

OFFICE OF THE CITY ATTORNEY  
10/11/16

**ORDER REPEALING THE ORDINANCE OF THE CITY OF JACKSON, MISSISSIPPI AMENDING PROCEDURES FOR THE ERECTION OF PUBLIC ACCESS GATES TO NEIGHBORHOODS, CODIFIED AS CHAPTER 110-28, ARTICLE I OF THE CODE OF ORDINANCES, CITY OF JACKSON, MISSISSIPPI, IN ITS ENTIRETY.**

WHEREAS, on May 3, 2016, the City Council of the City of Jackson, Mississippi adopted an Ordinance “Amending procedures for the erection of public access gates to neighborhoods” for the City of Jackson, Mississippi; and

WHEREAS, the Ordinance adoption is located in the City Council minutes at Book 6J pages 109-112; and

WHEREAS, procedures for the erection of public access gates in neighborhoods for the City of Jackson, Mississippi, provides a procedure to consider, evaluate, erect, inspect, and remove public access gates in the City of Jackson, Mississippi and reads as follows:

**City of Jackson, Mississippi Ordinance Chapter 110-28 Article I**

**SECTION 1. APPLICABILITY.**

This Ordinance shall apply to any residential street within the City of Jackson in which the homeowners organization or other approved applicant agrees to install and maintain the gate(s) at applicant’s sole expense.

**SECTION 2. ACCESSIBILITY.**

- A. Gates controlling entry to residential streets must provide full and equal access to the residential neighborhood insofar as to keep at least one of the neighborhood entrances open to all members of the general public twenty-four (24) hours a day, seven (7) days a week. In neighborhoods where multiple entrances exist, exit-only gates are permitted so long as one entrance remains open to the general public at all times.
- B. All public access gates should be marked with signage indicating that it is open to the public.

**SECTION 3. PRIOR APPROVAL REQUIRED.**

All permit applications for gate installations must receive prior approval from the Department of Planning and Development. All permit applications shall contain the following information:

- A. Scaled sketch plans or photographs showing proposed gate dimensions and details of surrounding streetscape elements, including property lines, sidewalks, curb lines, lighting, trees indicating size, tree grates, planters, street signs, bus stops and fire hydrants if relevant.

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- B. A petition reflecting that 60% of the homeowners in the platted subdivision agree to make said request. In alternative to a petition, a ballot may be sent by mail to all homeowners in the platted subdivision. If 60% of the homeowners respond in the affirmative to said request, a sworn letter confirming the vote occurred as described and the vote results may be submitted instead of the petition. If there is no platted subdivision/neighborhood, a petition signed by 60% of the property owners whose property faces the public street on which the gate is to be installed or a mailed ballot in which 60% of the property owners whose property faces the public street on which the gate is to be installed vote in the affirmative may be submitted.
- C. Any other additional information required by law, rule, or ordinance, or that any department of the City or City Council, or the permit applicant reasonably deems appropriate to assist the City in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application and shall either be approved or denied within 120 days of submission.

#### **SECTION 4. DESIGN STANDARDS.**

- A. All gate installations must conform to the following provisions:
  - 1. Gates shall be designed in such way as to avoid damage to existing public infrastructure including road surface, base, and curbing.
  - 2. A turn around space shall be constructed at the expense of the applicant or homeowners association in an area at a distance in front of the public access gate to allow an average size passenger vehicle to turn around and leave without accessing the gate.
  - 3. A sign shall be installed at the public access gate control mechanism which states "Push Button for Access." The absence of signage or use of signage which in any manner discourages entrance by the public shall not be allowed.
  - 4. The gate shall have a Fire box and SOS system which allows access by emergency vehicles, including fire and police department vehicles. Approach and departure areas on both side of a gated entrance must provide adequate set backs and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.
  - 5. The area containing and adjacent to the public access gate shall be sufficiently lighted so that the public access gate may be easily seen at night.

6. All components of the gate system must be maintained in an approved operating condition, with all components serviced and maintained on a regular basis as needed to insure proper gate operation. A proper power supply shall be maintained to all electrical and electronic components at all times. In the event of a loss of power, a default open function shall be installed to keep the gate open until such time as power has been restored.
- B. The homeowners association or applicant shall assume all costs and responsibility for planning, installation, and maintenance of the public access gate, including repair or replacement if the public access gate malfunctions, become inoperable, or is damaged.
- C. The City shall maintain all authority over public access gates installed pursuant to this Ordinance. All gates, signage, and equipment are subject to periodic inspection by the City of Jackson and must be immediately repaired by the applicant or homeowners association if found to be in a condition of disrepair. The City shall have the right to enter the subdivision and disable, open, or remove any gate, device, or other feature that impedes or controls vehicle access at the sole expense of the homeowners association or applicant.
- D. To protect the interests of the City, the homeowners association or applicant shall obtain a policy of liability insurance in an amount of not less than one million dollars (\$1 million), which policy will include the City as an additional insured interest and which will protect against costs, expenses, damages or judgments associated with claims arising out of the approval, installation and maintenance of the public access gate. Further, the homeowners association or applicant shall indemnify the City and hold the City harmless for any costs, expenses, damages or judgments associated with claims arising out of the approval, installation and maintenance of the public access gate.
- E. Prior to the installation of the public access gate and at all times while the gate is in place, the applicant shall keep on file with the City the name, telephone number, and email address of an individual who will be responsible for repairing the gate or communicating with the city regarding any issues with the gate. In the event that the City cannot contact this individual in a timely manner when issues pertaining to the public access gate arise, the City may, after a hearing and vote of the Planning Board, rescind the permit to have a public access gate and order the responsible party to remove the gate. Such an order may be appealed to the City Council.

