

ZONING ORDINANCE

TUNICA COUNTY, MISSISSIPPI

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**TUNICA COUNTY ZONING ORDINANCE
TABLE OF CONTENTS**

ARTICLE	SECTION	SUBJECT	PAGE NO.
I		BASIC PROVISIONS	
	100	Title	I-1
	110	Purpose of the Revised Zoning Regulations	I-1
	120	Consistency with Comprehensive Plan	I-1
	130	Applicability	I-1
	140	Conflicting Provision	I-2
	150	Relief from Other Provisions	I-2
	160	Severability of Provisions	I-2
	170	Supersedes Prior Regulations	I-2
	180	Completion of Development Plans	I-2
	190	Completion of Uses and Structures	I-3
II		DEFINITIONS	
	200	General Purpose / Definitions	II-1
	210	General Construction of Language	II-1
	220	General Terms	II-2
	230	Glossary	II-2
III		ZONING DISTRICTS AND OFFICIAL MAP	
	300	Title	III-1
	310	Official Zoning Map	III-1
	320	Interpretations of District Boundaries	III-2
	330	Compliance with the Regulations	III-3
IV		SCHEDULE OF DISTRICT REGULATIONS	
	400	All Districts	IV-1
	401	"A-1" Agricultural Residential District	IV-1
	402	"A-5" Agricultural District	IV-1
	403	"R-R" Rural Residential District	IV-2
	404	"R-1" Single Family Residential District	IV-2
	405	"R-2" Single Family Residential District	IV-2
	406	"R-3" Multi-Family Residential District	IV-2
	407	"M-H" Manufactured Home Residential District	IV-2
	408	"O" Office District	IV-3
	409	"C-1" Neighborhood Commercial District	IV-3
	410	"C-2" Highway Commercial District	IV-3
	411	"RA" Resort Area District	IV-3
	412	"CA" Casino District	IV-4
	413	"I-L" Light Industrial District	IV-4
	414	"I-H" Heavy Industrial District	IV-5
	415	"PR" Preservation District	IV-5

Chart 1	Uses Permitted in Zoning Districts	IV-6
Chart 2	Bulk Regulations and Permitted Residential Densities	IV-10
Chart 3	Uses Permitted in Resort District	IV-11
Chart 4	Resort District Bulk Regulations and Permitted Residential Densities	IV-13

V SPECIAL DISTRICTS AND USES

500	Flood Damage Prevention	V-1
501	Floodplain Overlay Zone	V-1
502	Definitions	V-3
503	General Provision	V-12
504	Administration	V-14
505	Provisions For Flood Hazard Reduction	V-17
506	Variance Procedures	V-21
510	Wireless Communications	V-24
515	Manufactured Housing	V-26
520	Airport Overlay Zone	V-27
521	Authorization and Objectives	V-27
522	Definitions	V-27
523	Airport Zones	V-29
524	Airport Zone Height Limitations	V-30
525	Use Restrictions	V-31
526	Nonconforming Uses	V-31
527	Permits	V-31
528	Enforcement	V-33
529	Planning Commission	V-33
530	Appeals	V-34
531	Judicial Review	V-34
532	Penalties	V-34
533	Conflicting Regulations	V-35

VI PLANNED DEVELOPMENTS

601	Standards and Criteria	VI-1
602	Application and Procedure	VI-12

VII SEXUALLY ORIENTED BUSINESSES

701	Special Definitions	VII-1
702	Purpose and Findings	VII-5
703	Classification	VII-8
704	License Required	VII-8
705	Issuance of License	VII-11
706	Fees	VII-13
707	Inspection	VII-14
708	Expiration of License	VII-14
709	Suspension	VII-14
710	Revocation	VII-14
711	Transfer of License	VII-15
712	Location of Sexually Oriented Businesses	VII-15
713	Additional Regulations for Adult Motels	VII-17

714	Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, or Live Entertainment in Viewing Rooms	VII-17
715	Additional Regulations for Escort Agencies	VII-19
716	Additional Regulations for Nude Model Studios	VII-19
717	Additional Regulations Concerning Public Nudity	VII-20
718	Prohibition Against Children in a Sexually Oriented Business	VII-20
719	Hours of Operation	VII-20
720	Exemptions	VI-20
721	Injunction	VII-21

VIII GENERAL REGULATIONS

800	Title and Application	VIII-1
810	Temporary Uses Regulations	VIII-1
811	Temporary Use Types	VIII-1
812	Required Conditions of Temporary Use	VIII-2
813	Determinations	VIII-2
814	Application and Authorization	VIII-2
815	Extension	VIII-3
818	Reports by the Building Official	VIII-3
820	Accessory Uses	VIII-3
821	Accessory Uses: Residential Use Types	VIII-3
822	Accessory Uses: Commercial Use Types	VIII-4
823	Accessory Uses: Industrial Use Types	VIII-5
824	Accessory Uses: Civic Use Types	VIII-5
825	Accessory Uses: Agricultural Types	VIII-5
828	Accessory Structure Limits	VIII-5
830	Landscaping and Screening Requirements	VIII-6
840	Off-Street Parking and Loading Regulations	VIII-11
841	Basic Regulations: Vehicle Parking	VIII-11
842	Schedule of Off-Street Parking	VIII-12
843	Off-Site or Remote Parking	VIII-12
844	Parking for Mixed Use Developments	VIII-13
845	Handicapped Facilities	VIII-13
846	Basic Regulations: Off-Street Loading	VIII-14
847	Schedule of Off-Street Loading Requirements	VIII-14
848	Design Standards	VIII-15
Table-1	Parking Design Requirements	VIII-16
Table-2	Off-Street Parking and Loading Requirements	VIII-19

