

DESIGN STANDARDS ORDINANCE FOR DESOTO COUNTY

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Prepared by the:

DeSoto County Planning Commission
365 Loshier Street, Suite 200
Hernando, Mississippi 38632

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AN ORDINANCE TO ESTABLISH SITE AND BUILDING DESIGN STANDARDS AND THE METHODS OF ADMINISTRATION AND ENFORCEMENT THEREOF FOR DESOTO COUNTY, MISSISSIPPI.

Be It Ordained by the Board of Supervisors:

1. Purpose:

The overall design of any development has a direct bearing on the economic value of the property. When public areas, business establishments, and residential communities exhibit good design, shoppers, businessmen, homeowners, and industrial developers tend to have strong confidence in the community. Poor design, congestion, and a lack of proper maintenance bring about blight, decay, decreased property values, and the loss of both private and public revenues.

Good community design is the product of orderly and harmonious relationships established between man-made objects and nature. Good design results from the skillful combination and interrelation of these elements through both contrast and similarity.

What citizens experience daily in the community, both consciously and unconsciously, influences their lives. New building programs, along with the improvement and preservation of existing development, are necessary in order to maintain a healthy community. Expanded building programs and land development greatly reduce open space, resulting in an increased awareness of the importance of good design and land use.

The United States Supreme Court has recognized the importance of good design to community well-being. In the landmark case, *Berman v. Parker* {348 U.S. 26, (1954)}, in a decision without dissent, Justice Douglas stated:

"The concept of the public welfare is broad and inclusive....The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled."

The Court later re-emphasized this view in *Penn Central Transportation Co. v. New York City* {438 U.S. 104, 129, (1979)} when it stated:

"We emphasize what is not in dispute....This court has recognized in numerous settings, that states and cities may enact land use regulations or controls to enhance the quality of life by preserving the character and the desirable aesthetic features of a county...."

County's natural environment is its most important asset in seeking to attract residents, businesses, and employment opportunities. The quality of that environment has a direct impact on the County's livability and its economic prospects. The County has acknowledged this vital linkage between the maintenance of a high quality of community design and the realization of the County's land use and fiscal objectives in its twenty year master plan study, the General Development Plan. The importance of good design is reflected in the following six major goals of the General Development Plan.

- A. Enhance the visual appearance and living environment of the County through effective design, landscaping, and control of visual clutter.
- B. Maximize the conservation of existing housing and the preservation of established neighborhood character and quality.
- C. Promote the control and regulation of the adverse effects of development, such as noise, light, odor, etc., within the County.

- D. Promote the preservation of historically significant structures and/or districts within the County and maximize the conservation of the established character of these facilities and areas.
- E. Encourage the stabilization of existing commercial areas and the development of new commercial nodes in locations which have (1) good vehicular access to local residential market areas; and, (2) minimal conflict or encroachment with either existing or newly developing residential land use areas in the vicinity.
- F. Encourage the continued expansion and development of industrial land use areas in existing locations and in new locations which offer the maximum potential for development, but compatible with surrounding land uses and transportation facilities.

In conjunction with the divisions of DeSoto County Code of Ordinances addressing related land use and fiscal controls, this division, which establishes design review regulations for the County, is adopted to implement the objectives of the General Development Plan.

2. Intent:

The intent of the County's design standards is to promote a more pro-active growth and development strategy, for the purpose of maintaining the long-term economic viability of the community, as well as its quality of life. Compliance with the standards is required in order to secure a building permit for commercial, industrial, town homes, condo's or multiple-family residential buildings within the County. Detached, single-family residences are exempt.

The County requires applicants to develop a pattern book as part of their application to help communicate the design concept of the proposed commercial development. The intent of creating an architectural pattern book or architectural guidelines for a particular project is to ensure a base level of quality architecture that is responsive to the site's context and that builds upon the aesthetic identity of the community rather than trying to present design solutions that are based on a standardized formula or market prototype applied to the selected site.

For new commercial development in an area where there is not an established architectural character or context, a pattern book or architectural guidelines can help to establish a new design vocabulary consistent with DeSoto County's Zoning, Subdivision and Design Standards Ordinances without mandating specific architectural style, design features and building materials. Typically, over time, certain projects and landmark buildings will begin to define the dominant character of an area. Not all buildings in the surrounding area will contribute equally to the area's character, but each example should be weighed against the balance of all other projects or buildings. The intent of the pattern book is to encourage proposals that will fit within and contribute to the planned architectural character and context of a specific area when there will be multiple landowners and tenants at the project site.

Without providing specific requirements or recommendations for colors, patterns, building materials and architectural styles, the quality of a planned commercial development can be addressed through a few basic design concepts relating to character and context of the site, scale and proportion of the development, and building massing. How well a pattern book addresses these issues may be a good starting point for discussion of the appropriateness of design standards, concepts or guidelines that are proposed by an applicant.

Character and Context - The design of a building that occupies a pad or portion of a building within a planned project or shopping center should share similar design characteristics and design vocabulary. Utilizing similar colors, materials and textures as well as repeating patterns, rhythms and proportions found within the architecture of other buildings in the center can be utilized to achieve unity; exact replication of features from building to building is not typically desirable.

Scale and Proportion of Development - New development should respect the predominant scale of development (relationship of the size of a building to the size of a human being) in the surrounding area by designing with elements of a similar scale and providing a gradual transition to any larger scaled masses proposed. The scale and proportion (the relationship of the width to height of a building such as tall and narrow, low and squat, or square) of individual buildings should be relatable to human scale if they are to provide a comfortable, inviting environment. Taller buildings or portions of a building should be located internally to a site with buildings stepping down in height as they reach the edges of site that are adjoined by smaller scaled development.

Massing - The design of a building should reduce its perceived height by dividing the building mass into smaller scale components to make it appear less bulky. The apparent mass of a building can be reduced by incorporating variations in roof form and heights; incorporating clearly pronounced recesses and projections; use of subtle changes in texture and color of wall surfaces; use of deep set windows; use of ground level arcades and second floor galleries/balconies; use of protected and recessed entries; use of vertical accents or focal points; and a variety of other applied design features.

By following some of the basic principles of good design, above, the applicant and the County should be able to anticipate that the commercial development will be a sustainable, vital contribution to the community. The County reserves the right to waive the requirements for a pattern book at its discretion.

3. Definitions and Rules of Construction:

a. *Rules of Construction:*

- i. Words used in the present tense include the future tense and the singular includes the plural.
- ii. The term "shall" and "must" are always mandatory and not discretionary; the words "may" or "should" are permissive.
- iii. The term "person" or "applicant" includes a firm, organization, association, partnership, trust, company, limited liability company, limited liability partnership, or corporation, as well as an individual.
- iv. The terms "use" or "occupy" shall include the concept of intended, designed, or arranged to be used or occupied.
- v. The term "building" includes the term "structure" or "any portion of a building or structure."

Whenever any reference is made in this ordinance to any other section or provision of this or any other ordinance, such reference shall be deemed to include the provisions or regulation to which the reference is made.

b. *Definitions:* For the purposes of this ordinance, certain words and phrases are herein defined. Words and phrases defined herein shall be given the defined meaning. Words and phrases not defined herein shall be given their usual meaning, except where the context clearly indicates a different or specified meaning.

- i. Addition – An extension, expansion, enlargement or increase in the area or height of a building or structure or the number of dwelling units within the building or structure.
- ii. Administrative Official – The Director of Planning for DeSoto County.
- iii. Appearance – The outward aspect visible to the public.
- iv. Appurtenance – The visible, functional objects accessory to and part of buildings.
- v. Architectural Character – The composite or aggregate of the characteristics of structure, form, materials, and function of a building, group of buildings, or other architectural composition.
- vi. Architectural Feature – A prominent or significant part or element of a building, structure, or site.
- vii. Architectural Style – The characteristic form and detail of a building, structure, or site, as of buildings of a particular historic period.
- viii. Berm – An earthen mound designed to provide visual interest, screen undesirable elements of a project from public view, and/or decrease noise.
- ix. Caliper – The average diameter of a tree measured six (6) inches above the ground.
- x. Chroma Colors – Any of various brilliant pigments containing chromium compounds, such as chromium green or chromium yellow. Any metallic color.
- xi. County – The unincorporated area of DeSoto County, Mississippi.
- xii. Cohesiveness – The unity of composition between design elements of a building, structure, and site.
- xiii. Compatibility – The harmony in appearance of two or more buildings, structures, and landscaping elements in the same vicinity.
- xiv. Earthtone – Earthtone colors are considered to be various shades of reddish-brown, brown, tan, ochre, umber, flat gold, sand, and flat greens. The following are not ordinarily considered earthtone colors: bright primary colors, blue, canary yellow, red, orange, violet, magenta, bright green, silver, gray, or metallic finishes.
- xv. Exterior Building Component – An essential and visible part of the exterior of a building.
- xvi. Exterior Design Feature – The architectural style and general arrangement of such portion of a building or structure as is to be open to view from a public street, place, or way, including the kind, color, and texture of the building material of such portion, and the type of windows, doors, and lights, or ground signs and other fixtures appurtenant to the building.
- xvii. Fenestration – Any exterior window or door.
- xviii. Frontage – The total lineal distance measured along all adjacent right-of-ways.
- xix. Graphic Element – A letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.
- xx. Ground Cover – Sod or other low growing plants installed in such a manner so as to form a

- continuous cover over the ground surface.
- xxi. Harmony – A quality which produces an aesthetically pleasing whole in the arrangement of varied architectural and landscape elements.
 - xxii. Mechanical Equipment – Equipment, devices, and accessories the use of which relates to water supply, electrical supply, drainage, heating, ventilation, air conditioning, and similar purposes.
 - xxiii. Parking Row –
 - (1) Single Loaded Parking Row – A single row of spaces for the parking of vehicles.
 - (2) Double Loaded Parking Row– Two parallel rows of spaces for the parking of vehicles arranged so that, when parked, the front end of each vehicle faces the front end of another vehicle.
 - xxiv. Predominate – Having the most publicly visible surface area.
 - xxv. Portals and Canopies – Any structure attached to, or part of, a building at the inner end, or also a free-standing structure, having supporting posts or columns, meant to provide shelter from the weather.
 - xxvi. Proportion – The relationship between parts of a building, landscape, or structures to each other and to the whole.
 - xxvii. Right-of-Way Line – That line delimiting the Public/Private boundary of the street, and being identical with the property line of persons owning property fronting upon the streets.
 - xxviii. Roof – Any surface covering a building area or space that is horizontal, or has a slope less steep than one-half (½) foot of horizontal run for every twelve (12) feet of vertical rise. The term "roof" also includes the overhangs over porches, porticos, and covered walks.
 - xxix. Roof Line – The highest point of the coping on a flat roof, false mansard, or parapet wall; the ridge line between the upper and lower slopes of a gambrel roof; or the mean height level between the eaves and ridge of a gable or hip roof.
 - xxx. Scale – The harmonious relationship of the size of a building or parts of a building to one another and to the human figure.
 - xxxi. Shrub – A woody plant, smaller than a tree, consisting of several small stems from the ground or branches near the ground.
 - xxxii. Sod – A layer of earth containing grass plants and their matted roots. (synonym – turf)
 - xxxiii. Stage Set Façade – A structure in which the primary elevation of the building presents a distinct and separate design from the remainder of the building. A structure where the continuity of design does not continue beyond the primary elevation to the sides and rear of the building. This may also include separate materials and colors from the remainder of the building. An example of a stage set façade would be a brick façade reflecting a parapet on a pre-engineered steel or wood frame building with a pitched roof.
 - xxxiv. Tree – A large woody plant having one or several self-supporting stems or trunks and numerous branches.
 - xxxv. Wall – Any exterior surface on a building or structure that is either vertical or has a slope steeper than one-half (½) foot of horizontal run for every twelve (12) feet of vertical rise.

