

CITY OF BYRAM
GATED COMMUNITY STREET DEVELOPMENT ORDINANCE

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BYRAM,
MISSISSIPPI:

Definitions:

Private Street – A private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of the Development Ordinance. The term “private street” shall be inclusive of alleys.

Public Street – A public vehicular access way (street) shared by and serving two or more lots, which is dedicated to the public and is publicly maintained

Private Subdivision, Private Streets, Gated Communities shall meet the following requirements;

- 1) The general provisions of the City Development Ordinance and other City codes as they relate to development, street, and utilities will apply to all such development. A vehicular turn around shall be provided at entry gates to allow vehicles that have been denied entry the ability to exit without having to backup. All plans concerning private subdivisions are subject to review and approval by the Fire Department.
- 2) The definition of a “subdivision” and “street”, as contained in the Development Ordinance, will apply to all subdivisions or streets, whether public or private.
- 3) Design and Construction Standards – Private streets shall conform to the same standards regulating the design and construction of public streets. These standards shall include, but are not limited to the following:
 - a. Transportation Element of the Comprehensive Plan;
 - b. Thoroughfare Standards of the Zoning Ordinance;
 - c. Engineering Design Guidelines and Construction Standards and Details;
 - d. Street Naming and Addressing Policy;
 - e. Streets Excluded – Streets shown on the Thoroughfare Plan of the Transportation Element of the Comprehensive Plan shall not be used, maintained or constructed as private streets. Also, the Zoning and Planning Commission may deny the creation of any other private street if in the Commission’s judgment the private street would negatively affect traffic circulation on public streets or impair access to or from public facilities including schools, parks and libraries, or delay the response time of emergency vehicles.
 - f. Letter of Credit equal to two times the cost of installing the final surface course. The LOC should be an automatic renewal each year until such time the asphalt is actually installed be the developer.

- 4) Home Owners Associations Required – Subdivisions developed with private streets and alleys must have a mandatory Home owner’s s association which includes all property served by private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances. The association documents must establish a reserve fund for the maintenance of streets and other improvements. The association documents shall be reviewed and approved by the City Attorney to ensure that they conform to this and other applicable City ordinances. The documents shall be filed of record prior to the approval of the final plat. Lot deeds must convey membership in the association and provide for the payment of dues and assessments required by the association. The association may not be dissolved without the prior written consent of the City. No portion of the association documents pertaining to the maintenance of the private streets and alleys and assessments therefore may be amended without the written consent of the City.
- 5) Authority Maintained by City – All streets, gates, and other fire protection features, signage, and equipment are subject to periodic inspection by the City and must be repaired immediately 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 homeowner’s association.
- 6) Private Street Lot – Private streets and alleys must be constructed within a separate lot owned by the ns association. This lot must conform to the City’s standards for public street and alley right-of-way. An easement covering the street lot shall be granted to the City providing unrestricted use of the property for utilities and the maintenance of same. This right shall extend to all utility providers including telecable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs emergency access.
- 7) Construction and Maintenance Cost – The City shall not pay for any portion of the cost of construction or maintaining a private street.
- 8) City Utilities – Water, sewer placed within the Private Street and alley lot shall be installed to city standards and dedicated to the city prior to approval of the final plat. Drainage facilities, street lights, and signs placed within the private street and alley lot shall be installed to city standards and shall be maintained by the homeowner’s association. All city regulations relating to infrastructure financing, developer cost participation and capital cost recovery shall apply to developments with private streets with the exception of those applying to street construction.
- 9) Plans and Inspections – Developments proposed with private streets must submit to the City the same plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements prior to final plat approval shall apply. Fees charged for these services shall also apply. The City

may periodically inspect private streets and require repairs necessary to insure emergency access.

- 9) Waiver of Services – The subdivision final plat, property deeds and Home Owner’s association documents shall note that certain City services shall not be provided on private streets. Among the services which will not be provided are: routine police patrols, enforcement of traffic and parking ordinances and preparation of accident reports. All private traffic regulatory signs shall conform to the Mississippi Manual of Uniform Traffic Control Devices. Depending on the characteristics of the proposed development other services may not be provided.