IX SUPPLEMENTAL USE AND SITE DEVELOPMENT REGULATIONS

900	Purpose	IX-1
905	Home Occupations	IX-1
910	Club/Lodge	IX-2
915	Bar, Cocktail Lounge, or Nightclub	IX-2
920	Community Recreation (Community Club)	IX-2
925	Site Plan Review	IX-2
930	Lot Area and Dimensions	IX-2
935	Residential Density	IX-3
940	Height	IX-3

	945	Measurement of Height	IX-3
	950	Permitted Exception to Height Limits	IX-4
	955	Yard and Setback Regulations	IX-4
	960	Measurement	IX-5
	965	Exceptions to Required Openness of Required Yards	IX-5
	970	Rear Yard Lot	IX-5
	975	Measurement-Buildings	IX-5
	980	Compatibility Standards for Multi-Family Development	IX-6
	981	Site Plan Required for Multi-Family Development	IX-6
	982	Height Requirements for Compatibility	IX-6
	983	Buffering Requirements	IX-7
	984	Design Regulations – Multi-Family	IX-7
	990	Right to Waive Specific Requirements	IX-8
X		ADMINISTRATION AND PROCEDURES	
	1000	Site Plan Review Procedure	X-1
	1001	Title and Purpose	X-1
	1002	Jurisdiction	X-1
	1003	Uses and Zoning District	X-1
	1004	Application and Use	X-1
	1005	Notice to Adjacent Properties	X-2
	1006	Administrative Approval	X-3
	1007	Action by The Board of Supervisors	X-3
	1008	Review and Evaluation Criteria	X-3
	1009	Findings	X-3
	1010	Modification of Site Plan	X-4
	1011	Effective Date	X-4
	1012	Appeal to Board of Supervisors	X-4
	1013	Lapse of Approval for Site Plans	X-4
	1014	Modification of Site Plan	X-5
	1015	Suspension and Revocation	X-5
	1016	New Applications	X-5
	1020	Conditional Uses	X-6
	1022	Title and Purpose	X-6
	1023	Jurisdiction	X-6
	1026	Public Hearing and Notice	X-7
	1040	Variance Procedure	X-11
	1060	Amendment (Rezoning) Procedure	X-16
	1073	Public Notice Procedure	X-18
	1084	Fee Schedules	X-21
	1087	Enforcement	X-22
XI		NONCONFORMING LOTS AND USES	XI-1
	1100	Nonconforming Development	XI-1
	1120	Nonconforming Structures	XI-2
	1130	Nonconforming Use	XI-3
XII		SAVING CLAUSE	XII-1

XIII	REPEAL OF PRIOR ORDINANCE	XII-1
XIV	EFFECTIVE DATE	XII-1

ARTICLE I

BASIC PROVISIONS

Section 100.

TITLE

This ordinance shall be known and may be cited as the Revised Zoning Regulations of Tunica County, Mississippi. This ordinance is enacted pursuant to the authority granted to the County by Section 17-1-3 of the Mississippi Code of 1972 and other pertinent statutes.

Section 110.

PURPOSE OF THE REVISED ZONING REGULATIONS

The purpose of the Revised Zoning Regulations shall be to serve the public health, safety, and general welfare of Tunica County and the residents thereof, and to attain the objectives of the adopted Comprehensive Plan. They have been designed to lessen congestion on the streets and roads; to secure safety from fire; panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to promote conservation of natural resources and flood plain management.

Section 120.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

It is the intent of the Tunica County Board of Supervisors that the Zoning Regulations shall be consistent with the adopted Comprehensive Plan and any amendments thereof and with any supplemental land use and community development policies of Tunica County. It is the intent of the Board of Supervisors that the Zoning Regulations be amended within a reasonable time so as to become or remain consistent with the revised or amended Comprehensive Plan and land use and community development policies.

Additionally, it is the intent of the Board of Supervisors that all amendments to the Zoning Regulations shall maintain and enhance the consistency between the Zoning Regulations and the adopted Comprehensive Plan.

Section 130.

APPLICABILITY

The Revised Zoning Regulations shall apply to all land and water areas of Tunica County, Mississippi. The use of all land and any buildings or structures located upon the land and waters and the construction, reconstruction, alteration, expansion, or relocation of any building or structure upon the land and water shall conform to all regulations applicable to the district in which the land is located as provided within.

No land, building, structure or premises shall be for any purpose or in any manner other than is permitted in the district in which such land, building, structure or premise is located except as provided.

The provisions of these Zoning Regulations shall be applied to all applications for a change in zoning classification from and after the date of the adoption of the Zoning Regulations.

Section 140.

CONFLICTING PROVISIONS

The Zoning Regulations shall be held to be the minimum requirements for promotion of the public health, safety, comfort, convenience and general welfare. It is not the intent of these regulations to interfere with or abrogate or annul any easement, covenant or other agreement between parties. When these regulations impose a greater restriction upon the use of buildings or land, or upon the height ordinances, rules, regulations or by easements, covenants or agreements, the provisions of these regulations shall control.

Section 150.

RELIEF FROM OTHER PROVISIONS

Except as otherwise specifically provided, no provision of the Revised Zoning Regulations shall be construed as relieving any party to whom site plan approval or a permit or variance is issued from any other provision of state or federal law or from any provision, ordinance, rule or regulation requiring a license, franchise, or permit to accomplish, engage in, carry on or maintain a particular business, enterprise, occupation, transaction or use.

Section 160.

SEVERABILITY OF PROVISIONS

Any section, subsection, sentence, clause or phrase of this resolution, if for any reason held to be invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of these regulations.

Section 170.

