This term includes canopy trees and under story trees but does not include shrubs or groundcover.

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

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

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

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

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

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

TRUCK STOP: A facility providing services to the trucking industry, including the dispensing of fuel, automated and self-serve automotive wash facilities, restaurants, gift shops, sale of convenience goods, business service centers, restrooms and shower facilities, scales, and overnight parking facilities.

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

UTILITY, MAJOR: Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, and electrical substations.

UTILITY, MINOR: Infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water tanks, water and sewage pump stations, storm water retention and detention facilities, and telephone exchanges.

UPPER-STORY RESIDENTIAL UNIT: A dwelling unit located on the second floor or higher of a building with nonresidential uses located on the ground or street level.

USE: The purpose for which a building, structure, or area of land may be arranged or occupied or the activity conducted or proposed in a building, structure, or on an area of land.

USE BY RIGHT: A land use listed in Chapter 4 or 5 of this Code as a “use by right” in the zoning district in which it is located, and which is not subject to approval procedures of this Code except as to the physical characteristics of land, structures or improvements associated with the use.

VARIANCE: A grant of relief to a person from the requirements of this Code which permits construction or use in a manner otherwise prohibited by this Ordinance where enforcement would result in unnecessary and unusual hardship.

VEHICLE SALES AND/OR RENTAL: The sale or rental of new or used motor vehicles, boats, trailers, or farm equipment. This shall not include commercial or eighteen wheel (18) trucks, salvage operations or scrap operations. Repair and service may be included as an accessory use.

VEHICLE SERVICE: Any building, structure, or lot used for the business of repairing automobiles, motorcycles, trucks, boats, recreational vehicles, and other similarly sized vehicles. This shall not include car washes, the retreading and/or recapping of tires, or convenience stores which sell gasoline or lubricating oil, but not other automotive accessories or services.

VEHICULAR USE AREA: That portion of a development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal vehicular access ways, fire lanes, loading areas, and other areas dedicated to vehicular use, but not necessarily including vehicular storage and display areas.

VEHICLE WRECKER SERVICE: An establishment operated for the purpose of temporary storage on-site of no more than nine wrecked or inoperable vehicles for a period no longer than ninety (90) days. An establishment with ten or more inoperable vehicles located on-site or stores inoperable vehicles for more than ninety (90) days, stacks vehicles, or dismantles portions of the vehicles shall be considered a junkyard.

VELOCITY OF FLOW: The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

VESTED RIGHT: The right of a property owner to develop according to the terms of an approved site-specific development plan or building permit even if the zoning or zoning district requirements are changed prior to development.

VETERINARIAN CLINIC: A use primarily engaged in providing medical care for animals, operated by a licensed veterinarian. A clinic may or may not offer facilities for the overnight care of animals in connection with medical treatment. Any clinic providing facilities for the overnight

boarding of animals or providing outside pens shall be permitted as a veterinarian clinic with outdoor kennel.

WAREHOUSING OR DISTRIBUTION ESTABLISHMENT: A business or government agency operation for which the primary purpose of which is:

- (1) The storage of goods, materials, vehicles, trailers, or boats, or
- (2) The distribution of goods and materials to another location for the purposes of resale or use at the place distributed to. This shall include offices located on the same property in conjunction with such uses. This shall not include heavy manufacturing, resource extraction, scrap operations, or salvage operations.

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

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

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

WATERSHED: All of the land area draining to a particular point on a water course or to a water body.

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

WETLANDS: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly as hydrophytic vegetation, as defined by responsible State or Federal agencies such as the Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs, and similar areas.

WHOLESALE FACILITY: Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. This use does not include sale of contractor's materials, manufacturing, resource extraction, scrap operations, or salvage operations.

YARD: An open space that lies between a building or set of buildings and the nearest property line.

YARD, FRONT: The yard between a building and the front lot line, extending across the entire width of a lot, between side lot lines.

YARD, REAR: The yard between a building and the rear lot line, extending from between side lot lines or from a corner side yard and opposite side lot line.

YARD, SIDE: The yard between a building and the side lot line, extending between the front yard and the rear yard on a typical lot, or between two front yards or a front and side yard on a corner lot. Any such yard abutting a street shall be treated as a “front yard.”

ZERO-LOT-LINE HOUSE: A residential unit also called a patio or garden home that is positioned on one (1) side lot line without any setback, with private yards on the other three (3) sides of the building.

ZONING DISTRICT: Any area within the City of Tupelo delineated on the Zoning Map to which a set of regulations governing permitted land use, density and intensity of development applies.

ZONING MAP: The Official Zoning Map upon which the boundaries of various zoning districts are drawn.