

## **ARTICLE 9 APPLICATION PROCEDURE FOR LAND DEVELOPMENT CHECKLIST, AMENDMENTS, VARIANCES, PUBLIC NOTICE AND HEARING PROCEDURES, APPEALS AND CERTIFICATES.**

### **Section 221 Reserved for Application Procedure**

### **Section 222 Land Development Checklist**

**222.01** A Land Development Code Checklist shall be required for: All new or renovated development or redevelopment of land or buildings and all projects located in an historic conservation district which requires a Certificate of Appropriateness for exterior new construction or renovation.

**222.02** The Land Development Code Checklist is a checklist of all the requirements necessary to complete the development and to receive a Certificate of Zoning Compliance. The Land Development Code Checklist shall be issued by the Director of Planning and Development. A Certificate of Zoning Compliance may be issued at the same time if all requirements of this Code are met.

**222.03** A Planned Unit Land development code checklist shall be issued and maintained by the Director of Planning and Development. All development occurring in the planned unit development shall be in accordance with this permit and shall be so determined by the Director of Planning and Development. See Section 150, Planned Unit Development - PUD.

### **Section 223 Amendments**

**223.01** The regulations, conditions, specifications and procedures set forth in this Land Development Code may from time to time require amendment. Except for Appendix A, the Governing Authorities, on receiving the recommendation of the Oxford Planning Commission, may amend the provisions of this Code after proper notice and hearing as required by law. The Governing Authorities may amend the provision of Appendix A, the Historic Preservation Ordinance, including the designation of preservation districts, landmarks, and landmark sites, after receiving a recommendation from the Oxford Historic Preservation Commission and after proper notice and hearing as required by law.

*(Ord. No. 2007-4;2-20-07)*

**223.02** The Governing Authorities may, from time to time, on its motion or on petition from a property owner, or on recommendation of the Oxford Planning Commission amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing has been held in relation thereto by the Oxford Planning Commission at which parties in interest and citizens shall have an opportunity to be heard. Every proposed amendment shall be referred to the Oxford Planning Commission for recommendation. When an application has been made to the Planning Commission for the change in regulations or district boundaries, the applicant shall, prior to the holding of a public hearing on such application, fully comply with the procedures set out in Section 226, Public Hearing Procedure.

### **223.03 Amendment Procedure**

1. Declaration of Public Policy. For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the municipality, this Ordinance, and as here used the term Ordinance shall be deemed to include the official zoning map, shall not be amended except to correct a manifest error in the Ordinance or, because of changed or changing conditions in a particular area or in the municipality generally, to rezone an area or to extend the boundary of an existing District, or to change the regulations and restrictions thereof, only as reasonably necessary to the promotion of the public health, safety or general welfare. Subject to the limitations of the foregoing Declaration of Public Policy, an amendment to this Ordinance may be initiated by the Board of Aldermen on its own motion, or, in the manner and pursuant to the

procedure hereinafter set forth, may be initiated by any person, firm, or corporation filing an application therefore with the municipality.

*State law references-Municipal authorities to provide for manner of changing zoning regulations, etc., Miss. Code Ann. 1972, § 17-1-16; procedures for change in zoning regulations, restrictions, and boundaries, Miss. Code Ann. 1972, § 17-1-17.*

#### **223.04 Limitations on All Proposed Amendments.**

1. All proposed amendments to this Ordinance, regardless of how or by whom initiated, shall be subject to the following limitations:
  - a. Administrative examination. No amendment to this Ordinance shall be adopted until the amendment has been examined by the City Planning Commission as hereinafter set forth and the recommendation of the City Planning Commission obtained.
  - b. Uniformity of District regulations and restrictions. No amendment to this Ordinance shall be adopted whereby the regulations and restrictions established thereby are not uniform for each District having the same classification and bearing the same symbol or designation on the official zoning map.
  - c. Compatibility of new Districts with surrounding Districts. No amendment to this Ordinance shall be adopted which establishes a new District, regardless of size, which permits uses not compatible with the uses of surrounding Districts or which violates the purpose of this Ordinance as stated in Section 110.
  - d. Need for uses to be clear and demonstrable. No amendment to this Ordinance shall be adopted whereby a lower zoning classification is established for an area unless there is a clear and demonstrable necessity in the area for those uses which are permitted in the District applied for and not the next higher District.

