

**PROPOSED TEXT AMENDMENT TO THE CITY OF TUPELO DEVELOPMENT CODE SECTION 12.10. SUBDIVISIONS
(TA23-01)**

12.10.1. Applicability.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street right-of-way or a change in existing street right-of-way. Subdivision approval shall be required before the division of land (for any purpose) into two or more parcels, except as specified in Section 12.10.2., Actions Exempt from Subdivision Requirements.

All requirements imposed through a plat shall run with the land and shall apply against any owner, subsequent owner, or occupant.

12.10.2. Actions Exempt from Subdivision Requirements.

The following shall not be considered "subdivision" and are exempt from the provisions of this section:

- (1) The combination or recombination of lots, or portions of lots, previously created and recorded, if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Code;
- (2) The division of land into parcels greater than ten acres if no street right-of-way dedication is involved;
- (3) The public acquisition of strips of land for the widening or opening of streets or the location of utility right-of-way; and
- (4) ~~The division of a tract in single ownership of which the entire area is no greater than two acres into not more than three lots, if no street right of way dedication is involved and if the resultant lots are equal to or exceed the standards of this Code.~~
- (4) No review or approval is required for exempt subdivisions; however, Director of Development Services certification of exempt status is required. Exempt subdivision plats shall be stamped by the Director of Development Services noting their exemption, and signed so that they can be recorded by the Chancery Clerk.

12.10.3. Minor Subdivision.

The division of a tract in single ownership of which the entire area is no greater than ten acres into not more than five lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of this Code (Minor Subdivision) may be approved by application to the ~~Director of~~ **Department of** Development Service for Minor Subdivision plat approval.

12.10.3.1 Minor Subdivision Approval

- (1) A preliminary plat, subject to Section 12.10 of this Code, must be presented for review by the Director of the Department of Development Services according to Site Plan Review processes defined by Section 12.11 of this Code.**
- (2) Where more than one Minor Subdivision is located on adjacent properties under shared ownership, business association, or development, the existing minor subdivision and all associated developments will**

be reviewed with additional phases according to processes defined for Major Subdivisions according to the standards of this Chapter.

- (3) Any minor subdivision recording plats and deeds in the City of Tupelo which is not provided with approval by the City of Tupelo according to this process is considered in violation of this Code. Where no review is provided, the City may withhold permitting of construction on subdivided lots until lots meet compliance with this Code and the standards of the base zoning district in which they are located. Where no approval is provided, the City is removed from liability related to provision of all utility services and required utility development to provided necessary infrastructure services to future development on subdivided lots.**

12.10.4. No subdivision without Plat Approval.

- (1) No subdivision of land within the jurisdiction of the City may be filed or recorded with the Chancery Clerk until it has been submitted to and approved by the Planning Committee, Director of Development Services, or ~~Director's~~ **Tupelo City Council or other** designee as specified herein and until the approval is entered on the face of the plat **according to this Section**.
- (2) Any person who, being the owner or the agent of the owner of any land located within the jurisdiction of this Code, subdivides land in violation of this Code, or transfers, or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Code, and recorded in the Office of the Chancery Clerk, shall be guilty of a misdemeanor and shall be punishable, accordingly, by fine or imprisonment.
- (3) The description by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring land, does not exempt the transaction from penalties. The City may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order for compliance.

12.10.5. Pre-Application Conference.

All applicants considering petitioning for a preliminary plat may schedule a pre-application conference with the Director of Development Services, or designee to discuss the procedures, standards, and regulations required for subdivision approval in accordance with the provisions of this Code.

12.10.6. Sketch/Concept Plans.

It is recommended, but not required, that the applicant applying for subdivision approval submit a sketch/concept plan for review by the Director of Development Services or designee. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions.

12.10.7. Preliminary Plat Requirements.

An application for preliminary plat review shall be submitted in accordance with Section 12.2, Application Requirements. Preliminary plat documents showing the proposed subdivision of the land into lots shall contain, as a minimum, the information listed below unless the Director of Development Services makes the determination that less detailed information is adequate for review. No processing or review of a preliminary plat will proceed without the required information. Detailed standards and specifications for design and construction are available in the Specifications Manuals adopted by the City of Tupelo, as identified in the Appendix.