SUPERSEDES PRIOR REGULATIONS

Except as provided herein, these Revised Zoning Regulations supersede the Zoning Resolution adopted in 1973, which were revised in 1992, and any amendments thereafter. Nothing in these Revised Zoning Regulations shall be construed as validating or legalizing any land use conducted or building or structure constructed erected, or maintained in violation of any other regulations, and nothing in these Zoning Regulations shall prevent or bar the filing of a complaint or punishment or any act in violation of prior zoning regulations or bar the bringing of any action or compel the discontinuance of any use or the removal of any building or structure constructed, erected, or maintained in violation of the previously adopted Zoning Regulations.

Section 180.

COMPLETION OF DEVELOPMENT PLANS

In order to provide for the completion of development plans begun under the zoning resolution in effect prior to the date of adoption of these Zoning Regulations, the following time allowances shall apply:

- A Any property owner whose proposed development is not subject to site plan review shall have 60 days following the date of adoption of this ordinance to secure a building permit under the Zoning Regulations applicable immediately prior to the passage of the resolution adopting these Revised Zoning Regulations. Construction must begin within twelve months following the receipt of a building permit.

- B. Any property owner whose proposed development is subject to site plan review as required by these regulations shall have one year following the date of adoption of this ordinance to secure site plan approval under the Zoning Regulations applicable immediately prior to the passage of the ordinance adopting these Revised Zoning Regulations and shall also be subject to the conditions of Section 1013 covering lapse of site plan approval.

Section 190.

COMPLETION OF USES AND STRUCTURES

Nothing herein contained shall require any change in the plans, construction or designated use of a building or structure for which a building permit has been issued prior to the date of adoption of these Revised Zoning Regulations or any amendment of these regulations.

ARTICLE II

DEFINITIONS

Section 200.

GENERAL PURPOSE

Sections 200 through 230 shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Regulations. The meaning and construction of words and phrases as set forth shall apply throughout the Zoning Regulations, except where the context of such words or phrases clearly indicates a different meaning or construction. In case of conflict between building code or dictionary definitions with the definitions contained in this Ordinance, the definition herein shall prevail. Additional definitions may be included in the Special and Supplemental District Regulations of this Ordinance.

Section 210.

GENERAL CONSTRUCTION OF LANGUAGE

The following general rules of construction shall apply to the textual provisions of the Zoning Regulations:

- A. Headings: Section and subsection headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision of the Zoning Regulations.
- B. Illustration: In case of any difference of meaning or implication between the text of any provision and any illustration, the text shall control.
- C. Shall and May: “Shall” is always mandatory and not discretionary “May” is discretionary.
- D. Tenses and Numbers: Words used in the present tense include the future and words used in the singular include the plural, and the plural to singular, unless the context clearly indicates the contrary.
- E. Conjunctions: Unless the context clearly indicates the contrary to the following conjunctions shall be interpreted as follows.
 1. ”And” indicates that all connected items or provisions apply.
 2. “Or” indicates that the connected items or provisions may apply singly or in any combination.
 3. “Either...or” indicates that the connected items or provisions shall apply singly but not in combination.
- F. Public Officials: All public officials, bodies, and agencies to which reference is made are those of the Tunica County Government unless otherwise indicated.

- G. Ordinance: As referred to herein shall mean any order, resolution, rule or legal regulation adopted by the Board of Supervisors.

Section 220.

GENERAL TERMS

- A. Building Official- The officer or other designated authority, or their duly authorized representative who is charged with the administration and enforcement of the Building Code.
- B. Board or Board of Supervisors shall have the same meaning.
- C. Commission or Planning Commission shall have the same meaning.
- D. Comprehensive Plan – The Tunica County Comprehensive Plan adopted _____.
- E. County Planner - A person appointed by the Board of Supervisors to administer the requirements of the Zoning Regulations.
- F. District or Zone – shall have the same meaning and shall refer to districts established by the Zoning Regulations unless otherwise indicated.
- G. Federal – shall mean the Government of the United States of America.
- H. Governing Authority – shall mean the Board of Supervisors of Tunica County.
- I. Section - means a section of the Zoning Regulations unless otherwise indicated.
- J. State - shall mean the State of Mississippi.
- K. Used - includes “arranged for, ” “designed for,” “occupied” or “intended to be occupied for.”
- L. Zoning Map - means the official zoning map or maps maintained by the County Planner.
- M. County Engineer - means a licensed professional engineer appointed by the Board of Supervisors to review and approve certain items stipulated by the Zoning Regulations.

Section 230.

GLOSSARY

Abandonment: To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting: Having property or district lines in common.

Access Point: A driveway, local street or collector street intersecting an arterial street; or a driveway or local street intersecting a collector street; or a driveway or local street intersecting a local street.

Accessory Use: Any use on the same lot as a principal building or use that is subordinate or incidental to the main use of the lot. (See also home occupation).

Accessory Structure (Appurtenant Structure): A subordinate structure that is located on the same lot as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation and be designed to have minimum flood damage potential. Examples of accessory structures include, but are not limited to, detached garages, carports, storage sheds, pole barns and hay sheds. When located in a flood hazard district, an accessory structure shall be designed to have minimal flood damage potential, shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters, shall be firmly anchored to prevent flotation and service facilities such as electrical and heating equipment shall be elevated or floodproofed.

Addition (to an existing building): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter load-bearing walls is considered new construction. An addition may also include the addition of a second story.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for treating, or storing the produce: provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

Agriplex: An agricultural-based meeting and display complex that may include the temporary outdoor display of agricultural equipment and products. This use may include meeting and convention space and provide for the temporary demonstration and display of activities customary to the production and processing of agricultural products. Agriplex uses shall be permitted within in this facility for agricultural research, education, sales and promotion exhibits. Permitted activities and uses may include but are not limited to the following:

1. Aquaculture production and food processing
2. Farm equipment demonstration and sales
3. Agricultural fertilizer and chemical exhibits and sales
4. Livestock production, demonstration and sales
5. Horticultural displays and plant greenhouse or nursery and sales
6. Bee keeping production and exhibits
7. Farmers market, indoor and outdoor

8. Nature study and conservation demonstration areas
9. Agricultural research services
10. Other similar uses as approved

Airport: Any area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley: A public or private right-of-way used primarily for vehicular service that affords only a secondary means of access for properties abutting thereon.