#### **223.05 Effect of Protest to Amendment of Zoning Map**

In case of a protest against such change signed by the owners of twenty (20) percent or more, either of the area the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet there from or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the Board of Aldermen.

*(Ord. No. 1979-7, § 2, 6-5-79)*

#### **223.06 Applications for Amendments**

1. By whom made. Any person, firm, corporation or political subdivision may apply for an amendment to this Ordinance.
2. Filing of applications. All applications for amendments to this Ordinance shall be filed with the Administrative Official.
3. Contents of applications. Without in any way limiting the right to file additional material, no application for amendment to this Ordinance will be considered unless it contains:
  - a. At least the applicant's name, address and interest in the application, and the name, address and interest of every person, firm, corporation or political subdivision represented by the applicant interested in the application.
  - b. The description of the proposed amendment.

- c. A plat showing the land area which would be affected by the proposed amendment, the present zoning classification of the area and of all abutting properties, all public and private rights-of-way and easements bounding and intersecting the designated area and abutting properties.
- d. The error in the Ordinance that would be corrected by the proposed amendment or changed or changing conditions in the applicable area or in the municipality generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety or general welfare.

**223.07 Administrative Examination**

Upon receipt of an application for an amendment, supplement, change, modification or repeal, of the zoning regulations, restrictions or boundaries properly and completely made as herein set forth, the administrative official shall set the date of the hearing, give notice thereof and transmit copies of the application to the Oxford Planning Commission for review prior to said hearing. The City Planning Commission may, after examination of the [application, and if considered necessary, require that] applicant furnish additional reasonable and pertinent information.

*(Ord. No. 1979-7, § 3, 6-5-79)*

**223.08 Disposition of Applications**

- 1. Administrative disposition. Upon receipt of an application for an amendment, supplement, change, modification or repeal of the zoning regulations, restrictions or boundaries from the Administrative Official, the Oxford Planning Commission shall hold a public hearing on the matter after publication of notice as required by Section 225. Upon conclusion of the public hearing, the Administrative Official shall forward to the Mayor and Board of Aldermen the recommendation of the Oxford Planning Commission, and its findings in the matter, if any.

A written notice of appeal shall be given to the Director of Planning and Development within ten (10) days from the date of such recommendation by the Oxford Planning Commission. The Planning Director and Governing Authority shall set the appeal date not less than thirty (30) days from the date of approval of the minutes of the Planning Commission relative to the matters of the case on appeal, shall mail a notice to all parties entering an appearance in such cause, and shall have published advertisements.

*(Ord. No. 1994-3, § 2, 1-18-94)*

- 2. Final disposition. Within ninety (90) days after the date set in the case, advertisement, receipt of the Planning Commission minutes and conclusion of a de novo public hearing, the Mayor and Board of Aldermen shall either approve or deny, in whole or in part, the decision and recommendation of the Oxford Planning Commission. Where there is need for additional information, the Board of Aldermen may remand the case to the Oxford Planning Commission for further consideration, in accordance with the provisions of the Mississippi Code Annotated, Section 17-1-17 (1972).

*(Ord. No. 1979-7, § 4, 6-5-79; Ord. No. 1994-3, § 3, 1-18-94)*

**223.09 Governing Authorities**

The final authority to approve or deny amendments to this Code and on matters relating to appeals, Planned Unit Developments, and, as provided in this Code, variances, modify or otherwise change applications for final plat approval; or any other provision of this Land Development Code, and in keeping with all lawful requirements and procedures of law, shall be reserved exclusively to the Governing Authority of the City of Oxford, Mississippi.