12.10.8. General Requirements.

- (1) Title Block - Name of project, labeled: Preliminary Plat; submittal and revision dates; sheet size (36 by 48) maximum with index map and match lines if multiple sheets are required; graphic scale (not smaller than one inch to 200 feet on a standard engineering scale); north point; property identification number; vicinity map clearly establishing the location of the proposed project, with readily recognizable landmarks, stream buffers, flood plain boundaries, property zoning districts and any overlay zones.
- (2) Name, address and telephone number of owner, applicant and agent; name, address and telephone number of surveyor, engineer, landscape architect, or other designer, with seal.
- (3) In addition, State or Federal regulations may require that additional information be supplied to the Development Services Department as a part of a submittal.
- (4) The preliminary plat shall be provided to the Development Services Department in both hard copy and digital form. The plat drawing shall be in a generally accepted engineering file format and shall be georeferenced to the Mississippi East State Plane Coordinate System.
- (5) **Subdivision construction will meet required standards for commercial development set forth in Section 6.4, Building Design Standards, except where modified by this Section.**

12.10.9. Existing Conditions.

The preliminary plat shall show the following information on existing conditions:

- (1) Boundary of the property, using metes and bounds with angle of departure of adjacent properties;
- (2) Site total area and amount to be developed **with index map to graphic scale;**
- (3) **Lot lines and property boundaries, with metes and bounds including previously platted lines; municipal boundaries, county lines;**
- (4) Existing building footprints and square footage;
- (5) Improvements, such as loading areas, parking areas, driveways, alleys, streets, sidewalks, etc.;
- (6) Any septic tanks, **sewer lines**, drain fields and wells, **water lines, mains, and hydrants**
- (7) Culverts, **drainpipes**, and other subsurface features;
- (8) All utility easements, above and below ground, including information on type, size, and elevation;
- (9) Railroads, **transmission lines;**
- (10) Cemeteries;
- (11) Setback requirements;
- (12) Zoning of the site and adjacent zoning, including any overlay zones;
- (13) Land use of the site and adjacent land uses including major improvements within 50 feet of the subject property;
- (14) Adjacent property owners;
- (15) Adjacent streets, including name and right of way width.

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- (16) Topographic contours at two foot intervals for all property within 100 feet of a proposed development area and topographic contours at five foot contour intervals for the remainder of the property including a source reference;
 - (17) Locations and names of water features including shorelines, water bodies, intermittent and perennial streams;
 - (18) A specimen tree survey **notating species and caliper of existing protected trees as determined by Section 9.11;**
 - (19) Locations of drainage ways, stream buffers, special flood hazard areas, wetlands and wetland buffers;
 - (20) Locations of vegetation, rock outcrops, steep slope areas, natural inventory sites and historic inventory sites.
 - (21) A list of any conditions applied to the property as part of any previous approvals.
 - (22) Existing features shall be clearly distinguishable from proposed development.
 - (23) Designated flood zones, floodways, wetlands, and base flood elevation**

12.10.10. Proposed Conditions.

- (1) **Proposed lots: numbered, lined, with dimensions and block length where lots are contiguous**
- (2) **Street Improvements (Public and Private):** Location of improvements or widening, names, widths of rights of way and pavement, design criteria including sight triangles and a typical cross section; **notations of improvements intended for dedication to the City for maintenance;** Traffic Impact Analysis, if required. **Streets and right of way proposed for dedication must meet all requirements of the City of Tupelo "Street and Storm Sewer Construction Standards and Specifications". No subdivision including commercial development that does not include a through street connecting to an existing public street will be accepted as a public street without a variance provided by the City of Tupelo Planning Committee. No subdivision including proposed or existing residential use on more than ten lots without a through street connecting to an existing public street will be accepted as a public street without a variance provided by the City of Tupelo Planning Committee.**
- (3) **Pedestrian Circulation:** Location of sidewalks and other pedestrian ways including dimensions and surfacing, along streets and other locations; provision of crosswalks. **At least one internal pedestrian sidewalk or approved alternative walkway with a minimum width of five feet shall be provided throughout any subdivision with connection to adjacent public sidewalks or other pedestrian network. Payment in lieu of sidewalk construction is not permitted for any Major Subdivision.**
- (4) **Landscaping:** Location of all plant materials and other landscaping features, including calculations of amount required and the amount provided; the number, size, and description of plant materials, fences, walls and berms; provisions for screening specialized features, such as storage areas; calculations of the amount of tree coverage required and the amount and percentage of tree coverage provided by tree preservation and tree replacement; calculation of the amount of street trees and the amount provided by tree preservation and tree installation; a land disturbance tree survey; and the location and a description of all proposed and required tree protection measures.
- (5) **Grading:** Location of vegetation to be retained including approximate sizes and protection measures to be used; a depiction of contours at one foot intervals, supplemented with planned floor elevations on each lot that is wholly or partially within a Special Flood Hazard Area or that contains less than 20,000 square feet,

and spot elevations when necessary, including location, description, and size of any retaining walls; dimensions of stream buffers. No residential lot may include a slope greater than 4:1. A permanent elevation benchmark shall be provided and shown on the subdivision plat and construction plans.