4. Projects Requiring a Development Plan:

- a. *Actions Requiring Development Plan Approval:* Neither a Building Permit nor a Use and Occupancy Permit shall be issued for the construction of the following buildings, structures, or uses of land until a Development Plan has been submitted, reviewed, and approved in conformance with the requirements of this Ordinance.
 - i. All new construction, additions, change in exterior appearance, exterior alteration, or change in use for either land, buildings, or buildings and land in combination for all categories of non-single-family residential detached construction.
 - ii. The construction, re-construction, alteration, or expansion of a parking area for automobiles, trucks, trailers, recreational vehicles, mobile homes, manufactured homes or other vehicles, whether for customer parking, sales, or temporary or long-term storage.
 - iii. Fences, signs, landscaping requirements, and curb cuts for the land uses regulated by regulations not otherwise reviewable pursuant to the foregoing requirements.
 - iv. Subdivision entrance signs and landscape plans for subdivisions or planned unit developments, including entrances, landscaped buffer areas, medians, and streetscaping.

- b. *Exemptions:*
 - i. Single-family residences and all accessory structures appurtenant thereto.
 - ii. All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the interior of the building, or when located outside of the building, but buried beneath the surface of the earth.
 - iii. Any permit necessary for the compliance with a lawful order of the Planning and Building Department, Fire Department, Sheriff Department, or Public Department, Board of Supervisors related to the immediate public health or safety.
 - iv. All permits for interior alterations, repairs, or renovations.
 - v. All permits for demolition or wrecking.
 - vi. All applications for building or occupancy permits for the purpose of repair, construction, reconstruction, alteration, rehabilitation, moving or demolition, or change in use for either land, buildings, or buildings and land within any historic district.

5. **Development Plan – Application and Requirements:** For all applications for building or occupancy permits for the purpose of construction, reconstruction, alteration, rehabilitation, repair, moving or demolition, or change in use for either land, buildings, or buildings and land within the County, as well as for such other forms of development as is regulated by this Ordinance, an overall development plan and text, containing the information required by this Ordinance, must be submitted, for review and approval by the design plan review committee, prior to the issuance of any permit. In no case shall any site improvement or construction be conducted prior to the review and approval of these plans, as provided herein.

Prior to developing a complete Development Plan as prescribed herein, a preapplication conference should be held to review design requirements and preliminary design proposals. After preapplication conference, the developer may proceed to develop a complete development plan.

- a. *Intent:* The development plan must demonstrate the character and objectives of the proposed project to the Design Plan Review Committee in adequate detail for evaluation of the effects the proposed project would have upon the district. The plan must provide sufficient and specific information to aid in the determination of what provisions, if any, should be included as part of the plan, and be binding on the use and development of the subject property. The filing of a Development Plan for approval constitutes an agreement by the owner and applicant, their successors and assigns, that if the Development Plan is approved, any building or use and occupancy permits issued for the improvement of the property(ies) shall be in conformance with the approved Development Plan.
- b. *Filing:* An application for Development Plan approval shall be filed in the offices of the County Planning and Building Department upon the forms provided, and shall be submitted either in advance or concurrently with a request for Building Permit Plan Review or an application for a Use and Occupancy Permit, where applicable. An application shall consist of fifteen (15) complete sets of drawings measuring not more than twenty-four (24) inches by thirty-six (36) inches, drawn to a scale as large as practical, and including the following information:
- c. *Existing Conditions:*
 - i. Scale, date, north arrow, title of the project, and a vicinity map reflecting the location of the proposed project.
 - ii. The boundaries, dimensions, and total gross acreage of the subject property.
 - iii. The relationship of the project to the surrounding road system, including the widths of right-of-way and pavement for all adjacent roads.
 - iv. The location and dimensions of all existing man-made features, such as roads, utilities, and structures on both the petitioned site and adjacent properties, along with an indication as to which features on the petitioned site are to be removed.
 - v. The location and dimensions of existing easements, watercourses, county drains, utilities, water and sewer lines, and other important physical features in and adjoining the project.
 - vi. The location and delineation of existing trees eight (8) inches in diameter or larger, as measured three (3) feet above the ground, and information as to which trees will be removed.
- d. *Proposed Conditions:*
 - i. The "footprint," location, dimensions, and height of the proposed main and accessory buildings, their relation one to another and to any existing structures to remain on the site. The distance from all proposed buildings and structures to the adjacent property lines.
 - ii. The location of the one hundred (100) year flood plain, where applicable, and the existing or proposed finished floor elevations of all structures.
 - iii. The internal circulation pattern for both vehicular and pedestrian traffic, including the location and dimensions of all existing and proposed streets, driveways, traffic aisles, and sidewalks, as well as the location, size, and number of parking spaces within off-street parking areas, as well as the identification and dimensions of service islands, service parking, and loading zones.
 - iv. Total project density for residential projects or building floor area by the use intended for

- commercial and industrial projects.
- v. Percentage of landscaping/open space areas and percentage of impervious surface areas to the total area of the site.
- vi. Location and dimensions of all landscape areas, common open space areas, and bufferyard areas, including the location, number, type, and size of all landscaping materials, as well as any other proposed amenities.
- vii. Size, location, materials, and orientation of all signs.
- viii. Location, height, and type of all exterior lighting.
- ix. Location, area, and type of screening for all exterior trash collection and/or recyclables collection areas.
- x. Architectural Elevations:
 - (1) Architectural drawings, drawn to scale showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.
 - (2) If the exterior of an existing structure is to be changed, both the proposed and existing elevations of such structures shall be shown.
 - (3) If an addition to an existing structure is proposed, the elevation of the existing structure shall be shown together with those of the addition.
 - (4) The elevations shall also show all superstructures and equipment above the roof, projections from the wall of the structure, mechanical units, etc.
 - (5) A floor plan for all structures.
 - (6) Exterior materials to be used shall be noted in terms of type, location, texture, and color, with samples of each to be provided with the submitted plans.
 - (7) The location and type of screening for all mechanical units, utility services, and so forth.
- xi. The names, addresses, telephone numbers, and fax numbers of the developer(s), the property-owner(s), and the designer(s) of the plan.
- xii. Proposal for sanitary sewer, storm sewer, water, natural gas, and electrical services.
- xiii. Identification of additional roadway needs, including improvements necessary to adequately access and service the site. In reviewing such a proposal, the County may require the preparation of a Transportation Impact Study, at the applicant's expense, to identify the traffic impacts and problems which are likely to be generated by the proposal and to identify all improvements required to insure safe ingress and egress from the proposed development, elimination of hazards, and the maintenance of adequate street capacities.
- xiv. The proposed phasing of construction for the project, if applicable, including:
 - (1) The approximate date when construction of each phase of the project is anticipated.
 - (2) The order in which the phases of the project will be built.
 - (3) The minimum area and the approximate location of common open space and public improvements that will be required at each stage.
- xv. A legal description of the property proposed for the development.
- e. *Drainage Plan:*
 - i. Contours of the site with elevations of the pre-developed site and the proposed finished grades at two (2) foot intervals.
 - ii. The size of the watershed.
 - iii. Calculations of the storm water run-off and retention/detention needs based upon the Rational Method.
- f. Proposals for the management and retention/detention of storm water drainage.
- g. *Application Materials Submitted for the Record:* All plans, architectural drawings, renderings, photographs, reports, or other documents, materials, or visual aids either initially submitted as part of the formal

application or presented at a later date shall become part of the permanent record of any decision and shall not be returned to the applicant.

6. Approval Process:

- a. *Pre-Application Conference:* Prior to filing an application for Development Plan approval, the prospective applicant may request a pre-application conference with the Planning and Building Department staff to conduct a preliminary review and assess overall compliance with the standards. Two copies of all required submittals must be provided in order for this review to be performed.
- b. *Formal Application:* Upon submission of the formal application, development plan, and all other required materials to the Planning and Building Department, a review report and recommendations shall be developed by the Planning and Building Department and a Design Plan Review Committee meeting scheduled.
- c. *Burden of Proof:* In presenting any application for Development Plan approval, the burden of proof shall rest with the applicant to provide the necessary evidence required by either the Administrative Official or the Site Plan Review Committee, as applicable, to clearly show that the proposed plan meets the minimum design standards listed.
- d. *Conditions of Approval:* In approving a Development Plan application, the Design Plan Review Committee, may impose such reasonable conditions as deemed necessary to meet the spirit and intent of the standards. These conditions may include, but are not necessarily limited to:
 - i. Performance Standards
 - ii. Height Limitations
 - iii. Minimum Yard Requirements
 - iv. Off-Street Parking and Loading Requirements
 - v. Sign Regulations
 - vi. Architectural Elevations of any Proposed Structures or Alterations to Existing Structures
 - vii. Landscaping Provisions
 - viii. In those instances where those conditions deemed necessary involve minimum requirements or standards set by other Ordinances, such as the Zoning Ordinance, the conditions may be more restrictive than the minimum requirement or standard, but they may not be used as a substitute for a variance, or otherwise as a method of implementing standards that are less restrictive than those required by the applicable Ordinance.
- e. *Certificate of Approval:* Following final approval by the Site Plan Review Committee, two (2) sets of the submitted plans will be stamped with the Certificate of Approval and signed by the Administrative Official. The plans will then be distributed as follows:
 - i. One (1) set to the applicant
 - ii. One (1) set to the County Building Department
- f. *Approval and Concurrent Building Permit Plan Review:* Following approval of the Development Plan, the applicant may then make application for Building Permit Plan Review. The applicant may request a concurrent Building Permit Plan Review and submit proposed building plans for the project along with the required Development Plan.
- g. *Project Development Contract:* Following approval of the Development Plan, but prior to the issuance of a Building Permit or Use and Occupancy Permit, as may be applicable, the applicant shall sign a project development contract committing to completion of the proposed project in accordance with the approved Development Plan, submit to the County a proper performance guarantee, if required, and pay all development fees.
- h. *Maintenance of Approved Plans:* Following approval of the Development Plan, issuance of the Building Permit, and the initiation of construction, the applicant's copy of the approved plans shall be maintained by

the applicant at all times upon the site of the construction for use and reference of the County's Inspectors, as necessary. Failure by the applicant or his contractor to maintain the approved plans upon the site shall be considered a violation of this Ordinance.