**Section 224    Reserved**

**Section 225    Public Notice**

**225.01** No change shall be made in regulations, restrictions or district boundaries or to the Land Development Code shall become effective until after a public hearing has been held in relation thereto by the Oxford Planning Commission or Board of Adjustment, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in an official newspaper. Such proposed permits, amendments and variances shall be referred to either the Oxford Planning Commission or Board of Adjustment for findings and recommendations.

**225.02** Notice of such hearing shall be posted on the property for which such special exception, variance, site plan or zone change is requested.

## **Section 226 Public Hearing Procedure**

**226.01** Wherever in this Code reference is made to this Section regarding procedures for Public Hearings and application for same, the following is required:

1. An application shall be made in Department of Planning and Development Office and shall include the following:
  - a. Name and address of applicant, who shall be the owner of the property or have legal authority to act for the owner,
  - b. Name and address of the property owner,
  - c. The present zoning classification,
  - d. The proposed zoning classification and/or use permit requested, or variance requested,
  - e. A legal description of the property,
  - f. A sketch plan showing the location and intended use of the site,
  - g. Any fees or charges established, and
  - h. Any other reasonable material that the Oxford Planning Commission or Board of Adjustment may determine pertinent to the application.
2. The Oxford Planning Commission or the Board of Adjustment shall hold a public hearing within forty-five (45) days of the date of filing of the application or receipt of the Site Plan Review Committee's review and recommendation.
3. At least fifteen (15) days prior to the public hearing notice of the time and place of the hearing shall be published in a paper of general circulation in Oxford, Mississippi, in the manner prescribed by State law.
4. The Director of Planning and Development shall cause a sign to be posted on the lot or structure at least fifteen (15) days prior to the date of said hearing which shall show the time, date and place of said hearing, the reason for the hearing, the date of the notice and the signature of the Director of Planning and Development and a telephone number for information.

This provision does not apply in cases where there is a proposal to enact an entire new ordinance to change the text as a whole or to change all or part of the Zoning District Map or multiple parceled areas, or both, in which event the procedure set out in Section 17-1-3 through 17-1-21 inclusive of the Mississippi Code of 1972 as amended and supplemented shall be followed.

5. The Oxford Planning Commission and Board of Adjustment shall, per the adopted public hearing rules, within ten (10) days of the final hearing, transmit to the Mayor and Board of Aldermen for action its findings and recommendations or actions.

**226.02** Whenever a petition is filed requesting a change or amendment to the Code, and said petition has been finally acted upon by the Mayor and Mayor and Board of Aldermen, then the Mayor and Mayor and Board of Aldermen shall not consider any further petition requesting or proposing the same or similar change or amendment for the same property within six (6) months from the date of the Board of Mayor and Council's final legal action on said petition or from the date of withdrawal of said petition, provided, however, that said petition has been officially advertised. For the purpose of this Section, a withdrawal shall be considered valid only if the matter is withdrawn by the applicant before it is presented.

## **Section 227 Planning Commission Appeal Procedure**

**227.01** The regulations, restrictions and district boundaries set forth by this Code may from time to time be amended, supplemented, changed or repealed. Also, from time to time the public health, safety, or general welfare of the community may require that amendments and variances be granted in specific cases from the regulations and provisions of this Code. Appeals from the recommendations of the Oxford Planning Commission relating to amendments or in the administration or enforcement of the provisions of the Code shall be submitted to the Mayor and Board of Aldermen for ruling. The appeal procedure outlined in this Section does not apply to decisions made by the Board of Adjustment, including decisions regarding special exceptions and variances. See Section 216.09 for information regarding such appeals.