- (6) *Utilities*: Location and width of all easements and rights of way for water, sewer, storm sewers, gas, electric, communication facilities, or any other utility facility.
- (7) *Storm Drainage*: Location and description of temporary and permanent storm drainage pipes and swales; amount of impervious surface; provisions for **construction and permanent** erosion and sedimentation controls, including retention and detention facilities; as well as professionally sealed engineering calculations used in the design. The developer is responsible for providing a drainage plan, with calculations, of sufficient detail to support construction on all lots **to retain 10-year predevelopment rate of flow. Storm drainage must meet all requirements of the City of Tupelo "Street and Storm Sewer Construction Standards and Specifications"**.
- (8) *Water and Sewer*: Location and description of public and private water and sanitary sewer improvements including connections to existing facilities and maintenance provisions.
- (9) *Property Dedications/Reservations*: Location and description of dedicated or reserved properties under public or private ownership including the boundaries, size, purpose, future ownership and maintenance provisions for the property. This category includes but is not limited to thoroughfares, rail corridors, greenways, recreation facilities, open space and common areas.
- (10) *Subdivision Construction Improvements Intended for Dedication*: Location and description of all improvements intended for dedication to the City for maintenance, including streets, utilities, easements, and other infrastructure improvements.
- (11) *Development Phases*: Clearly marked boundaries of each intended phase of development noting number of proposed lots for each phase, proposed utility plans, and a time table for platting and construction of the subdivision in its entirety
- (12) *Life Safety Street Signage*: Locations and type of street safety indicators including street names, stop signs, and other required safety signage. Note: It is the responsibility of the developer to provide life safety signage until the final dedication and acceptance of any streets. Decorative signage may be installed with declared intention of an Homeowner's Association or other common entity to continue maintenance after dedication of streets. The City will not accept maintenance of decorative street signage.
- (13) *Cluster Mailbox*: location and access pattern with approval letter from local USPS postmaster
- (14) *Tree Protection and Mitigation Plan*: Location existing trees for preservation or removal and table of species, caliper, and designation for preservation or removal with calculation of calipers not replaced on site in required landscaping. Cost estimate of remaining calipers and pay out to the Department of Development Services required for final mitigation. Where no protected trees are removed, a tree affidavit.
- (15) *Buffers*: Location and area of required buffer areas including riparian buffers for preservation or installation with planting plan to meet required buffer coverage and opacity
- (16) *Street Lighting Plan*: Location of lighting for streets, common areas, open space, and cluster mailboxes. City standards are required where streets are intended for dedication as noted. Decorative lighting requires Homeowner's Association bylaw submission designating maintenance of lighting to the HOA or other legal entity.

(17) Open Space: Location, dimensions, acreage of individual areas of open space, total acreage, total useable acreage

(18) Waste Management Plan: Location, access, and enclosure plan for all dumpsters

(Ord. of 1-2-2019(1) , § 2)

12.10.11. Specific performance standards as required by other Articles of the Development Code.

- (1) *Within Special Flood Hazard Areas:* demonstration that the subdivision will minimize flood damage through the location and construction of all public utilities and facilities, including water and sewer systems; adequate drainage in accordance with adopted standards to reduce exposure to flood hazards.
- (2) *Traffic Impact Analysis:* A traffic impact analysis (TIA) pursuant to Section 12.5, Traffic Impact Analysis (TIA) may be required.

12.10.12. Preliminary Plat Approval.

- (1) ~~Applicability: A preliminary plat shall be required for all major subdivisions of land within the jurisdiction of this Code, defined as any development of more than lots or any subdivision of land that would include public dedication of land, streets, utility extensions, or required stormwater management facilities. A preliminary plat is optional for minor subdivisions, defined as development of six lots or less with no public dedication of land, no streets, no utility extensions, and no required stormwater management facilities.~~
- (2) Subdivision approval requires the submission of both preliminary and final plats and full interagency review for conformity with the requirements of this Code and other development-related Codes.
- (3) Where site plans, as required by this Code, serve as preliminary plats for subdivisions, they shall satisfy these submission requirements in addition to those required for zoning compliance.
- (4) **Preliminary plats of any Major Subdivision require approval by the City of Tupelo Planning Committee and Tupelo City Council. A final Development Agreement is required for final approval by City Council**
- (5) **Preliminary plats of all Minor Subdivisions are required for approval by the Department of Development Services prior to filing a final recorded plat with the Chancery Clerk.**

12.10.13. Public Notice.

As applicable, notification of preliminary plat review shall be sent to groups including, but not limited to, the following:

- (1) Tupelo Public Schools;
- (2) Historic Preservation Commission (if applicable);
- (3) If the applicant for the preliminary plat is seeking approval of any of the modifications to standards specified in Section 12.11, Major Site Plans, that are granted at the discretion of a governing body, any organization or individual that is registered to receive notice pursuant to Registration to Receive Notice, and is located within 1,000 feet of the site under consideration. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Director of Development Services.

