

**ARTICLE V. SPECIAL DISTRICTS AND USES**

**SECTION 500. FLOOD DAMAGE PREVENTION**

**Section 501. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**A. STATUTORY AUTHORIZATION.**

The Legislature of the State of Mississippi has in Title 17, Chapter 1, Mississippi Code 1972 Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of Tunica County does hereby adopt the following floodplain management regulations.

**B. FINDINGS OF FACT.**

- (1) The flood hazard areas of Tunica County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-protected, or otherwise unprotected from flood damages.

**C. STATEMENT OF PURPOSE.**

It is the purpose of this Section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage, and;

- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

D. OBJECTIVES.

The objectives of this Section are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) To ensure that potential homebuyers are notified that property is in a flood area.

METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this Section includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or increase flood hazards in other areas.

## Section 502.

### DEFINITIONS.

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

A Zone: Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings.

Accessory structure (Appurtenant structure): A structure, which is located on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing building): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal: A request for a review of the floodplain administrator's interpretation of any provision of this Section or a request for a variance.

Area of special flood hazard (SFHA): The land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year.

Base flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

Base Flood Elevation (BFE): The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one (1) percent or greater chance of being equaled or exceeded in any given year.

Basement: That portion of a building having its floor sub-grade (below ground level) on all sides.

Building: see Structure.

Community: A political entity that has the authority to adopt and enforce floodplain regulations for the area under its jurisdiction.

Community Rating System (CRS): A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Community Flood Hazard Area (CFHA): An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, to be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare.

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

Development: A manmade change to improved or unimproved real estate, including, but not limited to, the division of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; also includes mining, dredging, filling, grading, paving, excavating, drilling operations, land disturbance, permanent storage of materials and any use or extension of the use of land.

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

Elevation Certificate: A certified statement that verifies a building's elevation information.

Emergency Program: The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable buildings in that community before the effective date of the initial FIRM.

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

Existing Construction: Any structure for which the "start of construction" commenced before July 3, 1990.

Existing manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community before July 3, 1990.

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Five Hundred Year Flood: The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a.) The overflow of inland or tidal waters;
- b.) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM): The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Hazard Boundary Map (FHBM): An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): The official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Floodplain: Any land area susceptible to being inundated by floodwaters from any source.

Floodplain Administrator: The individual appointed to administer and enforce the floodplain management regulations.

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

Floodplain Management Regulations: This Section, other ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination

thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing Certificate: A form used to certify compliance for non-residential structures as an alternative to elevating buildings to or above the BFE.

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

Floodway fringe: That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Freeboard: A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Functionally Dependent Facility: A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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

Highest adjacent grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic Structure: Any structure that is:

- a.) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b.) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:

- c.) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d.) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior, or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

Increased Cost of Compliance (ICC): The cost to repair a substantially damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business policies with effective dates on or after June 1, 1997 will include ICC coverage.

Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective NFIP map. A LOMA establishes a property's location in relation to the SFHA.

Letter of Map Revision (LOMR): An official revision, by letter, to an effective NFIP map. A LOMR may change flood insurance risk zones, floodplain boundary delineations, planimetric features, and/or BFEs.

Letter of Map Revision Based on Fill (LOMR-F): is an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade: The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the non-elevation provisions of this code.

Manufactured home: For the purposes of this Section, a manufactured home is a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map Panel Number: The four (4) digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA; the letter “B” is the first revision.)

Map Amendment: A change to an effective NFIP map that results in the exclusion from the SFHA or an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA.

Market value: The building value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

Mean Sea Level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Section, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Mitigation: Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

National Flood Insurance Program (NFIP): The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD): As corrected in 1929, NGVD is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction: Any structure for which the “start of construction” commenced after July 3, 1990. The term also includes all improvements to all buildings.

New manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by a community.

Non-Residential: Includes, but is not limited to, small business concerns, churches, schools, farm buildings (including grain bins and silos), poolhouses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

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

One Hundred Year Flood (100-Year Flood): The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

Participating Community: Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Post-FIRM Construction: Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

Pre-FIRM Construction: Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation: A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance: Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle: A vehicle that is:

- a.) Built on a single chassis;
- b.) 400 square feet or less when measured at the largest horizontal projection;
- c.) Designed to be self-propelled or permanently towable by a light duty truck; and
- d.) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program: The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

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

Repetitive Loss: Flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

Section 1316: That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA): That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, AR, V, VE, or V1-V30.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348): Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For the purposes of this Section, "structure" refers to all walled and roofed buildings, including gas or liquid storage tanks and manufactured homes that are principally above ground.