### **227.02 Procedure:**

1. Appeal of Oxford Planning Commission Recommendation: No amendment for which the Planning Commission has recommended rejection shall be considered by the Mayor and Board of Aldermen until and unless an appeal is filed. In the event an appeal is filed with the Director of Planning and Development, the appellant may file a written brief outlining the basis for the appeal and stating the facts of the matter in question, including any maps, reports or other documents pertinent to the case. Said brief may be filed prior to or at the time of the public hearing. Any party aggrieved by a recommendation of the Oxford Planning Commission shall also be entitled to an appeal from such recommendation or decision to the Mayor and Board of Aldermen, provided the procedures herein stated are followed:
  - a. A written notice of appeal shall be given to the Director of Planning and Development within ten (10) days from the date of such recommendation by the Oxford Planning Commission. The Planning Director and Governing Authority shall set the date of the public hearing on the appeal for the first regularly scheduled meeting for the Mayor and Board of Aldermen following the date of approval of the minutes of the Planning Commission relative to the matters of the case on appeal, shall mail a notice to all parties entering an appearance in such cause, and shall have published advertisements.
  - b. The Planning Director shall have published one (1) advertisement of such hearing setting forth the time and place of the hearing, description of the property involved, the existing zoning and purported changes and modifications therein. Such publication shall be made in a newspaper of general circulation within the City of Oxford, Mississippi, the first publication to be at least fifteen (15) days before such hearing.
2. Action of the Mayor and Board of Aldermen: Within ninety (90) days after the date set in the case, advertisement, receipt of the Planning Commission minutes and conclusion of a de novo public hearing, the Mayor and Board of Aldermen shall either approve or deny, in whole or in part, the decision and recommendation of the Oxford Planning Commission. Where there is need for additional information, the Board of Aldermen may remand the case to the Oxford Planning Commission for further consideration, in accordance with the provisions of the Mississippi Code Annotated, Section 17-1-17 (1972).
3. Two-Thirds Council Vote Needed: In case of a protest against an amendment signed by twenty (20) percent or more of the owners of lots within a distance of 160 feet from the property involved, widths of all streets excluded, such amendment shall not become effective except by the favorable vote of two-thirds of all members of the Mayor and Board of Aldermen.
4. Appeal to Court of Law: An appeal from the decision of the Mayor and Board of Aldermen may be made as provided by law for appeals from any order of the Governing Authorities of the municipality.

## **Section 228 Certificate of Zoning Compliance**

**228.01** Certificates of Zoning Compliance for Existing, New, Altered, or Nonconforming Uses: It shall be unlawful to use or occupy or permit the occupancy of any building or premises, or both, or part thereof hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefore by the Director of Planning and Development stating that the proposed use of the building or land conforms to the requirements of this Code.

**228.02** No nonconforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Director of Planning and Development. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this Code, provided that upon enactment or amendment of this Code, owners or occupants of nonconforming uses or structures should have apply for Certificates of Zoning Compliance. Failure to make such application shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Code unless proof is shown based upon public record (utility bills, Business Permit).

**228.03** No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made, and the certificate shall be issued in conformity with the provisions of this Code upon completion of the work prior to the issuance of the Certificate of Zoning Compliance.

**228.04** The Director of Planning and Development shall maintain a record of all Certificates of Zoning Compliance, and a copy shall be furnished upon request to any person, in compliance with the public records act.

**228.05** Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Code.

## **Section 229 Reserved**

**Section 230    Standard Forms for Final Plats**

**230.01** Registered Professional Engineer's or  
Registered Land Surveyor's Certificate  
State of Mississippi, County of Lafayette

I, \_\_\_\_\_, (Registered Professional Engineer or Registered Land Surveyor), do hereby certify that at the request of \_\_\_\_\_, the Owner, I have subdivided and platted the following described land being situated in the \_\_\_\_\_ Section, Township \_\_\_\_\_, Range \_\_\_\_\_, City of Oxford, Lafayette County, Mississippi

Begin at the \_\_\_\_\_ corner of Lot \_\_\_\_\_, \_\_\_\_\_ Subdivision, Part \_\_\_\_\_, as recorded in Plat Book \_\_\_\_\_ at page \_\_\_\_\_ in the Office of the Chancery Clerk of Lafayette County, Mississippi and from this point,

(legal description of survey)

Witness my signature on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature)

(Registered Professional Engineer  
or Registered Land Surveyor)

**230.02** Owner's Certificate  
State of Mississippi, County of Lafayette

I (We), \_\_\_\_\_ do hereby certify that the aforementioned is the Owner of the land described in the foregoing Certificate of \_\_\_\_\_, (Registered Professional Engineer or Registered Land Surveyor), and that acting as the duly authorized official(s) of the aforementioned have caused the same to be subdivided and platted as shown hereon, and have designated the same as \_\_\_\_\_ (name of subdivision) \_\_\_\_\_.

