

On motion by Ted Tullos, seconded by Tommy McKenzie, Selectmen, with all members present voting aye, the board adopted an Ordinance entitled Architectural Control for the City of McComb City, Mississippi.

ORDINANCE #14:12/13

**ORDINANCE ENTITLED ARCHITECTURAL CONTROL FOR
THE CITY OF MCCOMB CITY, MISSISSIPPI**

WHEREAS, the governing authorities of the City of McComb City, Mississippi, have the obligation to enact all needful ordinances necessary for the preservation of the public health, safety, and welfare of the City.

NOW, THEREFORE BE IT ORDAINED by the Board of Mayor and Selectmen of the City of McComb City, Mississippi, as follows, to-wit:

SECTION I: That a new Ordinance entitled Architectural Control for the City of McComb City, Mississippi is hereby adopted to read as follows:

ARCHITECTURAL CONTROL ORDINANCE

SECTION II. PURPOSE

The Board of Mayor and Selectmen of the City of McComb City, Mississippi, hereby finds that bizarre, garish, or otherwise inappropriate exterior design and appearance of buildings, structures, and improvements erected in specific commercial, industrial, and overlay 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: (1) to encourage the construction of attractive buildings; (2) to protect and promote the general welfare; (3) 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 commerce 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 areas zoned commercial, industrial, and mixed land use (B-PO, C-1, C-2, C-PL, I-1, I-PL, and SMU) 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 Mayor and Selectmen.

SECTION III: DESIGNATIONS OF ARCHITECTURAL CONTROL DISTRICTS

All land areas in the City which are zoned commercial, industrial, and mixed land use, as previously set forth, are hereby designated as architectural control districts, 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 special use permit or building involving any other such use, is designated an architectural control district.

SECTION IV: ARCHITECTURAL REVIEW COMMITTEE

There is established by the City of McComb an Architectural Review Committee, consisting of the Director of the Zoning, Inspections, and Permits Department or his or her designee, one (1) member of the Planning Commission, one (1) member of the Public Works Department, or his or her designee, one (1) member of the Historic Preservation Commission, and one (1) City of McComb Registered Voter. The Architectural Review Committee shall review site and construction plans and 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 Board of Mayor and Selectmen prior to being used. The members of the Committee shall choose a Chairperson and a Vice-Chairperson to facilitate meetings. All members of the Committee, other than the Chairperson, shall be entitled to vote except in the case of a tie, when the Chairperson shall vote to break the tie, and the decisions of the Committee shall be by majority vote of those members present.

SECTION V: MEETINGS OF THE ARCHITECTURAL REVIEW COMMITTEE

(1) The Architectural Review Committee shall hold a regular meeting once a month at a date and a 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 the place of same.

(2) No application pending before the Committee shall be voted upon at any special meeting unless notice of intention to do so shall be posted in the same manner as is required for special meetings of the Board of Mayor and Selectmen

(3) All meetings of the Committee shall be open to the public, and all decisions of the Committee shall be by record vote of the ayes and the nays spread upon the proceedings.

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

SECTION VI: RECORDS OF THE ARCHITECTURAL REVIEW COMMITTEE

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

SECTION VII: QUORUM

A quorum of the Architectural Review Committee shall consist of three (3) members of the Committee.

SECTION VIII: APPROVAL OF CONSTRUCTION AND ALTERATIONS IN ARCHITECTURAL CONTROL DISTRICTS; WAIVER OF REQUIREMENTS

No structure, building, or other improvement or other major landscape features surrounding such structure, building, 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.

Erection, reconstruction, alteration, or restoration of signs shall be controlled by the City of McComb's Sign Ordinance.

The Committee, after hearing the evidence in any case properly before it involving reconstruction or alteration only, may 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 XI: APPLICATION

Application for approval by the Committee for the construction, reconstruction, alteration, or restoration of any building in an architectural control district shall be submitted to the Committee. A Design Professional (i.e. architect or engineer) licensed with the State of Mississippi shall affix his or her official seal to all drawings, renderings, specifications, and accompanying data, to include the following:

- (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) Five (5) sets of a proposed site plan drawn to scale showing the following:
 - (a) All property lines, easements, and setbacks
 - (b) Location of structure on property
 - (c) Site drainage plan / Land Disturbance & Erosion Control Plan / Storm Water Pollution Prevention Plan (SWPPP)
 - (d) Topographic contour lines and elevations
 - (e) Parking and driveway locations
 - (f) Location and size of signs

- (g) Water, sewer, gas, and electric service line locations
- (h) Dumpster site and privacy screening
- (i) Exterior lighting
- (j) Proposed elevations
- (k) Landscaping plans

- (3) The applicant may submit such additional material in writing and graphically as he or she 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.