7. Minimum Standards of Design:

- a. The purpose of the Design Review Standards is to preserve and promote good quality design within the County. Although this Ordinance does not require strict adherence to a particular design style, it does encourage respect for general design qualities and characteristics.
- b. The Design Review Standards utilizes design element standards system to evaluate a project's architectural and site design plan. These design standards are itemized by design element, such as site preparation, parking areas and traffic circulation, building form and materials, landscaping, fences and screening, and signage.
- c. *Site Preparation:*
 - i. Grading:
 - (1) Temporary air pollution and soil erosion shall be minimized through the retention of natural vegetation and topography until the applicant is prepared to initiate grading and continue immediately with the construction applied for on a continuous process. The period of construction shall be of a duration reasonable to the size and complexity of the development. Top soil shall be retained upon the site and placed over landscaped areas at a depth of not less than six (6) inches. The required Development Plan shall include an erosion control plan. The methods utilized and the minimum standards for care of the area during construction shall be in conformance with the requirements of the Subdivision Regulations for the County and the DeSoto County Storm Water policy.
 - (2) Buildings and improvements shall be located on the site to minimize changes to the existing topography and the loss of existing, mature landscaping. All existing trees eight (8) inches or larger in diameter shall be reflected on the Development Plan, and where they are proposed to be removed, justifications shall be provided.
 - (3) Areas of natural vegetation shall be preserved along property lines, including fence rows and drainage ways, and should be incorporated into the site's overall landscape concept. The Development Plan for the project shall identify "no-grade" zones for this purpose.
 - ii. Storm Water Drainage:
 - (1) No project shall cause downstream properties, water courses, channels, or conduits to receive storm water runoff from the proposed project at a higher peak flow rate than would result from the same storm event occurring over the site of the proposed project with the land in its natural, undeveloped condition. Where down stream conditions would be overtaxed by runoff from present or planned developments, and where runoff cannot be absorbed upon the site, detention areas shall be created to slow runoff. All storm water storage facilities shall be designed with sufficient capacity to accommodate all runoff caused by the project in excess of the runoff which would have resulted from the site left in its natural, undeveloped state. The storage capacity of all storage facilities shall be sufficient to store one hundred fifteen (115) percent of the excess flow, in each watershed, which would result from a twenty-five (25) year storm of twenty-four (24) hour duration.
 - (2) Wetlands, which are important to storm water retention, shall be maintained. The elimination of wetland areas upon the site, and the mitigation required for such elimination, shall be governed by the U.S. Army Corps of Engineers.
 - (3) Storm water entry and discharge points shall be protected to minimize erosion and to avoid relocating a problem to upstream or downstream properties.
 - (4) In order to minimize storm water runoff, the amount of the site in impervious surface, such as roofs and pavement, should be minimized. The maximum impervious surface shall be not greater than 75 percent in impervious surface.
 - (5) Where the subject property is impacted by a surface drainage ditch, creek, river, or other

- waterway, the banks of the waterway will be stabilized as directed by the County Engineer.
- (6) Floodplains: No building or structure, or any portion thereof, shall be constructed within the limits of special flood hazard areas inundated by the 100-year flood, as identified in the applicable Flood Insurance Rate Map distributed by the Federal Emergency Management Agency, unless the finished floor elevation of the building or structure is higher than, or is raised by filling to, an elevation at least one (1) foot higher than the 100-year flood elevation. The applicant shall conduct on-site topographic surveys to locate the precise floodplain line on the subject parcel. Any structure placed within the floodplain shall be anchored firmly to prevent floodwaters from carrying it downstream. Such anchoring shall be sufficient to withstand a flood velocity of six (6) feet per second, and shall require the applicant to submit a written opinion from a registered professional engineer that the proposed structural design meets this standard.
- iii. Off-Site Improvements: Where off-site roadway or utility improvements are required as a result of the proposed development, those improvements shall be the responsibility of the applicant, and shall be constructed or installed prior to any final inspection or the issuance of an Occupancy Permit.
 - iv. Utilities: All utilities and services shall be located underground.
 - v. Engineering Plans: All grading plans, storm water drainage plans, plans for the provision of storm water detention, and the engineering construction plans for roadway and utility improvements shall be reviewed and approved by the County Engineer.
- d. *Parking and Traffic Circulation:*
- i. To maintain a sense of natural surroundings and a consistent streetscape, parking and service areas should be screened from public view or surrounded by landscape buffers.
 - ii. Parking areas should be organized as a series of small parking bays with planted islands separating them.
 - iii. Curb Cuts:
 - (1) Curb Cut Location: Curb cuts shall be located no closer than 75 feet from the intersection of two streets, as measured at the curb line from the end of the radius of the intersection. In those instances where the width of subject site is less than 75 feet, the curb cut shall be placed adjacent to the interior side lot line furthest distant from the street intersection.
 - (2) Curb cuts, other than those shared between two properties, shall be located a minimum of 10 feet from any property line.
 - (3) Curb cuts shall be located directly across from one another on the opposite sides of a public or private street, or off-set by a minimum of 150 feet.
 - iv. Entrances and exits to the site shall be so located such that parking spaces and traffic aisles do not conflict with entering and exiting traffic.
 - v. Defined Entrances and Exits: Properties shall have clearly defined entrances and exits. Unlimited access to parking areas along the entire frontage of a property is prohibited.
 - (1) Minimum Widths: Curb cuts shall meet the following minimum widths:
 - (a) Residential: 12 feet wide at the right-of-way line/16 feet wide at the curb line.
 - (b) Commercial:
 - (i) One Way – 14 feet wide at the right-of-way line/28 feet wide at the curb line
 - (ii) Two Way – 24 feet wide at the right-of-way line/44 feet wide at the curb line
 - (iii) Three Way – 36 feet wide at the right-of-way line/56 feet wide at the curb line

- (c) Industrial/Truck Entrance – Radius curb cut or curb return size based upon the accepted standard utilizing truck turning templates
 - (d) Curb Radii: A minimum radius of twenty (20) feet at the street right-of-way intersection, and a minimum radius of thirty-two (32) feet at the back of the curb or edge of the pavement shall be required. Intersections with arterial and collector streets shall require intersection geometrics as directed by the County Engineer. The County Engineer may permit comparable cut-offs or chords in lieu of rounded corners.
 - (e) Number of Curb Cuts: The number of curb cuts shall be limited to one (1) curb cut for every three (300) feet of street frontage. Properties that are less than three hundred (300) feet wide, shall be limited to one (1) curb cut per street frontage, subject to the requirements of the County’s Fire and Safety Codes as they may apply to industrial uses.
- vi. Parking Areas/Loading Areas – All areas used for access, maneuvering, standing, parking, or display of motorized vehicles, trailers, boats, recreational vehicles, or manufactured or mobile homes; whether for customer or business purposes, shall be hard surfaced of either Portland cement or asphaltic concrete, maintained adequately for all-weather use, and so drained as to avoid the flow of water across sidewalks. Additionally, the following vehicle storage parking areas shall also be paved: vehicle sales, mobile and/or manufactured homes, wrecker service/impound yard, boat sales/marina, and tractor-trailer drop-off and/or service lots.
- vii. All required parking spaces shall be provided on the subject site. On-street parking is prohibited.
- viii. The number of required parking spaces shall be in conformance with the requirements of Article XV, "Required Off-Street Parking and Loading," of the Zoning Ordinance for DeSoto County.
- ix. Parking spaces that back directly into the adjacent street are prohibited.
- x. All vehicular parking areas shall be delineated by white, reflectorized pavement striping and shall meet the following dimensional requirements:
 - (1) If ninety (90) degree parking,
 - stall depth -- 20' 0"
 - stall width -- 9' 0"
 - aisle width -- 25' 0"
 - (2) If sixty (60) degree parking,
 - stall depth -- 20' 0"
 - stall width -- 9' 0"
 - aisle width -- 18' 6"
 - (3) If forty-five (45) degree parking,
 - stall depth -- 20' 6"
 - stall width -- 9' 0"
 - aisle width -- 13' 6"
 - (4) If thirty (30) degree parking,
 - stall depth -- 20' 0"
 - stall width -- 9' 0"
 - aisle width -- 13' 0"
 - (5) If parallel parking,
 - stall depth -- 8' 0"
 - curb length -- 23' 0"
 - aisle width -- 12' 0," or if adjacent to angle parking, use the largest width
- xi. Loading Areas shall be hard surfaced of either Portland cement or asphaltic concrete, and shall be scaled to the loading demand created by the use of the property and the size of the delivery vehicles used. Such loading areas shall not be visible from any adjoining public street.
- xii. Lighting – A lighting plan for all exterior lighting shall be submitted with the required Development Plan complying with the following standards and specifications:

- (1) Private streets, driveways, parking lots, walks and service areas shall be kept properly and adequately lighted at all times so that the area will be safe for occupants and visitors. Lighting levels should be as even as possible, not exceeding an average of 1.0 footcandles for commercial developments and 0.4 footcandles for residential developments, provided that such lighting may not cast light beyond the property's boundaries. All entrances and exits to both the subject property and any proposed structures shall be lighted.
- (2) Lighting fixtures within commercial and multiple-family developments, whether mounted upon a building or independently upon a light standard, shall not exceed twenty (20) feet in height. Lighting fixtures within industrial developments may exceed twenty-five (20) feet in height, except in those instances where the subject property adjoins any residentially zoned property.
- (3) All luminaries (the complete lighting unit, consisting of the light source and all necessary mechanical, electrical and decorative parts) shall be a "cut-off type" luminaries, with elements such as shields, reflectors, or refractor panels which direct and cut-off the emitted light at a specific angle). All luminaries shall have a cut-off angle of ninety (90) degrees or less.
- (4) The lighting from any luminaire shall be shielded, shaded, or directed to prevent either direct or reflected light from being cast upon any adjacent residential property, and to prevent glare and other objectionable problems to surrounding areas.
- (5) No exterior lighting fixture of any kind shall be so placed or directed such that the direct or reflected light therefrom shall interfere with the operation of automotive vehicles on any adjacent street.
- (6) No exterior light shall have any blinking, flashing, or fluttering light, or other illuminating device which has a changing light intensity or brightness of color.
- (7) All exterior lighting fixtures shall be either high pressure sodium or metal halide fixtures.
- (8) Lighting fixtures shall be compatible in style with the architecture of their associated buildings.
- (9) Building mounted artificial light sources are shielded from public view, except for low intensity decorative lighting not exceeding forty-five (45) watts per bulb.
- (10) Use of antique, pierced, ceramic, pierced metal, or other decorative fixtures when compatible with the overall architectural style of the building. (submit sample and specifications for approval) and in accordance with any officially adopted streetscape plan.

xiii. Fire Lanes – Every non-residential use shall provide access for fire vehicles and emergency apparatus from a public street, as follows:

- (1) A fire lane shall be provided to any structure which is more than one hundred and fifty (150) feet from the nearest street right-of way, when the structure is thirty-five (35) feet or less in height. When the structure exceeds thirty-five (35) feet in height, a fire lane shall be provided if the structure is fifty (50) feet or more from the nearest street right-of-way. In addition to these situations, the Fire Chief for DeSoto County may require a fire lane to any part of any building where the distance of the structure from the nearest fire hydrant, the configuration of structures on a site, or other special characteristics of the site inhibit rapid, effective fire extinguishment.
- (2) Fire lanes shall comply with the following requirements:
 - (a) The fire lane shall provide clear, unobstructed access for vehicles and apparatus at all times.
 - (b) Signs shall be erected prohibiting the parking or standing of motor vehicles within the fire lane.
 - (c) Fire lanes shall be a minimum of eighteen (18) feet in width.
 - (d) The fire lane shall be constructed of a hard surface of either Portland cement or asphaltic concrete.
 - (e) Rear Access to Buildings – Vehicular access shall be provided along the rear of all buildings for emergency access purposes.