Witness Our Signature(s) on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature(s))

**230.03 Acknowledgement Form**  
State of Mississippi, County of Lafayette

Personally appeared before me, the undersigned notary in and for the jurisdiction aforesaid, the within named \_\_\_\_\_, the Owner, each of whom acknowledged to me that he signed and delivered this plat and the Certificate thereon as his own act and deed for and in behalf of said Owner, after being authorized to do so; and \_\_\_\_\_, (Registered Professional Engineer or Registered Land Surveyor), who also acknowledged to me that he signed and delivered this plat and the Certificate thereon as his own act and deed; on the day and year herein mentioned.

Given under my hand and seal of office on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**230.04** City Approval and Acceptance Form  
State of Mississippi, County of Lafayette  
City of Oxford

Survey checked on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, and approved  
by the City Engineer for the City of Oxford on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_, City Engineer

This subdivision is herein approved and accepted, and all improvements contained therein to be dedicated  
to the City of Oxford are hereby accepted for the City of Oxford on this, the \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

**230.05** Certificate of Comparison  
State of Mississippi, County of Lafayette

We, \_\_\_\_\_, Chancery Court Clerk of said County, and \_\_\_\_\_, (Registered Professional Engineer or Registered Land Surveyor) do hereby certify that we have carefully compared this plat of (name of subdivision) \_\_\_\_\_ with the original / duplicate / copy thereof, as made by the said \_\_\_\_\_, (Registered Professional Engineer or Registered Land Surveyor), and find it to be a true and correct copy of said map or plat.

Given under my hand and seal of office on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Registered Professional Engineer  
or Registered Land Surveyor)

\_\_\_\_\_  
CHANCERY CLERK

**230.06** Variance Application – Land Subdivision  
State of Mississippi County of Lafayette  
City of Oxford

\_\_\_\_\_  
(Subject Property Address)

\_\_\_\_\_  
(Name(s) of Property Owner(s))

\_\_\_\_\_  
(Local Address)

I, (We,) (Name(s) of Property Owner(s)) hereby request a variance from the City of Oxford Land Development Code Number \_\_\_\_\_ Article \_\_\_\_\_, Section \_\_\_\_\_, Part \_\_\_\_\_ permitting:

(Description of variance)

Based on the following reasons:

(List reasons for variance)

For the property located at: (City street address of subject property) and further described:

(legal description)

WITNESS THE SIGNATURES OF THE OWNERS OF THE subject property, on this, the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_.

\_\_\_\_\_  
Owner(s) Signature(s)

STATE OF MISSISSIPPI  
COUNTY OF LAFAYETTE

Personally came and appeared before me, the within named (names of property owner(s), who acknowledged to me that the signed and delivered the above and foregoing instrument as and for their free act and deed on the date and year therein mentioned, and who acknowledged to me that they are the owners of the property described in paragraph 3 of the foregoing Application for Variance.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the \_\_\_\_\_ day of \_\_\_\_\_, A. D., 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

**230.06** Filing and Recordation  
State of Mississippi, County of Lafayette

I, \_\_\_\_\_, Clerk of the Chancery Court in and for said County and State, do hereby certify that the Final Plat of (name of subdivision), was filed for record in my office on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and was duly recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_ of the records and maps and plats of land in the Chancery Court of Lafayette County, Mississippi.

Given under my hand and seal of office on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CHANCERY CLERK