Alteration, structural: Any change in the supporting members or a building or structure, such as bearing walls, columns, beams, or girders: provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration.

Amusement arcade: An establishment that provides arcade-type entertainment including such items as pinball machines, video games, pool tables, miniature golf and other amusements.

Antenna: (See also satellite dish antenna and tower) Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

Apartment: One dwelling unit, including living, cooking and sanitary facilities in a multi-family structure.

Applicant: Any person, individual, firm, partnership, association, corporation, trust or any other group or combination acting as a unit that makes a formal application to the Planning Commission in accordance with these regulations. (See also: Developer).

Aquaculture: Land devoted to the hatching, raising, breeding, production and processing of fish or other aquatic plants or animals.

Automobile wrecking yard: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which for a period exceeding 30 days, have not been capable of operating under their own power and / or from which parts have been or are to be removed for reuse or sale, shall constitute prima-facie evidence of an automobile wrecking yard. (See also: Junkyard).

Bar and / or cocktail lounge: Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and law excludes minors thereon by law. It shall not mean premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages comprise less than 25 percent of the gross receipts.

Bed & Breakfast inn or tourist home: A residential structure or portion thereof where short-term lodging rooms and meals are provided. The operators of the inn shall live on the premises or in adjacent premises. The inn shall contain no more than six guestrooms where lodging is provided for compensation.

Bedroom: A room in a dwelling unit planned and intended primarily for sleeping.

Billboard: An object, device, display, sign, or structure displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or place that is not on the premises on which the billboard is located. This definition shall also include an object, device, display, sign or structure used to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a billboard structure shall constitute a separate billboard.

Boarding House or Rooming House: A building in which lodging and/or meals are provided for compensation for two or more persons for a prearranged time period.

Borrow Pit: Any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction, land leveling, and swimming pool construction.

Buffer, Perimeter Landscape: A continuous area of land set aside along the perimeter of a lot in which landscaping is used to provide a transition between uses and to reduce the environmental, aesthetic, and other impacts of one type of land use upon another.

Buildable Area of a Lot: That portion of a lot bounded by the required front, rear and side yards.

Building: A structure having a roof supported by columns or walls and built for the support, shelter or enclosure of persons, animals or property of any kind.

Building Height: The vertical distance from grade to the highest finished roof surface in the case of flat roofs, to the deck line in the case of mansard roofs and to the average height between eaves and the ridge for gable, hip, and gambrel roofs. Building height shall be measured from the grade or from the curb level if the building is not more than ten (10) feet from the front lot line.

Building Line - Front, Side, Rear: Lines that define the required area for the front, side and rear yards, as set forth in this Ordinance. This line is usually fixed parallel to the lot line and is equivalent to the required yard.

Building, Main or Principal: A building in which the primary use of the lot is conducted.

Business Services: Establishments that provide aid or merchandise to retail trade establishments including, but not limited to: advertising firms; consumer and mercantile credit reporting and collection firms; duplicating, mailing and stenographic services; dwelling and building cleaning services; photo finishing; and trading stamp service.

Buffer Area: A strip of land identified on a site plan or subdivision plot, established to protect one type of land use from another and use that is incompatible. Normally, the area is landscaped and kept in open space use.

Building or front setback line: An imaginary line parallel to the street line that passes through the point of the principal building nearest the front lot line.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, recreational vehicles and major recreational equipment and which is primarily used for recreational purposes and retains an open air or natural character.

Canopy: An extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

Casino, gaming: An entertainment facility or structure which legally operates as a government-licensed enterprise open to the public in which gaming devices and games are offered to players with food, beverages and retail products normally sold to patrons. The site shall also include all accessory structures, private streets, parking areas, offices, and management facilities used by the enterprise.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematories, mausoleums, mortuaries and funeral homes when operated in conjunction with and within the boundaries of such cemetery.

Change of use: The replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, name, or management.

Child care facility: A place which provides shelter or personal care for four (4) or more hours of any part of the twenty-four hour day for six (6) or more children who are not related within the third degree computed according to civil law to the operator and who are under thirteen (13) years of age. There shall be four (4) classifications of child care facilities being defined as follows:

- a. *Child Care Center/Home*: An occupied residence in which shelter and personal care is regularly provided for sixteen (16) or more children who are not related within the third degree computed according to the civil law to the operator and who are under the age of thirteen (13) and receive care for any part of a twenty-four (24) hour day.
- b. *Child Care Center*: A facility (not a residence) in which shelter and personal care is regularly provided for six (6) or more children who are not related within the third degree computed according to the civil law to the operator and who are under the age of thirteen (13) and receive care for any part of a twenty-four (24) hour day.
- c. *Family Child Care Home*: An occupied residence in which shelter and personal care is regularly provided for five (5) or less children who are not related within the third degree computed according to the civil law to the provider and who are under the age of thirteen (13) years of age and are provided care for any part of the Twenty-four (24) hour day. These homes may be voluntarily registered with the Mississippi State Department of Health.
- d. *Group Child Care Home*: An occupied residence in which shelter and personal care is regularly provided for six (6) to fifteen (15) children who are not related within the third degree computed according to the civil law to the operator and who are under the age of thirteen (13) and receive care for any part of the twenty-four (24) hour day. Children related within the third degree are included in determining space and staff but are not included in the licensed number.