12.10.14. Action by the Director of Development Services.

Staff review agencies shall complete review and transmit comments back to the Director of Development Services or designee. If required corrections are minor, as determined by the Director of Development Services or designee, the Director of Development Services or designee shall schedule the subdivision for review at the next Planning Committee meeting; if required corrections are extensive, the applicant shall correct the plat before it is scheduled for Planning Committee review. If the applicant fails to submit revised plats in response to the comments of the staff review agencies within 90 days of receiving such comments from the Director of Development Services, or designee, the Director of Development Services may consider the application to have been withdrawn by the applicant.

12.10.15. Action by the Planning Committee.

- (1) The preliminary plat documents, along with the review comments, will then be considered by the Planning Committee at a public meeting at which a representative of the subdivider or any other interested person may attend.
- (2) After hearing a recommendation from the Director of Development Services or designee, the Planning Committee shall approve the plat as is, approve it subject to additional corrections, defer action for additional information and corrections, or disapprove it. Approved or corrected preliminary plats shall be stamped and signed denoting approval. If the preliminary plat is disapproved or deferred, the Planning Committee shall notify the applicant of the reasons for such disapproval or deferral.
- (3) The preliminary plat shall be approved by the Planning Committee if it meets the following criteria:
 - (a) Conforms with all the provisions and requirements of applicable adopted plans, including but not limited to the Comprehensive Plan, greenways plans, or transportation plans;
 - (b) Conforms with all the provisions and requirements of this Code; and
 - (c) Conforms with all the provisions and requirements of other applicable Codes not included in this Code.

12.10.16. Reservation of Public Facility Sites and Lands.

- (1) The review of preliminary plats may be delayed by no more than 45 calendar days if the proposed subdivision contains sites which appear in an adopted plan or policy documents as a future site for a public school or other public facility, recreation area, park, greenway or other open space. During preliminary plat review, the appropriate entity responsible for future site acquisition shall be given 45 calendar days from date of plat submission to decide if it wishes to reserve the site.
- (2) If the site is not to be reserved, the subdivision shall be processed in the normal fashion. If the agency wishes to reserve the site and specifies such intent in writing to the Director of Development Services or designee, the subdivision shall not be approved without the reservation.
- (3) Public school authorities shall have 18 months from the date of preliminary plat approval to acquire the site by purchase, by receipt of dedication, or by initiating condemnation proceedings. If, at the end of the 18 month period, none of the above actions has occurred, the subdivider may consider the land free from reservation and apply for revised preliminary plat approval for its use.
- (4) Public agencies other than schools shall have 120 calendar days from the date of preliminary plat approval to arrange for site acquisition for public facilities by option to purchase, by purchase, by receipt of dedication,

or by initiating condemnation proceedings. If, at the end of the 120 day period, none of the above actions has occurred the subdivider may consider the land free from reservation and apply for revised preliminary plat approval for private use of the property.

12.10.17. Issuance of Required Permits.

Upon **recommended** preliminary plat approval **by the City of Tupelo Planning Committee**, review of the preliminary plat **and Development Agreement will be scheduled with the City of Tupelo City Council for final approval. Upon approval**, the applicant may apply for ~~the required permits~~ a **Subdivision Construction Permit** to begin site work and the installation of improvements. All site work shall be performed in compliance with the requirements of this section and other applicable regulations of the city, county, and state. No required permit may be issued until the required preliminary plat is approved.

12.10.18. Preliminary Plat Revisions.

Minor revisions to approved preliminary plats, which reflect the same basic street and lot configuration as used for the original approval, may be approved by the Director of Development Services or designee. Significant changes to an approved preliminary plat, as determined by the Director of Development Services or designee, shall be resubmitted for review and approval as if it is a new application.

12.10.19. Continuing Validity of Preliminary Plat.

An approved preliminary plat shall retain its validity for four years, if:

- (1) A permit to begin development pursuant to the plat, such as a land disturbance permit, a building permit, or an improvement permit has been issued and has remained continuously valid thereafter; and,
- (2) Building or land disturbing activity has begun on the property.
- (3) The issuance of a building permit or a ~~certificate of compliance~~ **receipt of a Certificate of Initial Acceptance or Certificate of Completion** within a phase of a project shall not extend the validity of the preliminary plat for the unbuilt portions of that phase or any future phases of the project for which building permits have not been issued.

12.10.20. Modification of Design Standards and Improvement Requirements.

- (1) In approving the preliminary plat, the City Council may modify any of the design standards or improvement requirements set forth in Chapters 6, 8, and 9, where necessary to make the approved preliminary plat conform to any master land use plan which the City Council has approved for a planned unit development on the property.
- (2) In all other cases, and only upon the request of the applicant, the City Council may modify any of the design standards or improvement requirements set forth in Chapters 6, 8, and 9, upon finding the following:
 - (a) That the topography or other physical conditions of the subject property are such that compliance with these standards and requirements would cause an unusual and unnecessary hardship on the applicant, above and beyond what other subdividers would face;
 - (b) That the modifications will not have the effect of nullifying the intent and purposes of this Code.