#### **SECTION 5. APPEALS PROCESS.**

An appeal from a decision of the Department of Planning and Development may be made to the City Council within ten (10) days of a letter of denial. Such appeal shall be in writing and shall state the nature of the grievance, and upon a hearing,

the Council may immediately act to approve or deny an applicant's request to install a public access gate.

**SECTION 6. SEVERABILITY.**

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Code of Ordinances of the City of Jackson, Mississippi, as a whole.

**SECTION 7. EFFECTIVE DATE.**

This article shall be effective thirty days (30) days after its adoption by the City of Jackson.

**WHEREAS**, the City Council of the City of Jackson, Mississippi, finds that the repeal of the ordinance amending procedures for the erection of public access gates to neighborhoods, codified as Chapter 110-28, Article I of the Code of Ordinances, City of Jackson, Mississippi, and found in the City Council minutes at Book 6J pages 109-112, is necessary and in the best interest of the City.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSON, MISSISSIPPI, THAT:**

The ordinance amending procedures for the erection of public access gates to neighborhoods City of Jackson, Mississippi, codified as Chapter 110-28, Article I of the Code of Ordinances, City of Jackson, Mississippi, and found in the City Council minutes at Book 6J pages 109-112, shall be, and the same is hereby, repealed in its entirety.



## Memorandum

TO: Tony T. Yarber, Mayor

CC: Marshand Crisler, Acting CAO  
Jackie Anderson-Woods, Chief of Staff

FROM: Eric A. Jefferson, Planning & Development Director *EAS*

DATE: October 11, 2016

RE: **Order Repealing the Ordinance of the City of Jackson, Mississippi Amending Procedures for the Erection of Public Access Gates to Neighborhoods**

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On May 3, 2016 the City Council adopted an ordinance to amend procedures for the erection of public access gates to neighborhoods. The Department of Planning and Development was charged with the implementation of the amended procedures, and discovered problems almost immediately with the new procedures. After receiving questions and concerns from City departments, private attorneys and concerned citizens regarding the May 3, 2016 ordinance, the Office of the City Attorney worked with staff from Planning and Development and the Department of Public Works to develop a new ordinance to amend procedures for the erection of public access gates to neighborhoods. The Office of the City Attorney recommended that the May 3, 2016 ordinance be repealed in its entirety and the new ordinance be adopted by the City Council.

**CITY COUNCIL AGENDA ITEM 10 POINT DATA SHEET**

**10/11/16**

**DATE**

<b>POINTS</b>		<b>COMMENTS</b>								
1.	<b>Brief Description/Purpose</b>	Order repealing the ordinance of the City of Jackson, Mississippi amending procedures for the erection of public access gates to neighborhoods, codified as Chapter 110-28, Article I of the Code of Ordinances, City of Jackson, Mississippi, in its entirety.								
2.	<b>Public Policy Initiative</b> 1. Youth & Education 2. Crime Prevention 3. Changes in City Government 4. Neighborhood Enhancement 5. Economic Development 6. Infrastructure and Transportation 7. Quality of Life	4. Neighborhood Enhancement 7. Quality of Life								
3.	<b>Who will be affected</b>	Citizens of Jackson								
4.	<b>Benefits</b>	Repeals an ordinance amendment that does not adequately meet its intent. This action is necessary and in the best interest of the City.								
5.	<b>Schedule (beginning date)</b>	Effective thirty (30) days after its adoption by the City of Jackson								
6.	<b>Location:</b> ▪ WARD  ▪ CITYWIDE (yes or no) (area)  ▪ Project limits if applicable	Citywide								
7.	<b>Action implemented by:</b> ▪ City Department <input checked="" type="checkbox"/> ▪ Consultant <input type="checkbox"/>	Department of Planning and Development								
8.	<b>COST</b>	No cost								
9.	<b>Source of Funding</b> ▪ General Fund <input type="checkbox"/> ▪ Grant <input type="checkbox"/> ▪ Bond <input type="checkbox"/> ▪ Other <input type="checkbox"/>	NA								
10.	<b>EBO participation</b>	ABE	_____ %	WAIVER	yes	___	no	___	N/A	__x__
		AABE	_____ %	WAIVER	yes	___	no	___	N/A	__x__
		WBE	_____ %	WAIVER	yes	___	no	___	N/A	__x__
		HBE	_____ %	WAIVER	yes	___	no	___	N/A	__x__
		NABE	_____ %	WAIVER	yes	___	no	___	N/A	__x__