- xiv. Curbing and Wheel Stops – All parking areas and loading areas shall be provided with a permanent Portland cement curb. In addition, all landscaped areas that can be encroached upon by a motor vehicle, shall be protected by a wheel stop constructed of Portland cement, appropriately anchored to the pavement, and set a minimum of two (2) feet back from the curb to restrict the destruction of landscape materials by vehicles.

e. *Pedestrian Circulation:*

- i. Where the subject property does not already provide a public sidewalk, a five (5) foot wide sidewalk shall be constructed along the entire street frontage of the property. The sidewalk shall be constructed to align with existing sidewalks on adjacent properties. Where sidewalks are not yet present on adjacent properties, the sidewalk shall be constructed at least five (5) feet back from the curb to allow for green space. In the instance of a corner lot, the sidewalk will be constructed along both street frontages, and handicapped access ramps will be constructed at the street corner.
- ii. Where a property or development borders more than one street, sidewalks will be constructed along the entire frontage of all streets which the property or development borders. Where the sidewalk intersects a driveway access point to the property or development, the sidewalk will not be required to cross the driveway, provided that appropriate handicapped access ramps are provided on either side of the driveway access.
- iii. Sidewalks shall be a minimum of five (5) feet in width, except along arterial streets which may require additional width, as determined by the County Engineer. Sidewalks shall be set back a minimum of five (5) feet from the back of the curb.
- iv. Sidewalk materials should blend with the natural landscape, avoiding slick concrete. Examples of acceptable finishes are broom finished, colored, or exposed aggregate concrete. Asphalt sidewalks are prohibited.
- v. Handicapped Access: Handicapped access ramps, complying with the requirements of Federal law, shall be provided for both sidewalks adjacent to public streets, as well as sidewalks provided internally within the development.
- vi. Crosswalks: Crosswalks shall be provided both internally and externally to the development as identified by the County Engineer. Public crosswalks shall be striped in conformance with the latest edition of the Manual on Uniform Traffic Control Devices. Crosswalks on private property, internal to the site, shall either be delineated by white, reflectorized pavement striping or may be delineated by materials of a different color and texture from the surrounding parking lot, otherwise conforming to the overall color scheme of the development.
- vii. At least one continuous five (5) foot wide pedestrian walkway is provided from the street to the building entry with a landscape area directly adjacent to the walkway along more than fifty (50) percent of its length. Traffic aisles between parking areas may be provided through the non-landscaped portion of the sidewalk, provided that the sidewalk is continued at the same grade as the traffic aisle in a different, contrasting, material from the traffic aisle, such as brick, pavers, or stamped concrete.
- viii. Materials: Brick, pavers, tile, stone, washed aggregate concrete, stamped concrete, The use of asphalt, cinders, gravel, or no walkways being provided is strictly prohibited.
- ix. Street Signs and Traffic Control Devices: When, as a result of the proposed project, street signs, traffic signals, or traffic regulatory signs are required, the applicant shall be responsible for the installation of all such devices and signs.
- x. Continuing Maintenance of Overall Traffic, Parking, Loading, and Pedestrian Facilities: The driveways, private streets, parking areas, traffic aisles, fire lanes, loading areas, exterior lighting, signage, internal crosswalks, curb stops, pedestrian facilities, and such other transportation related improvements depicted upon the approved Development Plan, shall be considered as binding elements of the project in the same manner as the proposed buildings, landscaping, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all such private improvements in accordance with the approved Development Plan. The parking areas shall be maintained in a clean manner with all litter and other debris removed daily. Grass shall be removed from all curbs and sidewalk areas. Potholes in the parking lot surface, cracks in the pavement or sidewalks, and all other signs of the

physical deterioration of all approved improvements shall be repaired or replaced within thirty (30) days following notification by the County.

f. *Building Form and Materials:*

- i. Multi-family structures shall be designed to be compatible with the character of single-family residential structures within the community. Commercial and office structures shall be designed to be compatible with the character of single-family residential structures within the community in those instances where the subject property or overall development adjoins residentially zoned land. In all such cases, the compatibility of the multi-family, commercial, or office project shall be determined by comparing the consistency of the design elements, colors, materials, and landscaping of the proposed buildings with the existing design elements, colors, materials, and landscaping of the adjoining residential structures.
- ii. Building facades of an individual structure on a single lot should generally be oriented parallel to the streets they face, such that their main entrances are visible as a means of creating continuous streetscapes. Within office or commercial complexes, buildings shall be clustered so as to create plaza or pedestrian mall areas. Where the clustering of buildings cannot be achieved due to the size or shape of the lot, link the building pads together with pedestrian walkways that are defined by separate paving textures and accented by landscape areas.
- iii. "Stage-set" facades are prohibited. The continuity of design goes beyond the primary elevation of the building. The materials and colors of the street face shall continue on the sides and rear of the building.
- iv. Building Setbacks – Building setbacks shall conform to the applicable zoning district requirements of the Zoning Ordinance for the County.
- v. Building Height – Building heights shall conform to the applicable zoning district requirements of the Zoning Ordinance for the County.
- vi. Building Massing – With the exception of industrial uses, the maximum, unbroken facade plane shall be fifty (50) feet for residential uses and sixty (60) feet for commercial and office uses. The wall of any such building shall be interrupted through the use of projections or recesses, portals, courtyards, plazas, or other appropriate architectural convention. The design of off-setting wall plane projections or recesses shall have a minimum depth of two (2) feet. Multi-story buildings with over twenty thousand (20,000) sq. ft. of gross floor area shall be designed with either off-setting wall planes or upper story setbacks of at least six (6) feet in depth.
- vii. Exterior Surfaces – No flat-faced cement block or metal surfaces shall be visible upon the exterior of any building.
- viii. Pitched Roofs – Where pitched roofs are utilized, the primary roof form shall be on a slope of no less than 6/12. Porches shall be on a slope of not less than 3/12. Pitched roofs shall be shingled in accordance with the materials list contained under the "Optional Requirements" of this section.
- ix. Parapet Facades – Parapet facades may be used when of unified construction with the primary surface of the wall and of the same material and color. The parapet shall be designed such that the reverse side of all elements shall not be visible to public view. False mansards are prohibited. Canopies are permissible provided they are an integrated part of the overall building design, are not used to create the impression of a false mansard, and are not used as a location or support for wall-mounted signage.
- x. Colors – No more than three (3) painted or applied colors may be used on the exterior of any building.
- xi. Doors and Windows – The treatment of doors and windows shall be uniform throughout the building design, with the exception of designated fire doors located on the rear of the building.
- xii. Preferred Exterior Surface Material – Building materials should suit the architectural style of the building, and should be consistent or complementary throughout the structure or total project. The use of high quality construction materials is important for long term durability and appearance. For the purposes of these standards, "predominate" means having the most publicly visible surface area. The term "walls" shall be any exterior surface on a building that are either vertical, or have a slope steeper than one half (½) foot of horizontal run for every twelve (12) feet of vertical rise. The preferred materials, in order of preference, are listed as follows:

<u>Material</u>
Brick(100%)
Cementuous Stucco(100%)
"Split-Face" Concrete Block
Limestone
Integrally Colored Unit Masonry (ICUM)
Vertical Board and Batten Stone
Wood Siding
Wood Simulated Materials
Clear or Neutral Tint Curtain wall
Dryvit, EIFS, or STOWE*

**Dryvit, EIFS, or STOWE may only be used in those areas of the building not accessible to either pedestrian or vehicular traffic.*

The use of Flat-Faced Concrete Block, Mirrored Glass Curtain wall, or metal veneer as predominate material is strictly prohibited, however warehouse or manufacturing areas of industrial buildings may utilize metal veneer surface. The use of exposed Steel or other Metal as a major exterior design element shall be subject to the review and approval of the Design Review Advisory Committee.

- (1) Color of Predominate Exterior Surface Material – Building colors should be subdued, with natural tones and neutral colors predominating.

<u>Color</u>
White, Off-White Earthtones
Creams
Pastels of Earthtone, including rose, peach, and terra cotta
Dark, Subdued Green
Pastel Colors of Non-Earthtone hues, yellows, greens and grayish greens
Flat Matte Finish of Primary Colors

Use of the following colors is strictly prohibited: High Intensity Colors, Metallic Colors, Gloss Colors, Finish Primary Colors, Red and Black Colors, Fluorescent and Full Chroma Colors. The use of uncolored pre-cast concrete panelsot “tilt-up” slabs is strictly prohibited.

- g. *Exterior Surface Design* – Wall surfaces appear monolithic with at least seventy-five (75) percent of the total wall area, one material and one color. Non-solar fenestration, window and door awnings, applied trim and accent materials, colors and decorative bands, with the exception of stucco, masonry, or concrete control

joints are used in such a way that they do not give a panelized or pre-fabricated appearance, or produce checkerboard patterns. Differing shades of the same general hue shall not be considered different colors. Fenestration and/or accent colors on wall surfaces under portals or canopies having a horizontal depth of at least six (6) feet shall be exempt from area calculations. The building is designed such that all loading docks, overhead doors, and truck parking are positioned upon the subject property to not be visible from the public street.

- h. *Doors and Windows* – An essential characteristic of architecture is a traditional appearance of buildings, walls and openings. Walls define the overall form of buildings, while openings give them a human scale and the appearance of being occupied. Treatment of the doors, windows, and glazed surfaces, with the exception of steel fire doors on the rear elevation of the building and doors, windows, and glazed surfaces which are located under portals or canopies with a depth of six (6) inches or more, have one or more of the following:
 - i. Frames recessed a minimum of four (4) inches
 - ii. Encased with trim
 - iii. Have divided lites
 - iv. Have exposed or otherwise articulated lintels
 - v. All glazing is clear, tinted neutral gray, leaded, frosted, or decorative glass *The use of mirrored glazing is strictly prohibited.*
 - vi. Architectural Features -- Consideration is granted for the appropriateness of each feature. Use of decorative trim around the roof perimeter, all doors and windows, and signs. Decorative wrought iron used as gates, fencing, windows, and railings. Decorative use of brick, stucco, or stone accents around walls, columns, rooflines, doors and windows, including crown molding.

