

ORDINANCE #002-97

ARCHITECTURAL CONTROL ORDINANCE

AN ORDINANCE OF THE CITY OF FLOWOOD, MISSISSIPPI
ESTABLISHING A BOARD OF ARCHITECTURAL REVIEW
ITS OPERATIONS, RULES AND REGULATIONS

BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Flowood, Mississippi that an Architectural Review Ordinance in the following form is hereby adopted:

SECTION 1. PURPOSE OF CHAPTER

The Board of Aldermen of the City of Flowood, Mississippi, hereby find that bizarre, garish or otherwise inappropriate exterior design and appearance of buildings, structures and improvements erected in commercial and industrial areas adversely affects the desirability of immediately adjacent and neighboring properties; impairs the benefits of occupancy as to existing properties in such areas; jeopardizes the economic stability and taxable value of businesses, land and buildings in such areas, and in the City as a whole; prevents the optimum use of real estate in the City; induces physical degeneration of property with attendant deterioration of conditions bearing directly on the public health, safety, morals and general welfare of the citizens; deprives the City of tax revenue and destroys a proper balance between the taxable value of real property and the cost of municipal services.

Therefore, in order to encourage the construction of attractive buildings, to protect and promote the general welfare and to prevent deterioration of the appearance of the City which would tend to create hazards to public health, safety and morals, destroy opportunity for the development of business and industry, and thereby deteriorate taxable land values and commence below levels necessary to finance acceptable levels of municipal services, it is the purpose of this ordinance to provide for the designation of architectural control districts within land area zoned commercial and industrial, (C-1, C-2, C-3, I-1) and to establish a Committee to regulate the exterior appearance of buildings, structures and improvements proposed for alteration or erection in such districts and to set standards and procedures to be followed by such Committee and, on appeal from its decision, by the Board of Aldermen.

SECTION 2. DESIGNATIONS OF ARCHITECTURAL CONTROL DISTRICTS

All land areas in the City which are zoned commercial and industrial are hereby designated as an architectural control district, and any lot, parcel or area of land within any area zoned for single-family detached residences, which is used for other than single-family detached residences, or which is the subject of an application for a conditional use permit or building involving any other such use, is designated an architectural control district.

SECTION 3. ARCHITECTURAL REVIEW COMMITTEE

It is the intent of the Board of Aldermen to establish and they are at this time working on an overall Development Ordinance of the City of Flowood. The overall Development Ordinance will encompass a review of all proposed construction in compliance with the Zoning Ordinance, Sign Ordinance, Architectural Review Ordinance and Landscaping Ordinance.

There is established by the City of Flowood a Architectural Review Committee, consisting of the Public Works Director, Assistant Public Works Director, Building Official of the City, Fire Chief or his Assistant or designee, and the City Clerk, the functions of said Committee to review site plans, construction plans and otherwise enforce and implement the provisions of this Ordinance. The committee shall establish procedures for implementation of this Ordinance and review proposed construction under said procedures and the criteria established herein. All such procedures shall be approved by the Mayor and Board of Aldermen prior to being used.

SECTION 4. MEETINGS – SCHEDULE – SPECIAL MEETINGS

The Committee shall hold a regular meeting once a week at a date and time to be determined by the Committee and included within the procedures of the Committee. Special meetings may be held at other times; provided, that all members of the Committee are notified at least twenty-four (24) hours in advance of the time and place of same.

No application pending before the Committee shall be voted upon at any special meeting unless notice of intention to do so shall be noticed in the same manner as is required for special meetings of the Board of Aldermen.

SECTION 5. TO BE RECORDED; EXCEPTION

All meetings of the Committee of Architectural Review, shall be recorded by the taking of minutes to be maintained by the secretary of the Committee.

SECTION 6. QUORUM

To have a quorum three members of the Committee shall be present.

SECTION 7. CONDUCT

(a) All meetings of the Committee shall be conducted by the chairman, or in the absence of the chairman, the vice-chairman.

(b) All members of the Committee other than the chairman shall be entitled to vote except in the case of a tie when the chairman shall vote to break the tie and the decisions of the Committee shall be by majority vote of those members present.

(c) All meetings of the Committee shall be open to the public, and all decisions shall be by record vote of the ayes and nays spread upon the proceedings. The Committee shall comply will all provisions of the Mississippi statutes on open meetings, Miss. Code Ann. §25-41-17.

