

**RESOLUTION FOR ORDINANCE OF THE CITY OF SOUTHAVEN, MISSISSIPPI  
REGARDING THE CITY OF SOUTHAVEN'S OBLIGATIONS FOR THE STREETS  
IN GATED NEIGHBORHOODS AND PROCEDURES FOR ERECTION OF GATES**

**WHEREAS**, Section 21-37-3 of the Mississippi Code grants the governing authorities of a municipality the power to exercise full jurisdiction in the matter of streets; and

**WHEREAS**, Section 21-19-15 of the Mississippi Code also provides in pertinent part that the governing authorities of a municipality shall have the power to make all needful police regulations necessary for the preservation of good order and peace of the municipality, to prevent injury to, destruction of, or interference with public or private property; and

**WHEREAS**, the governing authorities of the City of Southaven find that the installation of public access gates may be allowed under circumstances in which homeowners of residential neighborhoods seek to reduce traffic, deter crime, enhance their sense of community and/or improve their quality of life; and

**WHEREAS**, the City of Southaven does not have the authority to perform maintenance, upkeep, or repair to streets that are located inside a gate, which gate does not provide full and equal access for all members of the public for use of such streets at all times; and

**WHEREAS**, the City of Southaven may perform maintenance, upkeep, or repair to those residential streets that are located inside a gate(s), when the gate(s) provide full and equal access to all members of the public to the residential neighborhood streets at all times.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITIES OF THE CITY OF SOUTHAVEN, MISSISSIPPI THAT:**

**SECTION 1: Applicability**

This Ordinance shall apply to any residential street within the City of Southaven.

**SECTION 2: City of Southaven Responsibility and Accessibility**

A. The City shall not perform any maintenance, upkeep, repair, or any other work on a street, when such street is located within the confines of any gate that does not provide full and equal access to all members of the public at all times.

B. The City will maintain residential streets for those streets that are located within the confines of a public access gate only when all gate(s) controlling entry to residential streets provide full and equal access to all members of the public to the streets at all times. In addition, the public access gate(s) shall be marked with signage indicating that it is open to the public. After providing access to all members of the public, if the gate ceases to provide full and equal access to the streets for more than five (5) days during the course of a calendar year, the City maintains the right to not perform any further maintenance, upkeep, repair, or any other work on the subject residential streets.

C. Gates may only be erected in residential neighborhoods, which are defined as one or more of the following: (1) residential areas within the boundary of one homeowner's association; (2) residential

areas shown on one or multiple recorded plats with the same or similar name commonly considered or referred to as one neighborhood that may or may not be the same name as the recorded plat(s); or (3) other areas determined by City Planning Department to be distinctive and cohesive. The City Planning Department shall have final authority to determine neighborhood boundaries as necessary for the purpose of administering this ordinance.

D. Gates shall not be erected on or in conflict with any collector or arterial streets as shown on the current Mississippi Department Of Transportation functional classification system map or other streets deemed to be through streets by City Planning Department.

### **SECTION 3: Prior Approval Required**

All applications for gate installations must receive a recommendation from the City Planning Commission before seeking approval of the City Governing Authorities. Each application to the City Planning Commission must contain the following:

- A. Scaled sketch plans, site plans, and photographs showing proposed gate locations, gate dimensions, details of surrounding streetscape elements, including property lines, sidewalks, curblines, lighting, trees, indicating size, tree grates, planters, street signs, underground utilities, and fire hydrants, if relevant.
- B. A formal resolution evidencing the approval of Seventy Five Percent (75%) of the members of the homeowner association. Such resolution shall provide the results of the vote and date of vote.
- C. In lieu of a formal resolution from the homeowners association, a ballot may be sent by mail to all homeowners in the affected neighborhood. If Seventy Five Percent (75%) of the homeowners vote for the access gate, a sworn letter confirming that the vote occurred and results of the vote shall be submitted in place of the resolution.
- D. If there is not a platted subdivision/neighborhood, a petition signed by Seventy Five Percent (75%) of the property owners whose property abuts the public street on which the gate is to be installed or a mailed ballot in which Seventy Five Percent (75%) of the property owners whose property abuts the public street on which the gate is to be installed vote in the affirmative may be submitted.
- F. Written approval from the City Police and City Fire Department and any other additional information required by law, rule, or ordinance, or that any department of the City or City Governing Authorities, or permit applicant reasonably deems appropriate to assist the City in determining whether the permit should be granted. The applicant shall be provided sixty (60) days to supplement the application or additional time as determined by the City Planning Commission. Approval or denial of the application shall be within sixty (60) days of submission to the City Planning Commission.
- G. Upon filing an application a public notice sign, provided by the person or entity making the application shall be posted at all proposed gate location(s) 15 days prior to the City Planning Commission hearing for the proposed gate.