- i. *Roof Standards* – Roof design should be appropriate for the architectural style of the building. Material Enameled standing seam metal, flat tiles of concrete or clay, copper metal. All surfaces concealed from public view by parapets (flat, built-up, or pitched roofs), wood textured composition shingles, architectural shingles. The use of plastic, fiberglass, other metal, or glass, visible to public view is strictly prohibited. The use of bright, high intensity colors is strictly prohibited.

- j. *Landscaping* – Landscaping is used in parking areas to reduce heat radiated from paving, improve auto circulation and safety, and to screen parked automobiles from public view. To accomplish these goals, the following design standards are promulgated.
 - i. Methods: All landscaping shall be installed in conformance with ANSI Z60.1, the "American Standard for Nursery Stock," and the accepted standards of the American Association of Nurserymen. Soil free of lime rock, pebbles, or other construction debris shall be provided.
 - ii. Consistency: A consistent landscape treatment along public streets enhances the appearance of the public domain, and provides an attractive, unified setting for variations among individual developments. Landscaped areas should dominate the frontage of any site where entries are the only interruption. Although the type and nature of the landscaping between individual properties may vary, the design and depth of landscape areas shall be consistent as they transition from one property to another.
 - iii. Perimeter Landscaping – A minimum of one (1) large, deciduous shade tree for every thirty-five (35) lineal feet of street frontage, or portion thereof, shall be planted upon the subject property within the area five (5) feet behind the street right-of-way line up to said street right-of-way line. Said trees may be clustered or arranged within the setback, and need not be placed at a uniform thirty-five (35) foot interval. To provide a more immediate effect and to off-set the larger scale of structures, street trees shall be three (3) to three and one-half (3½) inch caliper in size as measured six (6) inches above the ground.
 - iv. Interior Landscaping –
 - (1) There shall be a minimum of twenty (20) square feet of interior landscaped area provided within the parking area for each parking space. The landscaping shall be in one or more areas so as to minimize and reduce the apparent size of the parking area.

- (2) Parking areas shall be organized as a series of small parking bays with landscape islands separating them. A landscape island shall be placed for each one hundred (100) lineal feet of parking, as follows:
 - (a) Single Loaded Parking Rows -- A raised island, not less than six (6) inches in height, five (5) feet wide by twenty (20) feet in length shall be located at both ends of every single loaded parking row and for every one hundred (100) lineal feet of parking. The island shall contain a minimum of one (1) medium deciduous shade tree, two (2) to two and one-half (2½) inches in caliper, as measured six (6) inches above the ground, and low shrubs at least eighteen (18) inches high.
 - (b) Double Loaded Parking Rows -- A raised island, not less than six (6) inches in height, five (5) feet wide by forty (40) feet in length shall be located at both ends of every double loaded parking row and for every one hundred (100) lineal feet of parking. The island shall contain a minimum of two (2) medium deciduous shade trees, two (2) to two and one-half (2½) inches in caliper, as measured six (6) inches above the ground, and low shrubs.
- (3) Trees planted for the purpose of complying with the perimeter landscaping requirements shall not be double counted for compliance with the interior landscaping requirements.
- (4) Ground Cover -- Areas adjacent to streets and pedestrian walkways, as well as interior landscape areas, shall be treated with grass and/or other types of vegetative ground cover. Such areas shall be sod or established lawn prior to building occupancy.
- (5) Irrigation – In order to present a healthy, neat and orderly appearance, landscaped areas shall be provided with adequate irrigation for the maintenance of grass, shrubs, and trees by utilizing a sprinkler system or hose bibs.

k. *Maintenance of Existing Trees:*

- i. Whenever possible, healthy existing trees should be retained, as they are an amenity that increases the value of property and requires many years to replace. The Development Plan must identify all existing trees eight (8) inches in caliper, as measured three feet above the ground, or larger, as well as which such trees shall be retained and which such trees shall be removed. The applicant must submit a justification for any such trees proposed for removal.
- ii. Existing Tree Credit – For every existing tree eight (8) inches in caliper, maintained as a part of the proposed development, the applicant shall receive a credit on a 1:1 basis against the tree requirement of either the perimeter or interior landscaping standards, dependant upon the location of the existing tree(s) on the site. (The maintenance of existing trees shall only be considered a credit against the perimeter street tree requirement if the existing tree(s) to be maintained lie within the subject site, but also within reasonable proximity to the street right-of-way line.)
- iii. Continuing Maintenance of Overall Landscape Plan – The trees, shrubs, and other landscaping materials depicted upon the Development Plan approved by the Planning and Building Department shall be considered as elements of the project in the same manner as parking, building, materials, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping materials. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as initially approved. Plant material which exhibits evidence of insects, disease, and/or damage shall be appropriately treated. Dead plants shall be removed and replaced within thirty (30) days following notification by the City.
- iv. Maintenance or Replacement of Existing Trees Encouraged – a development plan should strive to maintain each existing tree eight (8) inches in caliper or greater. Where this is not practical, and in those instances where existing trees are removed, trees should be replaced upon the site by a tree of the same caliper or in an appropriate multiple; i.e., if an 8” caliper tree is removed, and then replaced by two 4” caliper trees or four 2” caliper trees.
- v. In each case, whether maintaining or replacing existing trees, such trees shall be in addition to the other landscaping requirements of this Ordinance, and shall not be double-counted.

1. *Fences and Screening:*

- i. Transitional Bufferyards -- Transitional screening is required where commercial, industrial, or multi-family uses adjoin single-family residential areas or uses, and within Planned Unit Developments with similar use relationships.
 - (1) General Standards:
 - (a) Location: Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, along side and rear property lines. Bufferyards shall not be located on any portion of a public or private street right-of-way.
 - (b) Use of Bufferyards: A bufferyard may be used, in part, for some of passive recreation, such as pedestrian, bike, or equestrian trails, provided that:
 - (i) No required plant material is eliminated.
 - (ii) The total depth/width of the bufferyard is maintained.
 - (iii) All other requirements of this Section are met.
 - (iv) In no event, however, shall the following uses be allowed in bufferyards: accessory buildings, sheds, garages, playfields, stables, swimming pools, tennis courts, or similar forms of active recreation.
- ii. Ownership of Bufferyards: Bufferyards may remain in the ownership of the owner of the property upon which it is located. Bufferyards may be subjected to deed restrictions and subsequently be freely conveyed. They may be transferred to any consenting grantees, such as home owners associations, adjoining land owners, or conservation group, provided that any such conveyance guarantees the protection and maintenance of the bufferyard.
 - (1) Determination of Bufferyard Standards: The bufferyard requirements for a specific use, property, development, or project, shall be determined by referring to the Bufferyard Table and the additional requirements of this Section.
 - (2) Railroad Right-Of-Way: Any lot or site which is adjacent to an active railroad right-of-way, and where the structure(s) located on the property have been designed for a direct rear railway track connection for loading and unloading purposes, shall be exempt from any bufferyard requirement along the common property line with such right-of-way.
 - (3) Bufferyards for Planned Districts: For all Planned Districts, the requirements of this Section shall serve as the baseline requirements against which any proposed modifications shall be compared. The bufferyard requirements for each Planned District shall be as approved within the Project Text and Preliminary Development Plan.
 - (4) Changes in Intensity: A use, property, development, or project may continue to comply with the bufferyard requirements in effect at the time of the issuance of its initial approval, regardless of whether an adjacent lot, site, or common development is rezoned to a less intense district, requiring additional bufferyard area or screening.
 - (5) Plant Types: All landscaping shall be in accordance with the approved plant list contained in Appendix "A."
- iii. Specific Provisions:
 - (1) The layout, design, and arrangement of the prescribed numbers and types of landscape materials within a bufferyard shall be in accordance with this section.
 - (2) Ground Cover: Bufferyard areas shall be treated with grass and/or other types of vegetative ground cover. Such areas shall be sod or established lawn prior to building occupancy.
 - (3) Irrigation: In order to present a healthy, neat and orderly appearance, bufferyard areas shall be provided with adequate irrigation for the maintenance of grass, shrubs, and trees by

utilizing a sprinkler system or hose bibs.

- (4) Opaque Barrier: In those bufferyards which require the construction of an opaque barrier, it shall take one of the following forms:

- (a) A decorative masonry wall of brick, cementuous stucco, or natural stone, a minimum of six (6) feet in height, with support columns no further apart than ten (10) feet. Decorative wrought iron may be used in conjunction with any of the above listed materials, provided that it is also used in conjunction with landscaping of sufficient density to maintain the integrity of the wall as an effective visual barrier.
- (b) A landscaped earthen berm with a maximum slope of 3:1, rising no less than six (6) feet above the existing grade, as measured at the lot line between the subject parcel and adjacent properties. Landscape materials to be included on the berm shall be as required for each bufferyard type.
- (c) In residential to residential applications, a solid wooden fence, a minimum of six (6) feet in height. The finished, good, or attractive side of the fence shall face the adjoining property or street if the appearance of the structure is not the same on both sides. ***In commercial and industrial applications, the use of wooden fencing is strictly prohibited.***
- (d) ***The use of chain-link, chain-link with slats, wire, barbed or razor wire, vinyl, plastic, or metal panels is strictly prohibited for buffering purposes.***

The landscape materials required for each bufferyard type shall be planted on the side of the opaque barrier which faces the less intense zoning district or development.

- (5) Bufferyard Dimensional Requirements: The following table, "Bufferyard Requirements," shall be used to determine the bufferyard requirements of a use, property, development, or project.
- (6) Bufferyard Design Types: The design standards for each type of transitional bufferyard, as referenced in the "Bufferyard Requirements" table shall be as follows:

- (a) Bufferyard Type "20": Transitional bufferyard type 20 shall consist of a landscaped area a minimum of twenty (20) feet in width, landscaped as follows:

One (1) large deciduous tree (ultimate height 50± feet) for every seventy-five (75) lineal feet of bufferyard. PLUS

Three (3) medium evergreen trees (planted on a 25 foot triangular staggered spacing) and one (1) small ornamental tree for every seventy-five (75) lineal feet of bufferyard.

- (b) Bufferyard Type "25": Transitional bufferyard type 25 shall consist of a landscaped area a minimum of twenty-five (25) feet in width, landscaped as follows:

An opaque barrier, as required by this Article.

One (1) large deciduous tree (ultimate height 50± feet) and two (2) small ornamental deciduous trees (spaced 30 feet on center) for every sixty (60) lineal feet of bufferyard.