(d) In matters covering procedures for the Committee not specified in this Ordinance, Robert's Rules of Order shall govern.

SECTION 8. APPROVAL OF ERECTIONS, RECONSTRUCTIONS AND ALTERATIONS IN ARCHITECTURAL CONTROL DISTRICTS – REQUIRED; WAIVER OF REQUIREMENTS

No structure, building, or other improvement or other major landscape features surrounding such building, structure, or improvement located on any land within any architectural control district shall be erected, reconstructed, altered or restored until the plans for such shall have been approved by the Committee, provided, that the provisions of this chapter shall not apply to the regular maintenance of the same as opposed to the reconstruction, alteration or restoration. For the purposes of this section the repainting of a structure or building which results in the complete change of color of the structure or building or a substantial portion thereof shall be deemed an alteration and not regular maintenance. Erection, reconstruction, alteration or restoration of signs shall be controlled by the Sign Ordinance of the City.

The Committee may, after hearing the evidence in any case properly before it involving reconstruction or alteration only, waive the requirements of this Section upon a written finding that the application involved reconstruction or alteration only and will not materially affect the exterior appearance of the structure involved. Such decision of waiver shall constitute a final decision of the Committee within the meaning of the related sections of this ordinance and shall be appealable.

SECTION 9. APPLICATION

(a) Application for approval by the Committee for the construction, reconstruction, alteration or restoration of any building in architectural control district shall be submitted to the Building Official of the City accompanied by:

(1) Plans of all buildings and structures showing elevations and style of architecture. An architectural rendering visual aids and samples of materials to be used may be submitted and can be required by the committee. All colors, materials and finishes shall be shown by notation or by use of accepted architectural symbols.

(2) Four sets of proposed site plan drawn to scale showing the following:

- All property lines, easements and set backs
- Location of structure on property
- Site drainage by use topographic contour lines and elevations
- Parking and driveway locations
- Location and size of signs
- Water, sewer, gas and electric service line location

- Dumpster site and privacy screening
- Exterior lighting
- Proposed First Floor Elevations
- Requirements of the Landscaping Ordinance

(3) Design Professional

The Design Professional shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications and accompanying data, for the following:

- All assembly, educational and institutional occupancies
- Non-residential buildings and/or structures two stories or more high
- Non-residential buildings and/or structures 5,000 sq. ft. or more in area
- Any building or structure that is moved within or into the commercial community

(4) The applicant may submit such additional material in writing, and graphically, as he desires. For the purposes of this chapter, no site plan shall be required where no change is proposed in any external dimension or the location of any existing structure. The Committee may from time to time waive such other of the above requirements as it may deem proper in the determination of any particular application.

(a) Upon filing of an application, the Building Official, after determining that the requirements of subsection (a) of this section have been satisfied, shall forward the application, together with his recommendation to the chairman of the committee, on the Friday before the next scheduled meeting.

(b) Upon receipt of any such application, the chairman of the Committee shall thereupon place the application on the agenda for consideration at the next regular meeting of the Committee, or at a properly called special meeting.

SECTION 10. HEARING

During the consideration of an application filed under this Ordinance, the Committee shall hear the testimony of any party desiring to be heard in support of or in opposition to the application. Such testimony shall be strictly confined to the question of whether the proposed construction, reconstruction, alteration or restoration satisfies or does not satisfy the criteria for the same set out in this Ordinance or approved procedures and guidelines of the Committee. The Committee shall hear any oral testimony that the Building Official desires to present.

SECTION 11. DECISIONS; CERTIFICATE OF APPROVAL

(a) The Committee shall vote and publish its decision in writing on any matter properly before it no later than the next regular meeting after the conclusion of hearing evidence on the matter, unless time is extended by mutual agreement between the Committee and the applicant.

(b) In all final decisions rendered pursuant to this Ordinance, the Committee shall briefly state its findings in writing, and, in the case of disapproval, it may make recommendations to the applicant with respect to the design, texture, material, color, line, mass, dimension or lighting of the building involved. In case of disapproval, accompanied by such recommendations thereon, the applicant may again be heard before the Committee if, within ninety (90) days, he can comply with all such recommendations of the Committee.

(c) Approval by the Committee of any application filed hereunder shall be evidenced by issuance of a certificate, signed by the chairman and attested by the secretary, designating the name of applicant, date of approval, identification of property involved and a brief description of the construction approved.