Upon receipt of any 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 X: 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 any of the Committee members desire to present.

SECTION XI: DECISIONS

- (1) 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.
- (2) 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 or she can comply with all such recommendations of the Committee.
- (3) Approval by the Committee of any application filed hereunder shall be evidenced by written notice of approval, signed by the chairman and attested by the vice-chairman, designating the name of the applicant, date of approval, identification of property involved, and a brief description of the construction approved.

SECTION XII: APPEALS; HEARING

(1) 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 Mayor and Selectmen; provided, that there is filed with the City Clerk or his or her designee, 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 one hundred dollars (\$100.00) to at least cover the cost of advertising for the Board of Mayor and Selectmen hearing. Upon the filing of notice of appeal as provided herein, the City Clerk or his or her designee shall thereupon schedule a public hearing before the Board of Mayor and Selectmen, 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 or his or her designee has caused to be published at least once in a newspaper of general circulation within the county, at least fifteen (15) days before such proposed hearing, an advertisement stating the time, date, and place of the hearing before the Board of Mayor and Selectmen; the location of the property involved; the name of the applicant; and the nature of the building for which approval is sought.

(2) On any appeal to the Board of Mayor and Selectmen, the final decision of the Committee shall be stayed pending the decision of the Board of Mayor and Selectmen. The Board of Mayor and Selectmen 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 Mayor and Selectmen as are established for the Committee. The Board of Mayor and Selectmen may affirm, reverse, or modify the decision of the Committee, in whole or in part. The decision of the Board of Mayor and Selectmen shall be final, subject to the provision of Section 10 of this Ordinance.

SECTION XIII: APPEALS TO CIRCUIT COURT

Parties aggrieved by the decision of the Board of Mayor and Selectmen, rendered pursuant to Section 11, shall have the right to appeal to the Pike County Circuit Court in the same manner and form as is required for any other appeal of actions of the Board of Mayor and Selectmen.

SECTION XIV: DESIGN CRITERIA

(1) *Intention.* The intention of the Board of Mayor and Selectmen of the City of McComb City, Mississippi, 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.

Criteria. The Committee and, on appeal, the Board of Mayor and Selectmen 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 small 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 a 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 of 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, 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.

(2) *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 twenty thousand square feet (20,000 ft²), 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 twenty percent (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.

(3) *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 all architectural control districts. 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 of 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, landscaping, or a combination of these.

(4) *Exterior Equipment.* Air conditioning, heating, electric generators, exhaust duct, exhaust fans, exhaust blowers, refrigeration equipment, and any other equipment located on the roof, wall, or onsite shall satisfy the following requirements:

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

(5) *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 the City of McComb City, Mississippi, invites and welcomes them to our community. Waste generated by normal business activities and its disposal should be carefully planned to achieve this concept. The City's Solid Waste Disposal Ordinance and other ordinances related to solid waste must be followed as well.

(6) *Accessory Buildings.* Accessory buildings and structures shall meet all of the requirements set forth in this Ordinance, all building codes adopted by the City, and the flood management ordinance. Manufactured buildings and structures, trucks, truck trailers, buses, and other temporary facilities are not allowed to be used as accessory buildings.

(7) *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 this Ordinance, Landscaping Ordinance, flood management ordinance, and all building codes adopted by the City. A signed report is required from a Certified Environmental Contractor licensed by the State of Mississippi Department of Environmental Quality 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 a health concern. This report shall be submitted with the application for Committee approval.

SECTION XV: NO SPECIFIC ARCHITECTURAL STYLE TO BE REQUIRED

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

SECTION XVI: DEVIATION FROM APPROVAL PLAN PROHIBITED

Any person who once having obtained the approval required by Section 8 of this Ordinance deviates substantially from the approved plan shall be guilty of a misdemeanor. The Director of the Zoning, Inspections, and Permits Department, upon his or her 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 approved plan or the changes have been re-submitted and approved by the Committee pursuant to this Ordinance.

SECTION XVII: 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 XVIII: REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF

All Ordinances or parts of Ordinances adopted heretofore by the City of McComb City, Mississippi, which are in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION XIX: 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 XX: That the public welfare and finances requiring it, this ordinance shall be in full force and effect on February 10, 2014.

PASSED AND ADOPTED, first as to sections, then as a whole at the December 23, 2013 recessed meeting of the Board of Mayor and Selectmen of said City by the following vote:

Voting Aye: Tommy McKenzie, Ted Tullos, Michael Cameron
Tammy Witherspoon, Melvin Joe Johnson, Andranette Jordan
Voting Nay: None
Present and Not Voting: None
Absent and Not Voting: None

APPROVED: /s/ Whitney Rawlings
Whitney Rawlings, Mayor

ATTEST: /s Sherry Spears
Sherry Spears, Deputy City Clerk