- (c) Bufferyard Type "30": Transitional bufferyard type 30 shall consist of a landscaped area a minimum of thirty (30) feet in width, landscaped as follows:

An opaque barrier, as required by this Article

One (1) large deciduous tree (ultimate height 50± feet) for every sixty (60) lineal feet of bufferyard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every fifteen (15) lineal feet of bufferyard.

- (d) Bufferyard Type "35": Transitional bufferyard type 35 shall consist of a landscaped area a minimum of thirty-five (35) feet in width, landscaped as follows:

An opaque barrier, as required by this Article

One (1) large deciduous tree (ultimate height 50± feet) and one (1) small ornamental deciduous tree for every sixty (60) lineal feet of bufferyard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every fifteen (15) lineal feet of bufferyard.

- (e) Bufferyard Type "40": Transitional bufferyard type 40 shall consist of a landscaped area a minimum of forty (40) feet in width, landscaped as follows:

An opaque barrier, as required by this Article.

One (1) large deciduous tree (ultimate height 50± feet) and one (1) small ornamental deciduous tree for every sixty (60) lineal feet of bufferyard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every ten (10) lineal feet of bufferyard.

- (f) Bufferyard Type "50": Transitional bufferyard type 50 shall consist of a landscaped area a minimum of fifty (50) feet in width, landscaped as follows:

An opaque barrier, as required by this Article.

One (1) large deciduous tree (ultimate height 50± feet) and one (1) small ornamental deciduous tree for every fifty (50) lineal feet of bufferyard. PLUS

One (1) medium evergreen tree (planted on a triangular staggered spacing) for every ten (10) lineal feet of bufferyard.

- (7) Landscape Materials Specifications:

- (a) At Initial Planting: "Large" deciduous trees shall be three(3) to three and one-half (3½) inches in caliper, as measured six (6) inches above the ground, at planting. "Medium" and "small" deciduous trees shall be two (2) to two and one-half (2½) inches in caliper at planting. All evergreen trees shall be a minimum of six (6) feet in height at planting.
- (b) At Mature Growth: "Large" deciduous trees shall be a minimum of fifty (50) feet tall at mature growth. "Medium" deciduous trees shall be a minimum of fifteen (15) to twenty (20) feet tall at mature growth. "Small" deciduous trees shall be a minimum of eight (8) to ten (10) feet tall at mature growth. "Large" evergreen trees shall be a minimum of eighty (80) to one hundred (100) feet tall at mature

growth. "Medium" evergreen trees shall be a minimum of twenty (20) to forty (40) feet tall at mature growth.

- (8) Maintenance of Existing Trees:
- (a) Existing Tree Credit – Every existing tree, a minimum of eight (8) inches in caliper or larger, that are maintained as a part of the proposed development may be used as a credit on a 1:1 basis against the bufferyard tree requirement, dependent upon the location of the existing tree(s) to be maintained upon the subject property. The maintenance of existing trees shall only be considered as a credit against the bufferyard tree requirement if the existing tree(s) to be maintained lie within the subject site, and within the bufferyard area of the site.
 - (b) Replacement: When the site layout makes it necessary to remove an existing tree from the site's bufferyard area having a caliper of eight (8) inches or more, the tree must be replaced upon the site as near as possible to the where the original tree was removed. Replacement must match the original tree's caliper or by an equivalent multiple; e.g., a twenty-four (24) inch caliper tree could be replaced by three (3) eight (8) inch caliper trees or by six (6) four (4) inch caliper trees or by eight (8) three (3) inch caliper trees. This replacement requirement shall apply in addition to the normal bufferyard landscaping requirements.
- (9) Maintenance of Overall Landscape Plan: The trees, shrubs, and other landscaping materials located within the bufferyard area shall be considered binding elements of the project in the same manner as parking, building, materials, and other details. The applicant, his successors, assigns, and/or subsequent owners and their agents shall be responsible for the continued maintenance of all landscaping materials. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as originally approved. Plant material which exhibits evidence of insects, disease, and/or damage shall be appropriately treated. Dead plants shall be removed and replaced within thirty (30) days following notification by the City.
- (10) Nuisance Screening: To reinforce the natural environment and a consistent streetscape, service and utility functions shall be screened from public view.
- (a) Garbage Collection Areas – Garbage collection areas shall be located at the rear of buildings and shall be enclosed on all sides by a gated solid wall, conforming to the previously stated requirements for opaque barriers. The following criteria shall apply:
 - (i) Dumpster enclosures shall be located on a concrete pad, of such size as recommended by the disposal company.
 - (ii) The approach to the dumpster area shall be paved of a hard surface Portland cement or asphaltic concrete, of a specification sufficient to support the weight and continual use of the garbage collection vehicle.
 - (iii) The screening on all enclosed dumpsters shall be a minimum of at least two (2) feet taller than the dumpster.
 - (iv) For compaction units, a floor drain shall be provided which ties to the sanitary sewer.
 - (v) Either the dumpster enclosure must be constructed of sufficient size to accommodate all refuse materials to be recycled, such as grease barrels for restaurants and used oil barrels for automotive uses, or a separate enclosed pad of the same specification provided.
 - (vi) ***The use of wooden fences or chain-link fences with slats as a screening device for garbage collection areas is strictly prohibited.***

- (11) Parking Areas: Where parking areas adjoin public streets, an opaque barrier, a minimum and maximum of three (3) feet above the elevation of the adjacent parking area shall be provided between the parking area and the street right-of-way line, for the length of the parking area, to obscure parked vehicles within these areas from public view, and to prevent the lights from parked vehicles encroaching upon the public street. The opaque barrier shall meet one of the following standards:
- (a) A decorative masonry wall of brick or natural stone, a minimum and maximum of three (3) feet in height, with support columns no further apart than ten (10) feet. The wall shall be planted on the street frontage at intervals with low shrubbery, a minimum of three (3) gallon size, from the approved plant list contained in Appendix A, for the purpose of preventing a stockade appearance.
 - (b) An earthen berm with established ground cover. In those instances where space limitations dictate, a one-half (½) berm with a retaining wall on the parking lot side may be proposed.
 - (c) Dense shrubbery, a minimum and maximum height of three (3) feet, of sufficient density to present an uninterrupted vegetative wall.
- (12) Wall and Fence Standards:
- (a) The minimum height of a wall or fence shall be six (6) feet, with the exception of front yard setback areas as designated by the Zoning Ordinance. Within front yard setback areas, walls and fences shall not exceed a maximum of three (3) feet in height.
 - (b) Walls and fences shall not impede or divert the flow of storm water.
 - (c) Walls and fences shall not block access to any above ground, pad mounted transformer, and shall provide a minimum clear access to the transformer doors, as required by the utility company.
 - (d) Solid walls and fences shall not create a stockade appearance. This can be accomplished by undulating the plan the fence. Fences over eighty (80) feet long shall have no more than fifty (50) percent of their length on a continuous line. The remaining length shall be set back a minimum of six (6) feet, with evergreen landscaping within the setback area.
 - (e) Retaining Walls: Retaining Walls shall be constructed to conform to the requirements of the Building Code, and the following specifications:
 - (i) All permits for construction of a retaining wall shall contain an engineered construction plan prepared by a registered civil engineer licensed to do business within the State of Mississippi.
 - (ii) Retaining walls less than three (3) feet tall may be constructed of treated timbers, split-faced concrete block, flat-faced concrete block, or poured-in-place concrete with either a flat or decorative face.
 - (iii) Retaining walls three (3) feet or more in height shall only be constructed of split-faced concrete block or poured-in-place concrete with a decorative face.
 - (iv) Screening – Mechanical, communications, and service equipment, including satellite dishes and vent pipes, are totally screened from public view by parapets or walls. All building mounted equipment set forth above is either screened by parapets, walls, and/or is painted to visually match adjacent surfaces.

8. **Design Plan Review Committee Established:** There is hereby established a Design Plan Review Committee ("Committee") for DeSoto County, Mississippi, which shall have the structure, powers and functions as hereinafter provided.

- a. The Design Plan Review Committee shall consist of the Building Official, Planning Director and staff.
- b. *Meetings:* Meetings shall be at the call of the Planning Director. The Committee shall keep minutes of its proceedings.
- c. *Powers and Duties:* The Design Plan Review Committee shall be responsible for implementing the Design Review Standard for DeSoto County.

9. Development Design Plan Approval:

- a. *Scope of the Plan Review Committee Approval* - The Plan Review Committee is charged with reviewing and approving any applications for a Building Permit as covered in these standards.
- b. *Design Plan Review Committee Action*: In addition to such further elements that may be required by other sections of these standards, the Committee shall approve the development plan if it finds that:
 - i. The exterior design features of the development will not be detrimental to the harmonious and orderly growth of the County.
 - ii. The plan for the proposed development indicates that it will reasonably protect against external and internal noise, vibrations, and other conditions which detract from the desirability of the surrounding environment. Loading and storage areas are located away from street views, and are screened by landscaping and screening walls consistent with the building design and materials.
 - iii. The exterior materials and design features do not reflect excessive similarity to or difference from existing development upon adjacent properties and within the neighborhood.
 - iv. The plan for the proposed development reflects that the architectural features are adequate and appropriate for the style of building. In those instances where the subject property adjoins residentially zoned land, the proposed development is designed to be compatible with the character of single-family residential structures within the community, reflecting a continuity of size, scale, design, materials, and roof form with residential structures.
 - v. The plan for the proposed development is of an appropriate and acceptable quality. The proposed development may be considered of an inferior quality in its design and appearance if the Committee finds that:
 - (1) The detailing and building materials do not convey a quality of craftsmanship and permanence, and do not include use of the highest quality materials available.
 - (2) Uninterrupted and unarticulated monochromatic expanses of wall plane are proposed.
 - (3) Texture of materials is not used to add interest to the building or articulate the design.
 - (4) Imitation materials are used rather than natural materials.
 - (5) All sides of the building do not reflect the same level of detailing and/or quality of materials. The design elements of the building are not consistently applied throughout the project.
 - (6) On buildings with exposed, pitched roofs, the roof form does not periodically change height, orientation, or shape as part of the building's overall design. The slope of the pitched roof is 3:12 or less
 - (7) On parapet roofs, long, uninterrupted horizontal lines of parapet are proposed, without being broken by vertical or horizontal off-sets or the changing of roof forms. The reverse side of the parapet is visible to the public.
 - (8) Mechanical and electrical equipment is not screened or incorporated into the building design.
 - (9) The plan for the proposed development includes:
 - (a) Arresting and spectacular effects
 - (b) Violent contrast of materials and/or colors
 - (c) A multiplicity or incongruity of details resulting in a disturbing appearance
 - (d) The absence of unity or coherence in composition
 - (e) Lack of consonance with the present structure in the case of remodeling or enlargement
 - vi. In its deliberations concerning the factors listed above, the Design Plan Review Committee shall consider, but shall not be limited to consideration of the following design elements of the proposed plan:
 - (1) Building Style

- (2) Building Color
- (3) Building Materials and Textures
- (4) Building Scale
- (5) Building Design Concept and Thematic Continuity
- (6) Historic Resources, Preservation, and Conservation of Resources
- (7) Lighting
- (8) Signage