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- (c) Where any such modification is granted, the reasons therefore shall be stated in the minutes of the City Council meeting at which final action is taken on the preliminary plat.

12.10.21. Development Agreement Required Prior to Construction.

- (1) Procedure: After the preliminary plat is approved by the City Council, and final construction drawings are approved by the Department of Development Services, the developer and owner, if applicable, must enter into a development agreement with and satisfactory to the Mayor and City Council relative to all required public and private improvements, payment of fees, required securities, certification of insurance, and any conditions placed on approval of the preliminary plat.
- (2) A draft development agreement shall be prepared by the City of Tupelo Department of Development Services. The draft agreement may be prepared and reviewed concurrently with the review of construction plans. A draft development agreement shall be sent to the applicant for approval. The draft agreement shall ~~reference~~ the design incorporated within the approved construction and shall be sufficient in form to assure the proposed construction methods and materials meet or exceed minimum standards established by the City of Tupelo.
- (3) Upon acceptance of the agreement by the applicant, the draft development agreement shall be forwarded to the Mayor and City Council for approval and for execution by the Mayor or designee. If the applicant takes exception to the development agreement, a letter setting forth these items may be presented to the Mayor and City Council for consideration. The final plat may not be recorded until the development agreement is approved by the Mayor and City Council and executed by the Mayor or designee. **Parcel numbers, individual lot deeds, and 911 addressing cannot occur without approval of the preliminary plat and Development Agreement by the City of Tupelo City Council.**
- (4) After the applicant has returned an executed copy of the development agreement, paid all applicable fees, provided the security and certificate of insurance, the Director of Development Services ~~may sign the construction drawings~~ **will schedule a pre-construction conference with the contractor of record and release the Subdivision Construction permit.** ~~and work may begin.~~
- (5) Building permits for individual lots **will not be issued without completion of subdivision construction and final inspections reviewed and approved by Tupelo Water and Light OR Tombigbee Electric Power Company, City of Tupelo Public Works, and City of Tupelo Fire Department, and certified by the City Engineer in the form of a Certificate of Initial Acceptance approved by the Tupelo City Council.** ~~within the subdivision may be issued after the completion of the development agreement, provided that the Director of Development Services determines that work under such permits will not conflict with other construction within the development. No certificate of occupancy or final inspection will be issued for such permits until the final plat has been recorded.~~

12.10.22. Effective Period of Approval.

The applicant shall execute the approved Development Agreement within 90 days of the date of approval of the Mayor and City Council. Any request for a time extension shall be submitted to the Department of Development Services at least 60 days prior to the date of the appropriate City Council meeting. The time extension must be approved before the expiration of the preceding approval period.

12.10.23. Time Extension.

It is agreed by the Developer and the City that the Development Agreement will become void unless the Developer commences construction within one year from the effective date or obtains a time extension from the Mayor and City Council. Any request for a time extension shall be submitted to the Department of Development Services at least 60 days prior to the date of the appropriate City Council meeting. The time extension must be approved before the expiry of the preceding approval period. The failure of the Developer to commence construction within one year of the effective date will result in the approvals of the City Council, Planning Committee and other applicable boards and commissions being null and void.

12.10.24. Security Requirements.

- (1) *General:* In order to ensure that the work will be completed in accordance with approved construction drawings and applicable specifications, all public and private improvements proposed in conjunction with any subdivision must be covered by ~~adequate~~ **security determined according to the cost of all public improvements intended for dedication to the City of Tupelo**. The applicant shall post approved security with the City of Tupelo. The approved security shall be one or more of the types of security specified herein. Approved security shall be accompanied by a development agreement whereby the applicant agrees to make and install the improvements in accordance with the approved construction drawings and applicable specifications to ensure completion of the work.
- (2) *Types of Security:* Subject to the standards and requirements of this Article and of guaranteeing completion of improvements required by these regulations:
 - (a) Cash that will be deposited in a liability account;
 - (b) Assignment of Certificate of Deposit that is to be held by the City as collateral to assure completion of project; or
 - (c) Irrevocable Standby Letter of Credit: The letter of credit shall be obtained at a financial institution acceptable to the City Attorney and show the City of Tupelo as beneficiary. The letter of credit shall be effective for one year and automatically renewable for one-year periods with no effort on the part of the City. Should the financial institution decide not to renew the letter of credit, the institution shall notify the City in writing 90 days prior to its expiration date by certified mail return receipt requested at which time the City can draw up to the full face value of the letter of credit. Any litigation concerning this letter of credit shall be held before a court of appropriate jurisdiction in Lee County, Mississippi.
- (3) *Amount of Security:* If the construction cost for internal improvements (within the property boundary) is estimated to be greater than \$100,000.00, the Developer shall provide a financial security instrument for ~~\$100,000.00~~ **the cost determination of all public improvements to be dedicated**. If the construction cost for internal improvements (within the property boundary) is estimated to be less than \$100,000.00, the Developer shall be required to provide a financial security instrument for the estimated cost of the public and private improvements. A financial security instrument shall be provided for the full amount of the estimated cost of the external public improvements (outside the property boundary). A financial security instrument may be revised during the contract period if approved by the Mayor and City Council.