SECTION 12. APPEALS; HEARING

Whenever the Committee shall, in a final decision, approve or disapprove or waive jurisdiction over any application filed pursuant to this Ordinance, the applicant or any other person with justifiable cause shall be entitled to appeal such decision and be heard thereon before the Board of Aldermen; provided, that there is filed with the City Clerk, on or before seven (7) days after the vote of the Committee, by the appellant, a notice in writing of such appeal and a fee of fifty dollars (\$50.00) to at least cover the cost of advertising for the Board of Aldermen hearing. Upon the filing of notice of appeal as provided herein, the City Clerk shall thereupon schedule a public hearing before the Board of Aldermen, not more than thirty (30) days after the filing of such notice; provided, that no such hearing shall be held unless and until the City Clerk has caused to be published at least once in a newspaper of general circulation within the county, at least seven (7) days before such proposed hearing, an advertisement stating the time, date and place of the hearing before the Board of Aldermen, the location of the property involved, the name of the applicant and the nature of the building for which approval is sought.

SECTION 13. HEARING BEFORE BOARD OF ALDERMEN

On any appeal to the Board of Aldermen, the final decision of the review Committee shall be stayed pending the decision of the Board of Aldermen. The Board of Aldermen shall conduct a full and impartial public hearing on the matter before rendering any decision. The same procedure and standards shall be applied by the Board of Aldermen as are established for the review Committee. The Board of Aldermen may affirm, reverse or modify the decision of the Committee, in whole or in part. The decision of the Board of Aldermen shall be final subject to the provisions of Section 11.

SECTION 14. APPEALS TO CIRCUIT COURT

Parties aggrieved by the decision of the Board of Aldermen, rendered pursuant to Section 13, shall have the right to appeal to the Circuit Court of the county in the same manner and form as is required for any other appeal of actions of the Board of Aldermen.

SECTION 15. DESIGN CRITERIA

The intention of the Board of Aldermen of the City of Flowood is that no proposed structure or alteration shall be deemed to be in violation of this ordinance based upon personal preference to taste or choice or architectural design of any person or persons involved in the administration and enforcement of this ordinance. Only the below listed criteria will be considered while evaluating proposed construction.

The Committee and, on appeal, the Board of Aldermen shall use the following standards and criteria in considering applications filed under this chapter:

(a) Whether or not the proposed architectural design is suitable for a good suburban community in terms of external architectural features, general design and arrangement, texture, color, line, mass, dimension, material and lighting.

(b) Whether or not the proposed structure, building or improvement is compatible with existing well-designed structures, acceptable to the Committee, in the vicinity and in the City as a whole.

(c) Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the City's tax base as a whole, generating business activity, maintaining and creating employment opportunity, preserving historical sites and structures and making the City a more attractive and desirable place in which to live.

(d) Whether or not proposed free-standing buildings use the same or architecturally harmonious materials, color, texture and treatment for all exterior walls; and in the case of partially free-standing building, whether or not the same or architecturally harmonious materials, color, texture and treatment are used on all portions of all exterior walls.

(e) Whether or not the combination of architectural elements proposed for a structure, building or improvement, in terms of design, line, mass, dimension, color, material, texture, lighting, landscaping and roof line and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability.

(f) Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, or mass or roof line and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short-term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community.

SECTION 15.1 METALLIC BUILDINGS

For the purpose of this ordinance the use of non-architectural metallic roofing and siding shall not be allowed in any commercial zone, where any portion of the roofing or siding shall be in the public view from an existing or reasonable anticipated future public right-of-way subject however to the following:

(a) Non-architectural metallic roofing and siding may be appropriate for portions of buildings in excess of 20,000 square feet, if approved by the committee based upon the location and intended use of such buildings.

(b) Properly colored non-architectural metallic roofing and siding used in an architectural design that represents less than 20% of any one side of the building within public view of any public right-of-way may be acceptable, if approved by the committee.

SECTION 15.2 UTILITY SERVICES AND EQUIPMENT

In an effort to enhance the aesthetic quality of the commercial community, overhead communications, and electric service building connection lines are encouraged in Zone C-1, C-2, C-3, and I-1. In addition, the committee may require underground communications and electric service lines.

Electric and gas metering equipment and communication service entrances shall be located on portions of buildings or structures out of public view from existing or reasonable anticipated future right-of-ways.