10. Appeals and Variances:

- a. *Appeals:* Any person or persons aggrieved by any decision of the Design Plan Review Committee, where it is alleged there is an error in such order, requirement, decision, or determination made by the Design Plan Review Committee in the administration or implementation of these standards as applicable, may appeal such decision to the Board of Supervisors for DeSoto County by filing a "Notice of Appeal," in writing, with the Administrative Official within ten (10) days of the date of the final action on the Development Plan. The Board may affirm, reverse, remand, or modify the decision of the Administrative Official as may be appropriate.
- b. *Variances:* The Board of Supervisors may, following a request by the applicant, hear requests for such variances from the terms of these standards where, owing to special conditions, a literal enforcement of the provisions of these standards would result in unnecessary hardship.
- c. *Variance Approval Criteria:* A variance from the terms of these standards shall not be granted unless and until a written application for a variance is submitted demonstrating all of the following:
 - i. That the special conditions and circumstances that exist are peculiar to the land, structures, or buildings involved, and **are not** generally applicable to other lands, structures or buildings in the same district.
 - ii. That the literal enforcement of the provisions of these standards would deprive the applicant of rights commonly enjoyed by other properties within the same district, and **would not** confer on the applicant any special privilege that is otherwise denied to other properties in the same district.
 - iii. That the special conditions and circumstances do not result from the actions of the applicant, and are not based upon economic considerations.
 - iv. That the proposed modification upholds the intent and spirit of the Ordinance by providing an equal or better standard of protection and aesthetic value than the strict requirement of the Ordinance from which the variance is sought.
- d. *Variance Application and Materials:* Requests for a variance from the requirements of these standards or the Minimum Standards of Design Ordinance shall be submitted upon an application form provided by the Planning and Building Department. Variance applications shall be accompanied by the following information:
 - i. Fifteen (15) copies of the required Development Plan conforming to the requirements of the Ordinance.
 - ii. Fifteen (15) copies of the required Development Plan reflecting the proposed modification.
 - iii. One (1) full color rendering of the proposed project in conformance with the requirements of the Ordinance.
 - iv. One (1) full color rendering of the proposed project reflecting the proposed modification.
 - v. Paint color chips, roofing material samples, catalog cut-sheets, and such other information that the Commission may require to fully and adequately evaluate the effect of the proposed variance. The potential for economic loss or gain on the part of the applicant resulting from the action of the Commission shall not be considered a sufficient basis for the approval of any variance. An affirmative vote of a majority of the total membership of the Planning Commission present shall be required to grant any variance from the requirements of these standards.
- e. *Appeal to the Circuit Court:* Any person or persons, jointly or severally aggrieved by any decision of the Board of Supervisors, may present to the DeSoto County Circuit Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the Court within ten (10) days from the date of the regularly scheduled meeting of the Board at which the action was taken.

11. Contractual Agreement, Violations, and Penalties:

- a. The filing of a proposed Development Plan for approval constitutes an agreement by the owner and applicant, their successors and assigns, that if the Development Plan is approved, permits issued for the improvement of the property(ies), and the activities subsequent thereto, shall be in conformance with the approved Development Plan.
- b. An approved Development Plan authorizes only the arrangement and construction set forth in such approved plan and application. Arrangement and construction different from the approved Development Plan, or any approved modifications thereto, shall constitute a violation of these standards.
- c. The approved Development Plan shall have the full force and effect of County Ordinance. Any person, firm, or corporation violating any of the terms, conditions, or provisions of these standards shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500.00). Each day that a violation continues shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of these standards.
- d. In addition to the penalties hereinabove authorized and established, any violation shall be sufficient grounds for the Administrative Official to issue stop work orders, withhold further permits, and void current permits. The County Attorney is also authorized to take such other actions in law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of these standards.

12. Period of Validity:

- a. *Expiration:* Development Plan Approval expires under the following conditions:
 - i. If a Building Permit is not applied for within six (6) months following the date of Development Plan Approval (where not applied for concurrently).
 - ii. If work on the project is not commenced within six (6) months following the date of issuance of the Building Permit.
 - iii. If work on the project is not completed within two (2) years following the date of issuance of the Building Permit.

- b. *Effect of Additional Approvals:* In the event that some additional approval is required by another governmental authority or agency (i.e., State Highway Department, County Health Department, County Planning Commission, etc.), approval of the Development Plan shall not become effective until written notice of that approval is received by the Planning and Building Department.

- c. *Extensions:* Upon request of the applicant, and after good cause is shown, the Administrative Official may grant one (1) extension of the initial thirty (30) day period within which a Building Permit must be issued for an additional thirty (30) day period. Any further extensions will require the review and approval of the Board of Supervisors.

- d. *Effect of Expiration:* If the period of validity expires, the Administrative Official shall file with the records of the Department a certificate of noncompliance, and no Building Permit or Use and Occupancy Permit shall be issued until a new application for a Development Plan is approved.

13. Modifications to an Approved Development Plan:

- a. An approved development plan may be amended upon written application to the Planning and Building Department.
- b. The Administrative Official shall review the proposed modifications to certify that they comply with all applicable County standards and requirements, determine if the proposed modifications do not alter the project's compliance with these standards.
- c. If, as a result of the proposed modification, the requested modification shall not be approved by the Administrative Official, and the original approved development plan shall remain in effect.
- d. If the Administrative Official finds that the proposed modification complies with all of the County's standards and requirements, he shall approve the modification, and it shall supersede the original development plan approval.
- e. In the instance of a development plan approved through the Design Plan Review Committee, the proposed amendment shall be submitted to the Design Plan Review Committee at their next available meeting for their review. In no instance shall any change be made in a development plan approved by the Design Plan Review Committee unless and until approval of the proposed change is secured from that Committee.
- f. *The approval of any requested modification shall not take effect, nor work proceed, until the applicant has submitted to the Planning and Building Department a complete set of revised plans, incorporating all approved modifications, to replace the previously approved plans currently on file.*

14. Performance Guarantee:

- a. In those instances where a project is essentially complete, with the exception of some individual elements of the approved development plan that cannot be completed due to unusual and unique circumstances, and that otherwise prevent the occupancy of the land and/or building, the Administrative Official may allow the deposit by the applicant with the County in the form of cash, certified check, or irrevocable letter of credit drawn on a bank located within DeSoto County, an amount sufficient to insure performance of the applicant to make those remaining improvements, whether public or private, at a later date as provided for herein. The option of providing a performance guarantee shall be solely at the discretion of the Administrative Official. In no case, however, shall the option of providing a performance guarantee be made available to delay the completion of any improvement directly relating to the public health or safety.
- b. *Generally:* The performance guarantee shall:
 - i. Be prepared on forms approved by the County Attorney and submitted in completed form to the Planning and Building Department for approval by the Administrative Official.
 - ii. Insure or guarantee the construction and completion of the remaining improvements, as set forth in the approved development plan over a period not to exceed six (6) months.
 - iii. Be in an amount equivalent to one hundred (100) percent of the estimated cost of completion of the remaining improvements (both public and private). Such estimate shall be prepared by the applicant and submitted to the County Engineer for review and approval. The applicant's submission shall consist of either an engineer's estimate of cost, or the actual contracted cost of the work. In both instances, the cost shall be itemized and shall include the unit costs used to determine the final cost. It shall be at the discretion of the County Engineer to accept the validity of the applicant's submittal, or adjust it as necessary to achieve a more realistic cost figure.
 - iv. Provide for the release of all of the monies so obligated, upon the demand of the County, without further condition or requirement for legal action, in accordance with the requirements of these standards.
- c. *Type:* Performance guarantees securing the construction of the proposed improvements shall be secured to the County by one of the following methods or combination thereof:
 - i. Cash, deposited with the comptroller, or deposited in a local bank in an account assigned to the County.
 - ii. Cashier's check deposited with the Comptroller.
 - iii. Certificates of deposit assigned to the Comptroller.
 - iv. An irrevocable letter of credit from a local bank, and assigned to the County.
 - v. An escrow account set up in a local bank, such funds to be held in a special account and only distributed by the bank with the approval of the County, and subject to audit by the County.
- d. *Term:* The term of the performance guarantee, whether cash, a cashier's check, an irrevocable letter of credit, or escrow account shall extend a minimum of three months longer than the approved construction period required for installation of the subject improvements.
- e. *Issued by Whom:*
 - i. Extent: The performance guarantee submitted shall insure or guarantee, to the extent specified by the County Engineer in his estimate of cost, the construction and completion of all remaining improvements, both public and private, proposed by the approved development plan.
 - ii. Business Interests: In no event shall the company or bank securing the performance guarantee have any material or other property interest in the proposed project to which the performance guarantee relates, nor have any other business relationship with the applicant in any other development or project that would, from the standpoint of the County, be considered a conflict of interest. The company or bank shall attach to the performance guarantee a notarized disclosure statement fully disclosing all current and impending business relationships with the applicant.

- f. *Eligibility:*
 - i. To be eligible, all companies and banks shall be approved by the County Attorney.
 - ii. Banks must be licensed under the laws of the United States or the State of Mississippi, and located and operating within DeSoto County, Mississippi.

- g. *Performance:* If the company or bank fails to comply with any of the provisions of the performance guarantee, or fails to release the obligated monies to the County upon demand, they shall not be allowed to act in that capacity for any project within the jurisdiction of the County for a period of five (5) years, and shall be subject to the penalties herein established. The County Attorney shall take such other actions in law or equity as may be required to secure all obligated funds

- h. *Release of Guarantee:*
 - i. *Inspection:* Prior to termination of the applicant's obligation to the County, all of the required improvements shall be constructed under the observation and inspection of the applicable inspecting agency, and shall be either accepted for maintenance, in the instance of public improvements, or given final approval by the Administrative Official, in the instance of private improvements.
 - ii. *Release of Performance Guarantee, Procedure:*
 - (1) The applicant may, from time to time, request partial release of the obligated sum contained in the performance guarantee as work progresses. Such a request shall be in writing, addressed to the Administrative Official, and shall specify the work that has been completed as well as the work that remains to be completed. The amount requested for release shall be determined by using current market values for materials and labor, and shall not exceed the ratio of work completed to the entire amount of improvements secured.
 - (2) Upon receipt of such request, the Administrative Official shall direct the applicable inspecting agencies to verify the actual level of completion and prepare a report on the requested release for presentation to the Administrative Official. The report may recommend release of the amount requested, or recommend some other amount which, based upon their investigation, more accurately reflects the actual level of completion in relation to the entire amount of improvements secured.
 - (3) Upon receipt of the reports from the applicable inspecting agencies, the Administrative Official may take action on the applicant's request. The Administrative Official may approve the applicant's request, approve the amount recommended by the various inspecting agencies, approve the release of some other amount which the Administrative Official feels more accurately reflects the actual level of completion, or deny the request. In no instance shall the Administrative Official approve an amount greater than the amount requested by the applicant.
 - (4) Following action on the requested release, the Administrative Official shall notify, in writing, the surety holding the performance guarantee authorizing the specific release. Until such time as the Administrative Official shall, by such written authorization addressed to the surety, release the specified amount, the surety shall continue to hold the obligated sum as established in the agreement.
 - (5) In no case shall more than ninety (90) percent of the total performance guarantee be released over the term of the guarantee. The final ten (10) percent of the performance guarantee shall only be released after the Administrative Official certifies that all improvements have been completed in their entirety, constructed in accordance with the approved development plan, and meet all of the County required standards and specifications.
 - iii. *Failure to Complete:* If, at the end of the performance period, all of the improvements secured by the performance guarantee have not been completed, the Administrative Official shall:
 - (1) require the surety to perform on the guarantee and pay to the County such amount as shall

- (2) be required to complete the improvements; or, require the applicant to submit a new performance guarantee for a period not to exceed six (6) additional months, and which has been recalculated in order to allow for inflation as a result of the extended period.