Subrogation: An action brought by FEMA when flood damages have occurred, flood insurance has been paid, and all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial Damage: Any repair to a building for which the cost of repairs equals or exceeds fifty percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- a) A project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b) Alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”, or
- c) Improvement to a building.

Substantial Improvement: means any combination of reconstruction, alteration, or improvement to a building, taking place during the life of the building, in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” Or
- c.) Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions: Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Suspension: The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance: A grant of relief from the requirements of this Section, which permits construction in a manner otherwise prohibited by this Section where specific enforcement would result in unnecessary hardship.

Violation: The failure of a structure or other development to be fully compliant with this Section. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

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

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

X zone: The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2-percent annual probability of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

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

## **Section 503.**

### **GENERAL PROVISIONS**

#### **A. LANDS TO WHICH THIS SECTION APPLIES**

This Section shall apply to all Special Flood Hazard Areas (SFHA) and Community Flood Hazard Areas (CFHA).

#### **B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Maps, dated July 3, 1990, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this Section.

#### **C. ESTABLISHMENT FLOODPLAIN DEVELOPMENT PERMIT**

A development permit shall be required in conformance with the provision of this Section prior to the commencement of any development activities in Special Flood Hazard Areas and Community Flood Hazard Areas.

D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Section and other applicable regulations.

E. ABROGATION AND GREATER RESTRICTIONS

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. INTERPRETATION

In the interpretation and application of this Section all provisions shall be:

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

G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the Special Flood Hazard Area or the Community Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the Board of Supervisors of Tunica County or by any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

**Section 504.**

**ADMINISTRATION**

A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR

The Board of Supervisors of Tunica County hereby appoints the County Planner to administer and implement the provisions of this Section and is herein referred to as the Floodplain Administrator and/or the administrator.

B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the

area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Application Stage.
  - a.) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
  - b.) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
  - c.) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Section 505, B (2) and Section D (2);
  - d.) Description of the extent to which any watercourse will be altered or relocated as result of proposed development, and;

(2) Construction Stage:

Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder' risk. (The Floodplain Administrator shall review the lowest floor & flood-proofing elevation survey data submitted.) The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

C. POWERS, DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator and/or staff is hereby authorized and directed to enforce the provisions of this Section. The administrator is further authorized to render interpretations of this Section, which are consistent with its spirit and purpose.

Right of Entry

- (1) Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever the administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the administrator

may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the administrator by this Section.

- (2) If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.
- (3) If entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry.
- (4) When the administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the administrator for the purpose of inspection and examination pursuant to this Section.

#### Stop Work Orders

- (1) Upon notice from the administrator, work on any building, structure or premises that is being done contrary to the provisions of this Section shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

#### Revocation of Permits

- (1) The administrator may revoke a permit or approval, issued under the provisions of this Section, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (2) The administrator may revoke a permit upon determination by the administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Section.

#### Duties of the administrator shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this Section have been satisfied;
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.

- (3) Notify adjacent communities, the State NFIP Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Section 504 (2).
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 504, (2).
- (7) Review certified plans and specifications for compliance.
- (8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard or community flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (9) When base flood elevation data or floodway data have not been provided in accordance with Section 503, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Section 505.

#### Liability

- (1) Any officer or employee, or member of the administrator's staff, charged with the enforcement of this Section, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any provision of this Section shall be defended by the department of law until the final termination of the proceedings.

### **Section 505.**

#### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### **A. GENERAL STANDARDS**

In all areas of special flood hazard and community flood hazard areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities including, but not limited to, circuit breaker panels, furnaces, air exchangers, water heaters, heat pumps, duct work, etc., shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Section shall meet the requirements of "new construction" as contained in this Section; and,
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this Section, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

**B. SPECIFIC STANDARDS**

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 503, Section B, the following provisions are required:

- (1) Residential Construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded

movements of floodwaters shall be provided in accordance with standards of Section 505, (3).