12.10.25. Release of Security.

- (1) **Required security will be determined according to upon the certification by the City Engineer and the Director of Development Services' certification** of the percentage of the estimated cost of improvements **proposed**

for development as included in the required Development Agreement. ~~that has been completed and accepted.~~

- (2) Improvements that have been identified in the subdivision plat, subdivision construction plans, and Development Agreement, when completed upon issuance of a Certificate of Initial Acceptance will be authorized by the City of Tupelo City Council for release of ~~90~~ a percent of the security, according to the terms of the Development Agreement. Final release of security must include provisions for the cost of remaining improvements plus the cost of the final lift of asphalt.**
- (3) The final ~~ten per cent~~ percentage, as defined by the terms of Development Agreement, will be released at the end of the required warranty period, upon completion of all required and proposed improvements as specified in the development agreement, upon confirmation of 80 percent occupancy of subdivided lots, and upon issuance of a Certificate of Completion and approval by the Tupelo City Council.**
- (4) Security may be partially released or reduced according to the provisions of this Section and according to the approved Development Agreement. No more than three such partial releases will be granted.**

12.10.25.1 Graduated Release

- (1) A graduated release of security may be specified in the Development Agreement wherein required improvements and associated percentage of release of security are defined. The City Engineer must provide approval on type of work that may be accepted prior to the issuance of a Certificate of Completion in order to provide partial release of security after the issuance of a Certificate of Initial Acceptance and approval by the Tupelo City Council.**
- (2) The City of Tupelo City Council will authorize the a graduated security release according to the approved Development Agreement which must include agreed upon schedule of completion and remaining improvements intended for dedication to the City of Tupelo and corresponding release of security.**
- (3) Where a Graduated Security Release is utilized, the remaining security will be released upon issuance of a Certificate of Completion and approval by the Tupelo City Council.**

12.10.28.26 Final Plat Approval.

- (1) *Applicability:* A final plat shall be required for all subdivision of land within the jurisdiction of this Code except as allowed under Mississippi General Statute.
- (2) *Conformity with Preliminary Plat:* The final plat shall conform to the approved preliminary plat, if any, and may constitute only that portion of the preliminary plat which is proposed for recordation.
- (3) *Submittal Requirements:*
 - (a) When the installation of required site improvements is nearing completion, the subdivider shall submit a final plat for review and approval.
 - (b) The final plat shall be drawn in accordance with Mississippi Statute Section 17-1-23, Subdivision Regulations; standard land surveying and mapping practices; and city engineering standards.
 - (c) **Final plat for initial acceptance must include the following language: "Acceptance of this recorded plat by the City of Tupelo does not obligate the City to accept infrastructure, including any streets, utilities, or easements. Final dedication of improvements intended for acceptance by the City is contingent upon a finalized Certificate of Completion approved by the City of Tupelo City Council"**
 - (d) Endorsements on Final Plats. The following certificates shall be placed upon all final plats:
 - i. Certificate of accuracy and mapping signed by a registered surveyor;
 - ii. Certificate of ownership and dedication signed and notarized, including all individuals, partnerships, and corporations, and lenders with financial security interests;
 - iii. ~~City Clerk's certificate of approval for recording and acceptance of dedications;~~ **Certificate of Initial Acceptance upon completion of subdivision construction approved by City of Tupelo City Council and certified with the City Clerk's acceptance of final recorded plat;**
 - iv. Chancery Clerk's certificate of recording, including any recorded restrictive covenants.
- (4) *Action by the Director of Development Services:* Staff review agencies shall complete review and transmit comments back to the Director of Development Services. The Director of Development Services shall **recommend to City Council to** approve the plat as is, defer action for additional information and corrections, or disapprove it. If the final plat is disapproved or deferred, the Director of Development Services or designee shall notify the applicant of the reasons for such disapproval or deferral. The final plat shall be **recommended for approval** by the Director of Development Services or designee if it meets the following criteria:
 - (a) Conforms with all the provisions and requirements of applicable adopted plans, including but not limited to the Comprehensive Plan, greenways plans, and transportation plans;
 - (b) Conforms with all the provisions and requirements of this Code; Conforms with all the provisions and requirements of other applicable Codes or Ordinances not included in this Code;
 - (c) Conforms with the approved preliminary plat, ~~if any;~~
 - (d) Conforms with completed and approved construction drawings for public infrastructure, where such construction drawings are required by this Code or other applicable Code or Ordinance; and
 - (e) Is accompanied by a bond or other performance guarantee deemed adequate in amount and form by the requesting department, if required infrastructure, including but not limited to stormwater, street, or water and sewer improvements, has not been completed in accordance with approved construction drawings, and if the department responsible for such infrastructure has consented to final plat approval pending its completion.