Church: Any structure used principally as a place wherein persons regularly assemble for religious worship, including sanctuaries, chapels, and cathedrals and on-site buildings adjacent thereto, such as parsonages, friaries, convents, and fellowship halls. Sunday Schools, rectories, recreation facilities, and parking facilities and grounds.

Circulation area: That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Clinic: Any establishment housing facilities for medical or dental diagnosis and treatment exclusive of major surgical procedures for patients who are not kept overnight on the premises.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, or the like, but not operated for profit, excluding churches, synagogues, or other houses of worship. A building or facility owned or operated by a corporation, association, or organization of persons for a social, educational, or recreational purpose.

Commercial: An occupation, enterprise, or employment related to the provision of products and services that is carried on for profit by the owner, lessee, or licensee. (See also retail and wholesale trade and financial, business, personal and professional services).

Communications Tower: Structure used for receiving and relay of communication signals and requiring external wire supports. Communications Towers are allowed only in the AG and M-1 Districts as Conditional Uses. (See also: Wireless Communications; Wireless Communications Facility; Wireless Communications Structure).

Community Facility: A building or structure owned and operated by a governmental agency that provides a governmental service to the public.

Conditional use (special use): A use that owing to some special characteristics attendant to its operation or installation (for example, potential danger, noise, or traffic), is permitted in a district subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.

Condominium: An ownership arrangement in which the buyer purchases a dwelling unit within a multi-family or time share development but does not receive the title to any real property. It also refers to a building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Congregate housing: A residential facility for four or more elderly persons (age 55 or older) within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments, and counseling.

Conservation areas: Environmentally sensitive and valuable lands protected from activities that would significantly alter their ecological integrity, balance, or character. Conservation areas may include freshwater marshes, lakes, hardwood swamps, wetlands and other areas of significant biological character.

Construction office, temporary: A one-story structure used during the construction period of a principal building or structure on the premise or within a subdivision or project.

Convenience Store: Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, and possibly gasoline, if pumps are provided. It does not include or offer any automobile repair services.

Cultural Activity: Any institution concerned with the appreciation of nature and the humanities such as but not limited to museums, art galleries, historic sites and aquariums.

Day Care Center: A place operated by a person, social agency, corporation, institution, or other group that receives pay for the care of six (6) or more children under thirteen (13) years of age for less than twenty-four (24) hours per day without transfer of custody.

Density: Maximum number of dwelling units per acre allowed by this Zoning Ordinance.

Developer: An individual, partnership, corporation, or other legal entity or agent thereof which undertakes the activities covered by this Ordinance. The term "developer" may include "subdivider", "owner" or "builder" even though the persons and their precise interests may vary at different project stages. (See also: Applicant).

Development: A manmade change to improved or unimproved real estate, including, but not limited to, the division of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; also includes mining, dredging, filling, grading, paving, excavating, drilling operations, land disturbance, permanent storage of materials and any use or extension of the use of land.

District: Any section or sections of Tunica County for which the regulations governing the use of land, density, bulk, height, and coverage of buildings and other structures are uniform. Also known as a zoning district.

Driveway: A privately owned or maintained access from a property or lot to a street or road. All residential driveways shall be paved with gravel as a minimum. All commercial drives shall be paved with a dust-free surface. A single lane drive shall be a minimum of sixteen (16) feet wide at the street and all two (2) lane drives shall be a minimum of twenty-four (24) feet wide. No driveway shall serve more than two (2) residential units.

Dwelling: A building or portion thereof which is designed for or used for human residential habitation. For the purpose of this Ordinance, the term "dwelling" shall not include boarding or rooming houses, motels, hotels, or other structures designed for transient residence.

Dwelling, Multi-family: A building designed for occupancy by three (3) or more families living independently of each other.

Dwelling, Single-family, Attached: A one-family dwelling attached to two or more one-family dwellings by a common vertical fire wall with each dwelling being located on a separate lot. This definition shall include zero lot line development.

Dwelling, Single-family, Detached: A building designed for or occupied exclusively by one (1) family which has no connection by a common wall to another building or structure similarly designed.

Dwelling, Townhouse: An attached residential dwelling unit for occupancy by one (1) family constructed in a row with each unit located on a single lot. Each dwelling unit is separated from the adjoining unit in each story by an adjoining fire resistant wall, which has no opening in it and extends from the lowest floor to the roof with each dwelling unit having independent access to the exterior in the ground floor. For the purpose of this ordinance a townhouse designation shall apply to three (3) or more units built contiguous to each other. This definition does not preclude condominium standards as set forth in the Building Code. This definition does not include zero lot line development.

Dwelling, Two-family (duplex): A building designed to be occupied by two families, living independently of each other having one wall common to both dwelling units, and located on one lot.

Dwelling Unit: One or more rooms in a single-family detached or attached structure, two-family duplex, townhouse, or multi-family structure that is designed as a unit for occupancy by one (1) household that includes permanent provisions for cooking, living, and sleeping purposes.

Easement: The right of a person, government agency, or public utility company to use a designated portion of public or private land owned by another for a limited and specified purpose.

Educational Facilities: Established schools including primary, secondary, universities, colleges, junior colleges and various private facilities such as correspondence schools, vocational schools and art, dance and music schools.

Elevated Building: A non-basement building that is built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

Elevation Certificate: A certified statement that verifies the elevation information of a building.

Emergency shelter/mission: A nonprofit, charitable, or religious organization providing boarding and/or lodging and ancillary services on its premises to primarily indigent, needy, homeless, or transient persons. A facility providing temporary housing for one or more individuals who are temporarily homeless.