- (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the level of the base flood elevation. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the BFE (plus any community free board) elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 504, (9).
- (3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - a.) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and,
    - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - b.) Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
  - c.) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

- d). Where elevation requirements exceed 6 feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

(4) Standards for Manufactured Homes and Recreational Vehicles.

- a.) All manufactured homes placed, or substantially improved, on individual lots or parcels in expansions to existing manufactured home parks or subdivisions, in new manufactured home parks or subdivisions or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

Existing Manufactured homes must be:

Elevated on a permanent foundation, and

- i. Have its lowest floor elevated no lower than an elevation of **196**, and
  - ii. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b.) Excepting manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
    - (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, and
    - (ii) The shall have the lowest floor elevated to no lower than one foot above the level of the base flood elevation, or
    - (iii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.
  - c.) All recreational vehicles placed on sites must either:
    - (i) Be on site for fewer than 180 consecutive days, or
    - (ii) Be fully licensed and ready for highway use, or

- (iii) Must meet all the requirements for new construction, including anchoring and elevation requirements of Section 505, (4)(a) or (b) (i) and (iii), above.

A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Mississippi motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS**

Located within the areas of special flood hazard and community flood hazard areas established in Article 3, Section B, where flood sources exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in Accordance with Section 503, B, then the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Section 505. If data is not available from outside sources, then the following provisions (2, 3 and 4) shall apply.
- (2) In special flood hazard areas with base flood elevations (Zones AE and A1-30) but without floodways, no encroachments, including fill material or structures, shall be permitted unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (3) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to 2.5 times the width of the stream at the top of the bank or 20 feet each side from the top of the bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (4) In Special Flood Hazard Areas and Community Flood Hazard Areas without Base Flood Elevation Data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than one 1 foot above the highest adjacent grade at the building site.

**D. STANDARDS FOR SUBDIVISION PROPOSALS**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.

**G. CRITICAL FACILITIES**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA and Community Flood Hazard Area if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Critical facilities constructed within the CFHA shall have the lowest floor elevated above the identified flood hazard level. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

**Section 506.**

**VARIANCE PROCEDURES**

**A. DESIGNATION OF VARIANCE AND APPEALS BOARD**

The Planning Commission as established by the Board of Supervisors of Tunica County shall hear and decide appeals and requests for variances from requirements of this Section.

**B. DUTIES OF VARIANCE AND APPEALS BOARD**

The Planning Commission shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this Section. Any person aggrieved by the decision of the board may appeal such decision to the appropriate court, as provided in State statute.

**C. VARIANCE PROCEDURES**

In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Section, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. CONDITIONS FOR VARIANCES

- (1) Variances shall only be issued when there is:
  - a.) A showing of good and sufficient cause;
  - b.) A determination that failure to grant the variance would result in exceptional hardship; and,
  - c.) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an “historic structure,” a determination that the

variance is the minimum necessary so as not to destroy the historic character and design of the building.

- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Section 506.)
- (4) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency or Mississippi Emergency Management Agency upon request. (See Section E.)

#### E. VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and;
- (2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Tunica County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (3) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

#### F. HISTORIC STRUCTURES

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

#### G. SPECIAL CONDITIONS

Upon consideration of the factors listed in Section 506, and the purposes of this Section, the Planning Commission may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this Section.

### **Section 510.**

#### **WIRELESS COMMUNICATIONS**

Wireless communication supporting structures are subject to the following restrictions:

1. Within agricultural and residential zoning districts, support structures and associated appurtenances may be located on publicly owned and/or leased properties, public/private utility owned properties, or Institutional Uses, as detailed in Article IV, Chart 1 of this Section. These structures may be located on other agricultural or residential land provided that it is demonstrated that there are no publicly owned and/or leased properties, public/private utility owned properties, or Institutional Uses, which are suitable for such structures.

No support structure may be located within 300 feet of a property line of any lot used for residential purposes, unless stealth design is incorporated into the site, and approval is granted by the Planning Commission.