15. Amendments:

- a. The Board of Supervisors shall have the authority to amend, supplement, change, modify, or repeal by Ordinance the text of the Design Review Standards and the Minimum Standards of Design, in accordance with the provisions of this Section.
- b. *Initiation:* A proposal to change the text of the Design Review Ordinance or the Minimum Standards of Design may be initiated by the Supervisors, or the Site or Design Plan Review Committee.
- c. *Procedure:*
 - i. Any proposed amendment shall be first submitted to the Design Plan Review Committee for its recommendation and report.
 - ii. The Design Plan Review Committee shall review the proposed amendment and shall forward to the Board of supervisors its recommendation on such request.
 - iii. Upon receipt of the report and recommendation of the Design Plan Review Committee on the proposed amendment, the Board of Supervisors shall proceed to hold a public hearing in relation thereto. An advertisement giving fifteen (15) days notice of the hearing shall be placed in an official newspaper specifying the time and place of the hearing.
 - iv. Following the conclusion of the public hearing, the Board of Supervisors may approve, deny, or remand the proposed amendment to the Design Review Committee for further consideration. If the proposed amendment is remanded to the Design Plan Review Committee for further consideration, no notice other than for the first public hearing need be given.

APPENDIX "A"

APPROVED PLANT LIST

DeSOTO COUNTY DESIGN REVIEW ORDINANCE

LARGE - MATURING TREES

Deciduous

White Ash
(Fraxinus
Americana)
Resista
nt to heat and
drought;
growth rate
medium;
height range
50' to 80'; do
not plant in
heavy clay
soil.

Bald Cypress (Taxodium Distichum)* Growth rate fast; height range 50' to 80'; produces small leaves that do not need raking.

River Birch
(Betula Nigra)*
Subject
to drought
problems; may
be multi-stem;
growth rate
fast; height
range 40' to
70'.

Lacebark Elm
(Ulmus
Parvifolia)
Resista
nt to Dutch

Elm disease;
growth rate
medium;
height range
40' to 50'.

Ginko (Ginko Biloba)* Pest free, tolerates
pollution, drought resistant; growth rate
slow; height range 50' to 60'.

Laurel Oak (Quercus Laurifolia) Growth rate medium to fast, height range 60' to
80'; "Darlington" variety recommended.

Pin Oak (Quercus Palvstris) Growth rate medium to fast; height range 60' to
70'; dried foliage persists in winter.

Sawtooth Oak
(Quercus
Acutissima)
Holds
its leaves
during winter,
drops lots of
acorns,
toughest of
the oaks;
growth rate
medium to
fast; height
range 35' to
70'.

Shumard Oak (Quercus Shumardii)* Growth rate medium to fast; height range 40' to 80'.

Southern Red Oak (Quercus Falcata)* Natural to area; growth rate medium to fast; height
range 70' to 80'.

Water Oak (Quercus Nigra) Prefers well drained clay, fertile moist soil; growth
rate medium to fast; height range 70' to 80'.

White Oak (Quercus Alba) Very long lived; growth rate slow; height range 70' to
80'.

Willow Oak
(Quercus
Phellos)
Very
common tree

in this area,
withstands
urban
conditions;
growth rate
fast; height
range 70' to
80'.

Japanese Pagoda Tree
limbs; (Sophora Japonica)
80'.

May develop cankers which can girdle
growth rate fast; height range 70' -
80'.

London Planetree
(Plantanus Acerifolia)*

Withstands harsh urban conditions; growth rate
fast; height range 60' to 100'.

Tupelo Black
Gum (Nyssa
Aquatica)

Resista
nt to disease,
urban tree,
long life;
growth rate
medium,
height range
50' to 70'.

Tulip Poplar
(Kiriodendron
Tulipifera)

Needs
lots of space,
good soils;
growth rate
fast; height
range 60' to
90'.

Japanese
Zeikova
(Zeikova
Serrata)

Form of
elm resistant
to Dutch Elm

disease;
growth rate
fast, height
range 50' to
80'.

Evergreen

Leyland Cypress
(Cupressocyparis Leylandii)

Maintains good shape, excellent screening; growth rate medium to fast, height range 60' to 70'.

Canadian
Hemlock
(Taug
Canadensis)
Require
s partial shade
and good
soils; growth
rate fast;
height range
40' to 70'.

Southern Magnolia
(Magnolia Grandiflora)

Drops large leaves; growth rate medium to fast; height range 50' to 80'.

Austrian Pine
(Pinus Nigra)
Tolerat
es urban
conditions,
growth rate
medium;
height range
50' to 60'.

Loblolly Pine
(Pinus Taeda)
Suscep
tible to pine
beetles if not
kept healthy;
growth rate
fast, height
range 40' to
60'.

Virginia Pine
(Pinus
Virgnana)
Suscep
tible to pine
beetles if not
kept healthy;
growth rate
medium;
height range
15' to 40'.

MEDIUM TO SMALL MATURING TREES

Flowering

Kwanzan
Cherry
(Prunus
Serrulata)
Good
soils
preferred;
growth rate
slow; height
20' to 25'.

Yoshino
Cherry
(Prunus
Yedoensis)
Good
soils
preferred;
growth rate
med.; height
20' to 25'.

Crabapple
(Malus Spp.)
Recom
mended
varieties:
"Snowdrift,"
"Zumi," and
"Centurion;"
growth rate

medium to fast; height range 15' to 25'.

Crapemyrtle
(Lagerstroemia Indica)*
Must be maintained in tree form; growth rate medium; height range 15' to 45'.

Flowering Dogwood
(Cornus Florida)*
Needs partial shade and good soils; growth rate medium to fast; height range 20' to 25'.

Kousa Dogwood
(Cornus Kousa)*
More hardy tree than Flowering Dogwood; growth rate slow to medium; height range 15' to 30'.

Hawthorne
(Crataegus Viridis)

Prone
to insect
problems;
growth rate
slow to
medium;
height range
20' to 25'.

Saucer Magnolia
(Magnolia Souciangeana)

Growth rate medium; height range 20' to 30'.

Aristocrat
Pear (Pyrus
Calleryana)+
Very
tolerant, best
limb structure;
growth rate
fast; height
range 30' to
40'.

Bradford Pear
(Pyrus
Calleryana)
Very
tolerant,
requires
regular
pruning,
growth rate
fast; height
range 30' to
40'.

Capital Pear
(Pyrus
Calleryana)
Very
tolerant, most
columnar;
growth rate
fast; height
range 30' to
40'.

Redspire Pear
(Pyrus
Calleryana)
Very
tolerant, more
narrow than
the "Bradford;"
growth rate
fast; height
range 30' to
40'.

Purpleleaf
Plum (Pyrus
Calleryana)
Remain
s purple,
produces fruit;
growth rate
medium to
fast; height
range 15' to
30'.

Non-Flowering

Carolina Cherry Laurel
(Prunus Caroliniana)

Good soils preferred; growth rate medium; height
range 20' to 30'.

Foster Holly #2
(Ilex x Attenuata "Foster")

Multiple uses; growth rate medium to fast; height range
15' to 20'.

Savannah
Holly (Ilex x
Attenuata)
Multiple
uses; growth
rate fast;
height range
20' to 30'.

American Hornbeam
(Carpinus Caroliniana)*

Pest free, tolerates urban conditions; growth rate
slow; height range 20' to 30'.

European Hornbeam
(Carpinus Betulus)*

Pest free, tolerates urban conditions; growth rate
slow; height range 40' to 60'.

Hedge Maple (Acer Palmatum)

Growth rate slow; height range 15' to 35'.

Japanese Maple (Acer Palmatum)

Growth rate slow; height range 15' to 35'.

Bayberry Wax
Myrtle (Myrica
Cerifera)

Tolerant of lengthy
droughts,
effective as a
screen row
tree; growth
rate slow to
medium;
height range
10' to 15'.

Notes:

* Subject to insect problems. Some of the more popular cultivars are subject to freeze damage. Resistant selections are available.

+ Pear trees, "Bradford's" in particular, will require maintenance pruning on an approximate 3-year cycle to prevent crotch splitting and excessive interior clutter, density and abrasion points.

Suggested Shrub Species, 24" to 36" in Height

Red Leaf Photinia
Varigated Privet
Golden Euonymus
Burford Holly
Japanese Holly

Wax Leaf Ligustrum
Pyracantha
Gold Spot Euonymus
Dwarf Yaupon

Florida Jasmine
Eleagnus
Japanese Cleyera
Azalea

Suggested Shrub Species, 18" to 24" in Height

Andorra Juniper
Dwarf Japanese Holly
Manhattan Euonymus

Pfitzer Juniper
Dwarf Chinese Holly
Florida Jasmine

Mugho Pine
Varigated Privet

Suggested Groundcovers

Ajuga
English Ivy
Creeping Juniper
Jasmine

Cotoneaster
Vinca
Liriope
Common Periwinkle

Wintercreeper Euonymus
Shore Juniper
Monkey Grass

The forgoing ordinance, having been reduced to writing, and fully considered, the same was duly introduced and a motion was made by Supervisor Bill Russell and seconded by Supervisor Allen Latimer for the adoption thereof and a vote taken thereon with the following results:

Those present and voting in favor of the adoption of each and all of the sections and provisions of the ordinance, and for the ordinance as a whole:

THE FOLLOWING ACTION WAS TAKEN ON THIS MATTER:

FIRST DISTRICT SUPERVISOR, JESSIE MEDLIN	<u>NO</u>
SECOND DISTRICT SUPERVISOR, EUGENE THACH	<u>YES</u>
THIRD DISTRICT SUPERVISOR, BILL RUSSELL	<u>YES</u>
FOURTH DISTRICT SUPERVISOR, ALLEN LATIMER	<u>YES</u>
FIFTH DISTRICT SUPERVISOR, TOMMY LEWIS	<u>YES</u>

ORDERED AND DONE IN REGULAR TERM THIS THE 19th DAY OF DECEMBER, 2005.