Erosion: The wearing away of the land surface by running water, wind, ice or other geological agents, or the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution system, collection, communications supply or disposal systems, including poles, wire, mains, drains, sewers, pipes, conduits, cables, traffic signals, in connection therewith, but not including buildings or substations reasonably necessary for the furnishing of adequate services by such public utilities or municipal departments or commissions, or for the public health or safety or general welfare.

Factory Built Housing: A factory built structure designed for long term residential use. For the purposes of these regulations, factory built housing consists of three (3) types: modular homes, mobile homes and manufactured homes.

Family: One or more persons related by blood, marriage, or other legal arrangement, or a group of unrelated individuals not to exceed six unrelated persons living as a single non-profit housekeeping unit, or as otherwise defined in State law.

Farm: An area of more than ten (10) acres located outside a recorded subdivision which is used for the growing of the usual farm products such as vegetables, fruit, trees, hay, cotton, and grain, and their storage on the area, as well as the raising thereon of the usual farm poultry and farm animals, such as horses, mules, cattle, sheep, swine, and fish. The term "farming" includes the operating of such an area for one or more of the above uses shall be secondary to that of the normal farming activities, and provided further that farming does not include the extraction of minerals, the feeding of collected garbage or offal to swine or other animals or intensive livestock raising, such as commercial feed lots, large batteries of rabbit hutches, or poultry lots or coops.

Farm building or structure: Any building or structure upon a farm having no dwelling facilities and constituting a necessary accessory building or structure for treating, processing, storing, and assembling of farm produce or products associated with farm production, and/or the storage and maintenance of tools and/or implements and equipment involved in normal farming activities conducted on the farm.

Fence: A structure, other than a building, which is a barrier and used as a boundary or means of protection, confinement, or privacy.

Financial Services: Establishments that provide banking, investment or related services.

Flea Market: An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage or yard sales.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from a) the overflow of inland or tidal waters; b) the unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain: Any land area susceptible to being inundated by flood waters from any source.

Floodway: A channel of a river or other watercourse and adjacent land areas either natural or excavated or bounded by dikes and levees that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. The floodway is sometimes considered the transitional area between the active channel and the floodplain.

Floor Area/Gross: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the exterior faces of exterior walls. The term gross floor area shall include basements, elevator shafts, stairwells at each story, floor space used for mechanical equipment with structural headroom of six (6) feet, six (6) inches or more, penthouses and mezzanines.

Floor Area Ratio: Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Frontage: The frontage is that side of a lot abutting on a street or road and ordinarily regarded as the front of the lot, but shall not be considered as the ordinary side line of a corner lot.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services use in preparation of the dead for burial, b) the storage of caskets, funeral urns, and other related funeral supplies and c) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

Garage, Private: A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

Garage, Repair: A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (See also: Service Station).

Governing Authority: The Board of Supervisors of Tunica County.

Governmental Services: Fire, Police, Judicial and other services provided by the government.

Grade: The amount of rise or descent of a sloping land surface, usually measured as a percent where the numbered percent refers to the amount of vertical rise or fall, in feet, for every 100 feet horizontally. Also refers to the ground elevation used for the purpose of regulating the height of a building. The ground elevation used for this purpose shall be the average of the finished ground elevations at the front line of the building.

Group Home for the Handicapped: A dwelling shared by four or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible. The term shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts or other housing facilities serving as an alternative to incarceration.

Guest House: An accessory building containing a lodging unit with or without kitchen facilities, and used to house occasional visitors or non-paying guests of the occupants of a dwelling unit on the same site.

Habitable Space: Areas within the building designed and/or used as living quarters for human beings.

Hardship: Hardship, as related to variances of this Ordinance, means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Supervisors requires that the variance is exceptional, unusual and peculiar to the property involved. Mere economic or financial hardship alone is not considered to meet the standard of exceptional under this Ordinance. Inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive or requires the property owner to build elsewhere or put the parcel to a different use that originally intended.

Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

Health/Recreation Facility: An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.

Health Club: Health club means, but is not limited to, gymnasiums (except public), private clubs (athletic, health, or recreational), reducing salons, and weight control establishments.

Heliport: Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic Area: A district or zone designated by a local authority, state or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because

of their association with history, or because of their unique architectural style and scale, including color, proportion, form and architectural detail, or because of their being a part or related to a square, park, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.

Historic Structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Home Occupation, Urban: An occupation profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood. Without limiting the generality of the foregoing, use is not defined as having an insignificantly adverse impact on the surrounding neighborhood if: a) goods, stock in trade, or other commodities are displayed, b) any on-premises retail sales occur, c) more than one person, not a resident on the premises, is employed in connection with the purported home occupation, d) it creates objectionable noise, fumes, odor, dust or electrical interference or, e) more than 25 percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than 500 square feet of gross floor area (whichever is less), is used for home occupation purposes.

Home Occupation, Rural: An accessory use to a customary farming operation or a non-farm household located in a rural area designed for gainful employment involving the sale of goods and services that is conducted either from within the dwelling and/or from accessory buildings located within 500 linear feet of the dwelling unit occupied by the family conducting the home occupation.

Homeowners' or Property Owners' Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of a fixed area that may take permanent responsibility for costs and upkeep of semiprivate community facilities and grounds.

Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-

patient departments, training facilities, central services facilities, and staff offices that are an internal part of the facilities.

Hotel: A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms and recreational facilities.

Housing for the Elderly: Multifamily dwelling units occupied by persons 55 years or older. In case of double occupancy of a unit, only one (1) resident is required to be at least 55 years of age. The housing must be self-contained and physically accessible to elderly citizens.

Improvements: Physical changes made to raw land and structures on or under the land surface in order to make the land more usable for human activity. Typical improvements in these regulations would include but not be limited to grading, street pavements, curbs, gutters, drainage ditches, storm and sanitary sewers, street name signs, and street trees.