2. The location, size and design of such facilities shall be such that minimal negative impact results from the facility. Any application for a new wireless communication support structure shall not be approved, nor building permit issued, unless the applicant obtains a letter from a licensed engineer certifying that the wireless communication facility equipment planned for the proposed support structure cannot be accommodated on an existing or approved support structure, or other structure due to one or more of the following reasons:
  - (a) The planned equipment would exceed the structural capacity of existing and approved support structures, and those structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
  - (b) The planned equipment would result in technical or physical interference with, or from other existing or planned equipment and the interference cannot be prevented at a reasonable cost;
  - (c) There are no appropriate existing or pending support structures to accommodate the planned equipment;
  - (d) The existing or proposed support structures would not accommodate the applicant's geographic service requirements.
3. Any proposed support structure (excepting those utilizing stealth design) shall be structurally designed so as to accommodate a minimum of three (3) sets of fully sectored antenna arrays. A letter from a licensed engineer certifying compliance with this condition shall accompany the conditional use application. In addition, any application for a new support structure must include an affidavit stating that space on the proposed support structure will be made available to future users when technically possible. The applicant shall not charge any unreasonable application fee or rental rate, and may not require any unreasonable construction or maintenance conditions that inhibit the ability of other users to co-locate on the support structure.

4. Support structures shall be the minimum height needed to comply with these regulations; however, in no instance shall support structures extend beyond 200 feet in height in Residential areas and not more than 400 feet in agricultural and industrial areas.
5. Associated appurtenances, including cabinets, cabling and equipment shall be permitted, but shall not include offices, long-term vehicle storage, other outdoor storage or broadcast studios, or any use not needed to send or receive transmissions.
6. The minimum setback requirements for support structures including associated appurtenances shall correspond to the zoning district in which they are located, except that a minimum buffer of 300 feet shall be maintained between any support structure (excepting sites incorporating stealth design) and any residential property line.
7. All wireless transmission facilities including buildings, cabinets, support towers and facilities shall be designed and constructed of materials so as to be architecturally compatible with the architectural character of the surrounding area.
8. Existing on-site vegetation shall be preserved to the maximum extent practicable, and shall be supplanted as required by the Planning Commission.
9. Security fencing and/or equipment screening shall be required for any ground-mounted equipment associated with a support structure, and approved by the Planning Commission.
10. Towers shall not be lighted unless required by the Federal Aviation Administration or other Federal or State authority.
11. Antenna Arrays
  - a. Within residential zoning districts, attached antenna arrays may be permitted on previously approved or proposed institutional structures, municipally owned structures; public/private utility owned towers, and existing support structures.
  - b. Wireless communication facilities (i.e. attached antenna arrays and related equipment) may be permitted on previously approved buildings and support structures, subject to administrative review by the County Planner. Such facilities shall not exceed the height required to accomplish their intended function; however, in no instance shall they extend more than 20 feet above the height of the supporting structure upon which they are proposed to be attached. Additionally, such facilities shall utilize stealth design and be finished in a color compatible with the colors of the supporting structure and designed so as to be as visually unobtrusive as possible.

- c. For the purposes of this Section, attached antenna arrays shall be permitted accessory uses in all zoning districts, subject to administrative approval.
12. All owners of communications facilities in Tunica County shall provide a list of the locations and all users of these facilities to the County Planner on or prior to January 1 of each year.

**Section 515.**

**MANUFACTURED HOUSING**

A manufactured home, as defined in Article II and permitted under the conditions of the A-5, R-2, R-3 Districts, having the same general appearance as a site-built home shall also be allowed on individual lots in those Districts, provided the following conditions are met (manufactured homes and mobile homes located in the A-1 and M-H Districts shall not be required to meet these conditions):

- A. The unit must be installed on a permanent masonry foundation in compliance with all applicable requirements of the Building Code.
- B. The home must be covered with an exterior material customarily used on conventional dwellings. Suitable exterior materials include, but shall not be limited to, metal or vinyl siding, but excluding smooth, ribbed or corrugated metal or plastic panels.
- C. The hitches or towing apparatus, axles and wheels must be removed.
- D. The roof must be pitched so that the pitch of the roof of the unit has at least a two-inch vertical rise for each twelve (12) inches of horizontal run. The roof must consist of material that is customarily used for conventional dwellings including, but not limited to approved wood, asphalt composition shingles or fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass or corrugated metal roof.
- E. The unit must be oriented on the lot so that its long axis is parallel with the street.

All such units shall be required to connect to a public utility system which includes, gas, electric water and sewer or septic system, where available, in compliance with Building Code and National Electrical Code.