#### **SECTION 4: Design Standards**

A. Any request should include specific plans and specifications for the gate design of every element of the gated entry including, but not limited to, gate design, location, pedestrian access, lighting, planting, and signage. All gate installations shall conform to the following provisions:

1. Gates shall be designed in such a way as to avoid damage to existing public infrastructure including road surface, base, and curbing.
2. The gate should be treated as an architectural element matching the form, style, color, and detailing of the adjacent neighborhood buildings. Gate equipment will be either pre-finished in an approved color or painted with an approved color and screened with plant material as required.
3. A turn around space shall be constructed at the expense of the applicant or homeowner's 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. Driveways shall not be used as a turnaround space.
4. The gate shall have a Fire box and SOS system and/or any other system required by the City, which allow access by emergency vehicles, including fire and police department vehicles. In addition, the homeowners association or applicant shall provide a gate code to the City Police and Fire Department and shall notify E911 Communications if such code is changed. 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.
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 without any additional light source such as from vehicle or bicycle headlights.
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.

B. The homeowner's association or applicant shall assume all costs and responsibility for planning, installation, maintenance, and removal of any gate (private or public access), including repair or replacement if the gate malfunctions, becomes inoperable, or is damaged.

C. If the gate is a public access gate open to all members of the public at all times and the City maintains the streets within the gate, the City shall have the right to enter, inspect, disable, open, or remove any device or other feature that implements or controls vehicle access at the sole expense of the applicant or homeowner's association. All gate signage and equipment are subject to periodic inspection by the City and if found to be in a condition of disrepair must be repaired by the applicant or homeowner's association within five (5) calendar days of written notice from the City to the applicant's listed point of contact. Any request for extension of time to repair must be approved, in writing, by City Planning Department. While the gate is under repair it shall remain in an open position at all times.

D. If the gate is a public access gate open to all members of the public at all times and the City maintains the streets within the gate, to protect the interest of the City, the homeowner's association or applicant shall obtain and maintain a policy of liability insurance in an amount of not less than one million dollars (\$1,000,000.00). Said policy will include the City as an additional insured and will indemnify, protect against costs, expenses, damages or judgments associated with and claims arising out of or related to the public access gate. Said policy is to remain in effect until the complete removal of the gate. The homeowner's association or applicant shall file annually a copy of the Certificate of Insurance with the City Clerk.

E. If the gate is a public access gate open to all members of the public at all times and the City maintains the streets within the gate, upon submission of application, to the City Planning Commission, the applicant or homeowner's association shall name an individual who will act as the point of contact for any issues relating to or regarding its gate. The applicant or homeowner's association shall keep on file with the Planning Department the name, telephone number, and email address of the point of contact. Additionally, each applicant shall provide the same information of an alternate to act in the absence of the point of contact.

## **SECTION 5: Approval and Appeals Process**

A. Upon written recommendation for approval or denial from the City Planning Commission, the Planning Director shall place upon the City Board Meeting Agenda its recommendation for the approval or denial of a permit to erect a gate. The City Governing Authorities shall then, by regular or special called meeting, conduct a public hearing in which parties interested and general citizenry shall have an opportunity to be heard.

B. Before the City Governing Authorities holds such a hearing and vote, there shall be an advertisement of the hearing in a paper of general circulation within the City. Said advertisement shall set forth the time and place of the hearing, described the nature of the proposed action. The first publication shall be made at least fifteen (15) calendar days before such hearing. All advertising costs shall be borne by the applicant. Proof of publication shall be provided to the Planning Director five (5) calendar days prior to the scheduled hearing.

C. Any party aggrieved by a recommendation of the Planning Commission may, at the aforementioned public hearing, make known their opinions in support or in opposition to the Commission's recommendation.

## **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 Southaven, Mississippi as a whole.

**NOW, THEREFORE BE IT ORDERED** that this Ordinance as set forth above in this Resolution shall take effect one month after passage.

**NOW, THEREFORE BE IT ORDERED** pursuant to Miss. Code 21-13-11, the City Clerk shall provide notice of the adoption of the Ordinance in the *Desoto Times* one (1) time.

A motion was made by Alderman Payne to adopt the foregoing Resolution. Motion was seconded by Alderman Gallagher and brought to a vote as follows:

Alderman Kristian Kelly	voted: YES
Alderman Joel Gallagher	voted: YES
Alderman George Payne	voted: YES
Alderman William Brooks	voted: YES
Alderman John Wheeler	voted: YES
Alderman Raymond Flores	voted: YES

Having received a majority of affirmative votes, the Mayor declared that the Resolution was carried and adopted as set forth above on this the 6th day of March, 2018.

**CITY OF SOUTHAVEN, MISSISSIPPI**

**BY:** \_\_\_\_\_  
**DARREN MUSSELWHITE, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**