- (f) Is accompanied by a table or layout showing the tax parcel numbers and E911 addresses for each lot.
- (g) Meets all other requirements of a Certificate of Initial Acceptance**

12.10.29 ~~27~~. Issuance of Certificate of Compliance-**Initial Acceptance**

- (1) ~~Necessary Infrastructure: If a final plat for a project has been approved prior to completion of stormwater facilities, water and sewer utilities, streets, sidewalks, and recreation facilities, certificates of compliance shall not~~ **No Certificate of Initial Acceptance will be issued without completion of all required subdivision construction, including stormwater facilities, water and sewer utilities, streets, sidewalks, and recreation facilities. and**
- (2) **A Certificate of Initial Acceptance will be issued with the final approval of the City Engineer, Director of the Department of Development Services, and Tupelo City Council approval following final approval of:**
 - (a) **City of Tupelo Water and Light OR Tombigbee Electric Power Association review and approval of mechanical joints (prior to final cover), sewer mandrel test, bacteria test conducted by the relevant utility provider, and water and sewer pressure tests conducted to City standards.**
 - (b) **City of Tupelo Public Works review and approval of storm water drainage system, final condition free proof roll, density report, soil test, core sample test, life safety street signage with reflective indicators, installation, curb and gutter detail with Tupelo Standard curb features**
 - (c) **City of Tupelo Fire Department review and approval of requirements of the International Fire Code, as adopted, gated entry access, fire apparatus access roads, fire lanes, traffic calming, and water supply**
 - (d) **City of Tupelo Planning and Zoning review and approval of landscaping and buffering, parking, waste management, cluster mailbox, tree mitigation**
 - (e) **City of Tupelo Engineering review and approval of Mississippi Department of Transportation approval, Mississippi Department of Health approval, Mississippi Department of Environmental Quality approval, US Army Corp of Engineers approval, parcel number assignment, E911 addressing verification, final submission of as-built plans**
 - (f) **City of Tupelo Legal Department review of compliance with approved subdivision Development Agreement and associated securities, and determination of release of required securities. Recorded deeds for subdivided lots must be recorded must be provided to the Department of Development Services whose language must include the subdivision name, subdivision setbacks, any required easements on each parcel, parcel designation as required open space in perpetuity, and any restrictive covenants associated with the subdivision. A distinct deed must be provided for parcels or easements intended for ownership by the subdivision owner, Homeowners Association, or other required entity including the terms of the Development Agreement related to maintenance of open space, areas of common ownership, and private utilities, streets, life safety signage, or other improvements intended to be retained by private ownership. Additionally, a deed must be granted to the City of Tupelo conveying public easements, utilities, and/or streets to the City of Tupelo.**
- (3) **Permanent water or sewer service shall not be provided for buildings within the platted area until completion of required improvements except as further provided below and according to specified terms of the approved Development Agreement.**
 - (a) **If the director or designee of the department responsible for acceptance or regulation of the required infrastructure determines in his/her reasonable discretion that delay will improve the quality of the infrastructure or will conserve resources, he/she may allow certificates of compliance Initial**

Acceptance to be issued. In such case, the responsible director or designee may require supplementation of the performance guarantee(s) that was provided prior to final plat approval, and shall, in addition, set a date by which the necessary infrastructure shall be completed.

(b) Examples of improvement for which delays may be granted include completing stormwater facilities after they are no longer needed as sedimentation basins; delaying final asphalt application on road surfaces for a period of time to detect problems; delaying construction of turn lanes until traffic thresholds are reached; delaying sidewalk segments as individual houses are built; and delaying construction of infrastructure that requires coordination with other planned infrastructure.