**Section 520.**

**AIRPORT OVERLAY ZONE**

**Section 521.**

**AUTHORIZATION AND OBJECTIVES**

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Tunica Airport and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Tunica Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Tunica Airport and the public investment therein. Accordingly, it is declared:

- A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Tunica Airport.
- B. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

## **Section 522.**

### **DEFINITIONS**

The following definitions shall be used in this Section, unless the context otherwise requires.

Airport: Tunica County Airport

Airport Elevation: The highest point of an airport's usable landing area measured in feet from sea level.

Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Section. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones: These zones are set forth in Subsection III of this Section.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Hazard to Air Navigation: an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height Limits: For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum used shall be mean sea level elevation unless otherwise specified.

Heliport Primary Surface: The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this Section or an amendment thereto.

Nonprecision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Section.

Person: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Planning Commission: The Commission appointed by the Tunica Board of Supervisors that is authorized to approve variances from this Ordinance.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning documents.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Section. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional

surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical Surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

## **Section 523.**

### **AIRPORT ZONES**

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Tunica Airport. Such zones are shown on Figure V-1. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Runway Larger Than Utility With a Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- D. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

## **Section 524.**

### **AIRPORT ZONE HEIGHT LIMITATIONS**

Except as otherwise provided in this Section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the application height limit herein

established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- A. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- B. Precision Instrument Runway Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forth (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- C. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 194.42 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
- D. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 344.42 feet above mean sea level.
- E. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- F. Excepted Height Limitations - Nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 60 feet above the surface of the land.

## **Section 525.**

### **USE RESTRICTIONS**

Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

**Section 526.**

**NONCONFORMING USES**

- A. Regulations Not Retroactive - The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.
  
- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Planning Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Tunica County Airport.

**Section 527.**

**PERMITS**

- A. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with Section VII, 4.
  - 1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
  
  - 2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  
  - 3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical

height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Section.

- B. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Section or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- C. Nonconforming Uses Abandoned or Destroyed - Whenever the County Planner determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- D. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. Additionally, no application for variance to the requirements of this Section may be considered by the Planning Commission unless a copy of the application has been furnished to the Tunica County Airport Commission for advice as to the aeronautical effects of the variance. If the Tunica County Airport Commission does not respond to the application within fifteen (15) days after receipt, the Planning Commission may act on its own to grant or deny said application.
- E. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to require the owner to permit the Tunica County

Airport Commission at its own expense, to install, operate, and maintain the necessary markings and lights.

**Section 528.**

**ENFORCEMENT**

It shall be the duty of the County Planner to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the County Planner upon a form published for that purpose. Applications required by the Ordinance to be submitted to the County Planner shall be promptly considered and granted or denied. The County Planner shall forthwith transmit application for action by the Tunica County Airport Commission.

**Section 529.**

**PLANNING COMMISSION**

- A. The Tunica County Planning Commission as provided in Article X is given the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the County Planner in the enforcement of this Section: (2) to hear and decide conditional uses to the terms of this Section upon which such Planning Commission under such regulations may be required to pass; and (3) to hear and decide specific variances.
- B. The Planning Commission shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Section
- C. The concurring vote of a majority of the members of the Planning Commission shall be sufficient to reverse any order, requirement, decision, or determination of the County Planner or decide in favor of the applicant on any matter upon which it is required to pass under this Section, or to effect variation to this Section.

**Section 530.**

**APPEALS**

- A. Any person aggrieved, or any taxpayer affected, by any decision of the County Planner made in the administration of the Ordinance, may appeal to the Planning Commission.
- B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Planning Commission, by filing with the County Planner a notice of appeal specifying the grounds thereof. The County Planner shall forthwith transmit to the Planning Commission all the papers constituting the record upon which the action appealed from was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Planning Commission certifies to the Planning Commission after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of

Planning Commission cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Planning Commission on notice to the Planning Commission and on due cause shown.

- D. The Planning Commission shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- E. The Planning Commission may, in conformity with the provisions of this Section reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

**Section 531. LEGISLATIVE REVIEW**

Any person aggrieved, or any taxpayer affected, by any decision of the Planning Commission, may appeal to the Board of Supervisors as provided in Section 1012 of this Ordinance.

**Section 532. PENALTIES**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Enforcement of the requirements of this section shall be as provided in Section 1091 of this Ordinance.

**Section 533. CONFLICTING REGULATIONS**

Where there exists a conflict between any of the regulations or limitations prescribed in this Section and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.