- 10) Petition to Convert to Public Streets – The Homeowner’s Association documents shall allow the association to request the City accept private streets and alleys and the associated property as public streets and right-of-way upon written notice to all association members and the favorable vote of 75% of the membership. However, in no event shall the City be obligated to accept the streets and alleys as public, the City may inspect the private streets and assess the lot owners for the expense of needed repairs concurrent with the City’s acceptance of the streets and alleys. The City will be the sole judge of whether repairs are needed. The City may also require, at the association’s expense, the removal of guard houses, access control devices, landscaping or other aesthetic amenities located with the street lot. The association documents shall provide for the City’s right to such assessment. Those portions of the association documents pertaining to the subject matter contained in this paragraph shall not be amended without the written consent of the City.

- 11) Hold Harmless – On the subdivision final plat shall be language whereby the Home Owners Association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility for damages to the private street occasioned by the reasonable use of the private street by the City, governmental entity or public utility; for damages and injury (including death) arising from the condition of said private street; for damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and for damages and injury (including death) arising out of any use of the subdivision by the City, government entity or public utility. Further, such language shall provide that all lot owners shall release the City, governmental entities and public utilities for such damages and injuries. The indemnification’s contained in this paragraph 10 apply regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents.

- 12) Pedestrian Accesses – The Commission may require, in order to facilitate pedestrian access from the streets to schools, parks, playgrounds, or other nearby streets, perpetual unobstructed easements at least fifteen feet in width. Easements shall be indicated on the plat.

- 13) Drainage and Storm Sewers;

- a. General Requirements. All plats shall conform to the City's Development Ordinance.
 - b. Design of Facilities – Design of storm sewer systems shall be in accordance with the Storm Drainage Design of the City's Development Ordinance. Materials and construction shall conform to the Standard Specifications.
- 14) Any approval should be based upon a finding by the board that approval of the request is necessary to preserve the good order and peace of the City or to prevent injury to public or private property.
- 15) All signage, posts, etc., to be paid for by the HOA or other responsible parties and installed by the City.
- 16) This policy applies gated public and private streets, whether or not they are planned to be open for the majority of the day.

A. GATE INSTALLATION: Any gate installation must conform to the following provisions:

- 17) Any gate installation must conform to the following provisions;
- 18) Fire Marshal Approval Required – all gate installations must be approved by the Fire Marshal prior to installation. The installation must be completed and tested prior to the City's acceptance of the subdivision.
- 19) Gate Openings and Clearances – Gate designs may incorporate one or two gate sections to meet the required minimum gate width of twenty four feet. If the entrance will incorporate a median, guard shack, or similar structure that necessitates a divided gate arrangement, the gate widths may be reduced if approved by the Fire Marshal, but in no case shall any single gate or street pavement have a clear opening of less than eighteen feet.
- 1. If a gate design incorporates any overhead obstruction, said obstruction must be a minimum of fourteen feet above the finished road surface.
- 20) Setback Required – Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.
- 21) Gates to be per Fire Department Guidelines – Automatic gate installations must conform to the design and performance guidelines established by the fire Department.
- 22) Good Working Order Required – 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.

- 23) Failure to Meet Requirements – Each security gate regulated under this section will be subject to a performance test on a regular basis as determined by the Fire Marshal. Upon failure of a performance test, the security gate system shall be disabled and maintained in the open position until repaired, and shall not be placed back in service until tested and authorized by the Fire Marshal.
- 24) Owners Responsibility – The person or corporation in control of the property is responsible for, and liable for, any violations of this section. This includes, but is not limited to, the developer, property owner, the Homeowners Association and its officers, if applicable, or others who may own or exercise control over the property.
- 25) All gate installations are to be reviewed and approved by City Staff prior to making the gates functional.
- 26) Damaged signs are to be replaced by the Home Owners Association or other responsible parties.