(2) *Other Improvements:* For other required improvements, ~~if the responsible department director or designee~~ **Tupelo City Council may** determines the completion of the improvement prior to issuance of a ~~certificate of compliance~~ **Certificate of Initial Acceptance** is not practicable, and sufficient justification for the delay has been shown, ~~certificates of compliance~~ **Certificate of Initial Acceptance** may be issued if an adequate performance guarantee is provided. In such event, ~~the responsible department director or designee~~ **Tupelo City Council** shall determine the time period within which the improvement must be completed **prior to issuance of a Certificate of Occupancy. Required improvements not completed under such a determination must be completed prior to issuance of a Certificate of Completion.**

12.10.27.28 Warranty Period Following **Initial** Acceptance of **Subdivision**.

- (1) **A Certificate of Initial Acceptance will be provided to the Developer upon completion of Subdivision Construction for the purpose of recording the final plat and proceeding with individual lot construction. No acceptance of dedicated infrastructure or maintenance by the City of Tupelo will occur without a final Certificate of Completion upon the expiration of the one year warranty period without defect set forth in this section, final approval by the City Engineer, Director of Development Services, and Tupelo City Council.**
- (2) If the Director of Development Services **and City Engineer** determines that the installed improvements meet all applicable city standards and all other conditions and requirements specified in the Development Agreement have been met and final construction plans are approved, then a Certificate of Initial Acceptance shall be issued, and the plat shall be recorded according to the procedures in Section 12.10.28 of this Code.
- (2) A one year warranty period begins with the first working day of the calendar year after the Certificate of initial acceptance is issued. During this warranty period any deficiencies in ~~accepted~~ improvements that are documented by the City Engineer or other city departments shall be the responsibility of the developer or subdivider to correct or repair.
- (3) The City shall not be obligated to **accept or** maintain any improvements until one year without defects has passed and a Certificate of ~~Final Acceptance~~ **Completion shall be** is issued by the Director of Development Services. Failure to make required repairs within three months of the date on which the developer or subdivider is notified of the deficiency shall result in the revocation of any building permits issued to the developer or subdivider, and in the suspension of further issuance of additional building permits for construction on lots within the subdivision owned by the developer or subdivider.
- (4) ~~The city may perform the necessary repairs, drawing upon the security provided under the development agreement, and if necessary, may also make every effort to collect payment from the subdivider or developer by all legal means including the placement of liens on lots owned by the subdivider or developer.~~

12.10.26. 29 **Certificate of Completion and** Acceptance of Improvements for City Maintenance.

- (1) Inspections: The installation of improvements **or issuance of a Certificate of Initial Acceptance** shall in no case bind the city to accept any such improvements for public maintenance and operation thereof, until the proper departments have inspected and accepted the improvements as meeting all applicable requirements,

~~and~~ the terms of the Development Agreement **have been met, and a Certificate of Completion has been approved by all required entities**; provided, however, that the city shall not accept drainage easements for maintenance except as provided herein.

- (2) Street and storm sewers which are properly constructed, enclosed, and subterranean within the right of way of any dedicated street shall be accepted for public maintenance **upon receipt of Certificate of Completion**. "Major drainage easements" as defined in Chapter 2 of the Tupelo Development Code shall be accepted for public maintenance **as approved by the subdivision Development Agreement**.
- (3) The city shall accept an irrevocable license to enter upon all other surface water drainage systems for emergency work to prevent or alleviate property damage or public damage, or to alleviate the failure of the subdivider or developer to maintain the drainage system which has or could result in property damage to the public, public danger or detrimentally affect public health.
- (4) The city will not accept such systems for maintenance, which shall remain the responsibility of the subdivider or property owner. The Development Agreement shall specify which improvements may be accepted for city maintenance and which shall remain private responsibilities.
- (5) **No infrastructure improvements will be accepted for City maintenance prior to a finalized Certificate of Completion, approval by the Director of Development Services, and approval by Tupelo City Council upon expiration of the one year warranty period as set forth in Section 10.10.28 and where 80% of subdivided parcels are occupied.**

12.10.30. Expiration of Approval.

The sub-divider shall have 180 days after ~~approval~~ **receipt of a Certificate of Initial Acceptance and approval by the Tupelo City Council** to file and record the final plat with the Office of the Chancery Clerk before the approval becomes void.

12.10.31. Waivers.

For purposes of financing or refinancing development, it is sometimes necessary to subdivide a previously approved development complex (including but not limited to a shopping center, an office or industrial park, or a housing complex) originally located on a single parcel into two or more lots. The Planning Committee may by affirmative majority vote, vary or modify the requirements of this Code and the dimensional, parking, landscaping, and buffering provisions of this Code to permit such subdivision to occur subject to making the following findings:

- (1) A valid, approved site plan exists for the overall complex;
- (2) The complex, in its entirety, satisfies all Code requirements; and
- (3) Each final plat created contains a note stating that the owners acknowledge that the individual parcel is a part of the named development complex, and that deeds of easement, restrictive covenants, and/or other legal documents necessary for the perpetual functioning of the development complex shall be executed and recorded with the final plat.

Any changes in subdivision total acreage, use, or infrastructure require amended site plans, Certificate of Completion, and final approval by City Council.