At the discretion of the committee, in areas where the building or structure is in public view from all sides the electric and gas metering equipment and communication service entrances may be allowed to be screened out of public view by fences, walls or landscaping or a combination of these.

SECTION 15.3 EXTERIOR EQUIPMENT

Air conditioning, heating, electric generators, exhaust duct, exhaust fans, exhaust blowers, refrigeration equipment and any other equipment located on roof, wall or on site shall satisfy the following requirements:

- Exterior equipment should be located out of the public view
- If the location of equipment must be in public view, a substantial screen, fence and/or landscaping must be used to make equipment obscure.

SECTION 15.4 WASTE DISPOSAL

In a growing, progressive, commercial community, it is necessary to protect, and to promote the public health, safety and general welfare with aesthetics, that will convey to new business and consumers that we invite and welcome them to our community. Waste generated by normal business activities and its disposal should be carefully planned to achieve this concept.

Waste disposal receptacles are to be located on the site, in an area that is not considered the focal point of the complex, usually this will be in the rear of the building or structure, or the rear limits of the property. The waste disposal receptacle site must be readily accessible to Fire Department access.

Waste disposal receptacles shall be screened from public view by the use of an architectural masonry, brick, ornamental iron or wood closure that is compatible with the aesthetics of the surrounding area. The use of an attractively designed gate is strongly encouraged. Landscaping shall be incorporated in a manner to effectively help obscure the waste disposal receptacle.

The committee shall have authority to approve location, screening and landscaping of waste disposal receptacles.

SECTION 15.5 ACCESSORY BUILDINGS

Accessory buildings and structures shall meet all of the requirements set forth in the Architectural Control Ordinance, the Standard Building Codes, and the Flood Management Ordinance.

Manufactured buildings and structures, mobile homes, temporary office units, manufactured storage sheds or buildings, trucks, truck trailers, buses and other temporary facilities are not allowed to be used as an accessory building.

SECTION 15.6 MOVE IN BUILDINGS

Any building or structure that is moved within or into the commercial community shall meet, or made to meet, all the requirements of the Architectural Control Ordinance, Landscape Ordinance, Floodplain Management Ordinance, Standard Building Codes and N.F.P.A. National Electric Code as adopted by the City of Flowood.

A minimum of two (2) committee members shall make an inspection on the proposed building or structure to be moved. A written report of this inspection shall be submitted to the full committee a minimum of five (5) days prior to the next scheduled committee meeting.

A signed report is required from a Certified Environmental Contractor that the proposed building or structure to be moved is free from asbestos, lead, pesticide, or any other contamination that may be dangerous, harmful or health concern. This report shall be submitted with the application for committee approval.

SECTION 16. NO SPECIFIC ARCHITECTURAL STYLE TO BE REQUIRED

The review Committee and the Board of Aldermen on appeal shall not adopt or impose any specific architectural style in the administration of this Ordinance.

SECTION 17. DEVIATIONS FROM APPROVAL PLANS PROHIBITED

Any person who once having obtained the approval required by Section 8 deviates substantially from the approved plan shall be guilty of a misdemeanor.

The City Building Official, upon his determination of substantial deviation, shall issue a stop work notice on the building permit. Work shall not be permitted to continue, unless it is continued under substantial compliance with the Certificate issued pursuant to Section 11 or the changes have been re-submitted and approved by the Committee pursuant to this ordinance.

SECTION 18. SEPARABILITY AND VALIDITY CLAUSE

Should any Section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

SECTION 19 REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF

All Ordinances or parts of Ordinances adopted heretofore by the City of Flowood, Mississippi, which are in conflict herewith or inconsistent with the provisions of this Ordinance ARE HEREBY REPEALED.

SECTION 20. FAILURE TO ENFORCE ORDINANCE

Failure to enforce any provision of this Ordinance shall not constitute a waiver nor imply that the action is legal.

SECTION 21. EFFECTIVE DATE OF ORDINANCE

This Ordinance shall be come effective THIRTY CALENDAR DAYS FROM AND AFTER ITS ADOPTION

SO ORDAINED this the 15th day of April, 1997, at the regular meeting of the Mayor and Board of Aldermen of the City of Flowood, Mississippi.

ATTEST:

s/signed
Julia Williams, City Clerk

s/signed
Gary Rhoads, Mayor