Industry, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, Light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Institution: A building occupied or operated by a non-profit society, corporation, individual foundation or governmental agency for the purpose of providing charitable, social educational or similar services of a charitable character to the public.

Juke Joint: A small, inexpensive local roadside establishment associated with the rural Mississippi Delta that offers liquor, music and dancing.

Junkyard: An open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Materials shall include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard is also considered a junkyard.

Kennel: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Kennel, Private: Any building or buildings or land designed or arranged for the care of dogs and cats or other household animals belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.

Landfill: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

Laundromat: A business that provides coin-operated clothes washing, drying, and/or ironing machines to be used by customers on the premises.

Loading Space: An area logically and conveniently located to provide temporary parking for delivery vehicles while loading and unloading merchandise or materials. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

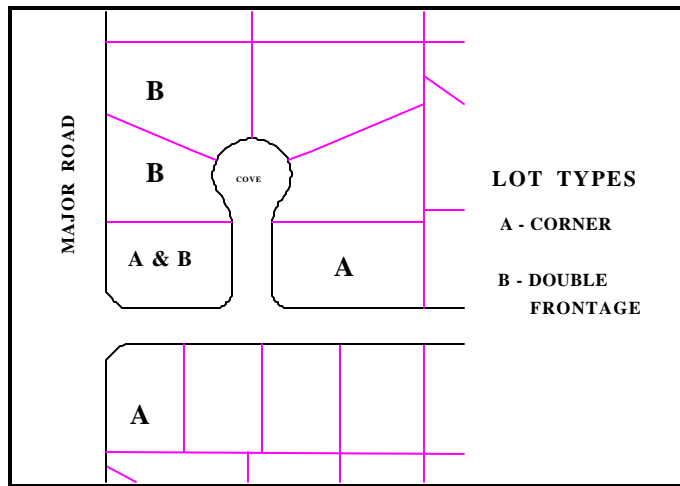
Lot: A piece of land that is occupied or intended to be occupied, whose boundaries have been established by a legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. A lot shall have at least the minimum area required for the zone in which it is located and should have its principal frontage on a street or road. If a public body of any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to, or a lesser interest in, a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition or a private road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained, or the road so created, is such as effectively to prevent the use of this parcel as one (1) lot, then the land on either side of this strip shall constitute a separate lot.

Lot Area: The total horizontal area between lot lines.

Lot Corner: A lot that fronts on two (2) or more streets at the junction of those streets (See Figure II-1).

Lot Coverage: The lot area covered by all buildings located thereon, expressed as a percentage of the total lot area.

Figure II-1 – Lot Types



Lot Depth: The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot that fronts on two or more non-intersecting streets (See Figure II-1).

Lot, Flag: Lots or parcels that the county has approved with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.

Lot, Interior: An interior lot is a lot other than a corner lot.

Lot Line, Front: On an interior lot, the lot line abutting a street: or on a corner lot, the shorter lot line abutting a street: or on a through lot, the lot line abutting the street providing the primary access to the lot: or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

Lot Line, Rear: The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front line. A lot bounded by only three lot lines will not have a rear lot line.

Lot Width: The horizontal distance between side lot lines, measured at the required front setback line.

Lowest Adjacent Grade: the elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

Major Road Plan: The official plan adopted by the Tunica County Board of Supervisors (as part of the County Comprehensive Plan) that designates types and locations of major and collector streets within the County limits.

Manufacturing: Establishments engaged in the mechanical or chemical transformations of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquids.

Manufactured Home: A factory-manufactured movable home as provided in *Section 75-49-3, Mississippi Code of 1972, Annotated*. A residential dwelling, transportable in two or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured Homes are defined by and constructed in accordance with, the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (HUD Code), and manufactured after June 14, 1976. For the purposes of this ordinance, this definition shall include Modular Homes but excludes Mobile Homes as defined below.

Market Value: The building value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

Mean Sea Level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Medical Services: Those establishments which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums, convalescent and rest home services.

Mitigation: Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

Mixed Use Development: The development of a tract of land or building or structure with two or more different uses such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

Mobile Home Park: A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing or mobile homes for dwelling purposes.

Mobile Home: Under *Section 75-49-3, Mississippi Code of 1972, Annotated*, a mobile home means a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. It is a structure that is transportable in one or more sections, that, in the traveling mode is eight (8) feet or more in width and thirty-two (32) body feet or more in length, or, when erected on site, is two hundred fifty-six (256) or more square feet, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes any plumbing, heating, air conditioning and electrical systems contained therein.

Model Home: A residential structure in an approved subdivision under construction that is used for a temporary period of time to display furnishings and building materials such as carpet, wallpaper and paint color and to display layouts of subdivision plans and home plans for individual lots within the subdivision. A model home may be staffed with homebuilders, sales agents or real estate brokers to show, assist and contract with potential purchasers of homes within the subdivision.

Motel: A building or group of buildings containing apartments and/or rooming units. Such building or group of buildings is designed, intended, or used primarily for the accommodation of automobile travelers and provides automobile parking conveniently located on the premises.

Nightclub: A commercial establishment that may or may not dispense alcoholic beverages for consumption on the premises and in which dancing is encouraged.

Non-conforming Lot: A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Non-conforming Structure or Building: A structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Non-conforming Use: Any use of building or premises which lawfully existed prior to the adoption of, or amendment of this Ordinance, but which no longer complies with the use regulations of the district in which it is located.

Nursing Home: A building or structure where aged or infirm persons reside on a twenty-four (24) hour basis and are provided with food, shelter and nursing care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Office: Any room, studio, suite, or building in which the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by a salesman, sales representative or manufacturer's representative; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers,

accountants, real estate brokers, insurance agents and landscape architects; and including offices for dentists, physicians or other medical practitioners.