B. GATED PUBLIC/ PRIVATE STREETS

Gates controlling entry to residential subdivision on public streets shall meet the following requirements:

1. The street must be fully and equally accessible to the public, by reasonable and obvious means. No plan will be approved which is designed, marked with signs or otherwise laid out so as to give an impression that the street is a private one. At a minimum, this would mean a clearly visible sign identifying the access mechanism.
2. Any request should include specific plans and specifications for the gate. The Mayor and Board of Aldermen will not be in a position to authorize the gate unless City personnel have had an opportunity to review all technical and design aspects of the proposed gate. Specific requirements include:
 - a. A design professional, preferably a registered Landscape Architect or Civil Engineer, shall design every element of the gated entry including, gate design, location, pedestrian access, lighting, planting, signage, etc and present the design to the Site Plan Committee for a preliminary review and subsequent review by the Zoning and Planning Commission.
 - b. Specific elements of the design include:
 - i. The entry gate will be designed in such way as to avoid any damage to any public infrastructure including road surface, base, and curbing.
 - ii. A turn around shall be required before the gate to allow an average size car, SUV, etc., to be able to turn around in no more than two turning movements in order to leave without accessing the gate.
 - iii. All gates will be required to open away from, not toward, a vehicle.

iv. A “BE PREPARED TO STOP” caution sign shall be installed at least 100 feet before the gate on both the entry and exit side. If one hundred feet is not feasible the sign shall be located at the discretion of the Chief of Police. The sign shall be 36 inches square for installations where the traffic speed is 30 mile per hour or greater and 30” square for installations on roadways less than 30 miles per hour consistent with the current edition of Uniform Traffic Control Devices Handbook (MUTCD). The sign shall be supported on a post meeting city approval.

v. A “PULL HERE FOR ENTRY” and “PULL HERE FOR EXIT” sign shall be installed prior to the gate where the access control mechanism is installed prior to the gate where the access control mechanism is installed along with a 12” minimum width white painted line to indicate the appropriate stopping point. As stated above it should be obvious that anyone can enter the subdivision.

vi. Pedestrian access shall also be provided. This access can be gated or open and connected to existing sidewalks or constructed to allow for connection to planned future sidewalks on either side of the gate.

vii. Emergency access will consist at a minimum, of a Siren operated System and a Fire Box.

viii. Free access loops will be provided at least 5 feet back from the center line of the gate and a free exit loop will be provided 5 feet back from the swing of the gate. The loops shall be set sensitive enough to detect a carbon frame bicycle with a standard metal drive train. If this is not feasible, another type of system may be required to ensure that bicyclist can access the public street.

ix. Gate equipment will be either pre-finished in an approved color or painted with an approved color and screened with plant material as required.

x. Lighting – The gate will be lighted sufficiently to be easily seen at night without any added external light source, i.e., from car or bicycle headlights.

xi. Some element of reflectivity shall be part of the main body of the gate centered on the access way. This reflectivity shall be obtained by using a diamond grade or diamond cut reflective material.

3. The parties requesting the gate should be prepared to assume all costs and responsibility for installation and maintenance of the gate, including repair or replacement costs if anything happens to the gate for any reason, including accident, vandalism or simply mechanical failure.

4. The City shall have the right to remove the gate at any time for any reason or for no reason whatsoever, although we would make arrangements to return the mechanism to the parties who installed the gate, if feasible. If the gate is removed for any reason except safety issues, street or utility construction, reconstruction or relocation, or failure of the sponsoring party to comply with any of the policies established herein, the city will reimburse the sponsoring party for the original cost of the gate, or any portion which is removed.

5. Any request for a gate must be submitted by the homeowners association, or, if an association does not exist, by 75% of the property owners fronting the public streets directly affected by the request.

6. The parties requesting the gate shall sign an agreement (Exhibit 1) to indemnify and hold harmless the city from any and all costs and expenses associated with defending any claims associated in any way with the approval of such request and the installation and maintenance of the gate. The city may require proof of insurance or other evidence of ability to provide indemnification.

7. This ordinance shall be effective 30 days from and after passage.

The Ordinance passed by a vote of 4-0, Alderman Alday, Alderman Douglas, Alderman Marble and Alderman White for and Alderman Ford being absent on the 12th day of April, 2012. The Ordinance was signed by Nick Tremonte, Mayor and Angela Richburg, City

Published by order of the Mayor and Board of Aldermen, City of Byram, Hinds County, Mississippi.

By: s/Angela Richburg, City Clerk

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