Open Space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

Open Space, Common: Open space within or related to a planned development, not individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Outdoor Storage: The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

Parcel: A continuous quantity of land in the possession of or owned by, or recorded as the property of the same person or persons.

Park: An open area set aside for recreational, educational, cultural or leisure activities, such as, but not limited to, playgrounds, athletic fields and picnic areas and is not used for the operation of a profit making venture.

Parking Lot: An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

Parking Space: An unobstructed space or area other than a street or alley that is required by this Ordinance to be permanently reserved for parking one (1) motor vehicle. Except on lots occupied by single-family and two-family dwellings, parking spaces and driveways shall be arranged as to provide for both ingress and egress into any street by forward motion of the parked or parking vehicle.

Permanently-Moored Vessel: A floating watercraft or other floating artificial contrivance not capable of moving under its own power which is used for riverboat gaming activities or an accessory structure to support riverboat gaming activities.

Pedestrian Way: A sidewalk or similar facility that is provided primarily for the movement of pedestrians within or between developments.

Perimeter Landscaping: Landscaped areas intended to enhance the appearance of parking lots and other outdoor auto related uses or to screen incompatible uses from each other along their boundaries.

Permitted Use: Any use specifically identified as being allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Personal Services: Establishments which provide services which include, but are not limited to, laundry, beauty, funeral, and other services to individuals.

Planned Development: Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building locations, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements, as will be, for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

Plant Nursery: Any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

Principal Building: A building in which the primary use of the lot on which the building is located is conducted.

Principal Use: The main use of land or structures, as distinguished from a secondary or accessory use.

Private School: A facility not operated by a public entity that may provide academic instruction from kindergarten through high school. This definition shall not include a home-based school.

Professional Services: Establishments which provide services which include, but are not limited to, architectural, engineering, legal, or accounting.

Public Assembly Facility: Any of the following types of institutions or installations where community activities are typically performed, such as: parochial and private clubs, lodges, meeting halls, recreation centers and areas; temporary festivals; theaters; public, parochial and private museums and art galleries; places of worship, including any structure or site such as a church, synagogue, chapel, sanctuary or cathedral, used for collective or individual involvement with a religious activity, such as rites, rituals, ceremonies, prayer and discussion; public community centers and recreational areas such as playgrounds, playing fields and parks.

Public Hearing: A meeting for the review of a matter where the public may present opinions. A public hearing may take place during a regular meeting of the Planning Commission or Board of Supervisors and is held in accordance with state laws.

Public Uses: Facilities such as, but not limited to parks, schools, and offices owned and operated by governmental bodies.

Public Service Facilities: Structures used and operated by a government entity for the benefit of the public. These would not include detention centers, prisons or mental health sanitariums.

Public Utility: Any plant or equipment for the conveyance, production, transmission, delivery of or furnishing of gas, power, water or sewage facilities, either directly or indirectly to or for the public.

Recreational Activities: Sports activities, playground and athletic areas, swimming areas, marinas and other similar activities.

Recreational Facilities: Country clubs, riding stables, golf courses, public swimming pools and other similar areas or facilities.

Recreational Vehicle: A vehicle of 400 square feet or less towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed to provide temporary living quarters for recreation, camping, travel or seasonal use. The term recreational vehicle shall include, but shall not be limited to, travel trailers, pick-up-campers, camping trailers, motor coach homes, converted trucks and buses.

Recreational Vehicle (RV) Park: Any parcel of land upon which recreational vehicle sites are located, established, or maintained for temporary occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Recycling Center: A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Recycling Collection Point: A collection point for recyclable items, such as bottles, cans and newspapers, located either in a container or small structure.

Repair Services: Those establishments which repair, mend or overhaul merchandise for households or businesses, not to include automobile body repair.

Required Yard, Front, Side, and Rear: See Building Line.

Research Laboratory: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Restaurant, Conventional: An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tearooms, and outdoor cafes. If alcoholic beverages are sold, they shall not comprise more than twenty-five (25) percent of the gross receipts.

Restaurant, Drive-in: An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

Restaurant, Drive Through: Any establishment whose principal business is the sale of food, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either: a) foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or b) the establishment includes a drive-up or drive-through service facility or offers curbside service.

Retail Services: Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.

Retail Trade: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right-of-Way (ROW): A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, communication, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and similar uses.

Roadside Stand: A temporary structure with a floor area of not more than 400 square feet, unenclosed, or partially enclosed, and so designed and constructed that the structure is easily portable.

Rooming House: A residential structure that provides lodging with or without meals, is available for permanent occupancy only, and which makes no provision for cooking in any of the rooms occupied by paying guests.

Runway: A defined area that is designed for landing and takeoff of aircraft along its length.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow disk, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

School: An educational facility that provides a curriculum of elementary and secondary academic instruction, including charter, parochial, public and private institutions of learning.

Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Self-service Storage Facility: A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares. (See also: Mini-Storage).

Services: Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places; establishments providing personal, business, repair and amusement services; health, legal, engineering, and other professional services; educational institutions; membership organizations, and other miscellaneous services.

Service Station: Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine rebuilding, automobile painting, and body work are conducted. (See also: Garage, Repair)

Setback: The required minimum horizontal distance between the building line and the related front, side, or rear property line as required by this Ordinance.

Shopping Center: A grouping of retail business and service uses on a single site with common parking facilities.

Sidewalk: A paved access way intended primarily for pedestrian conveyance and located within a right-of-way or pedestrian easement.

Sight Triangle: A triangular-shaped area formed by the right of way lines abutting the intersection and a line connecting points on these street lot lines at a distance of thirty-five (35') feet from the point of intersection of each right of way line. There are restrictions on things erected, placed or planted in this area that would limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign: Any identification, description, illustration or device, illuminated or non-illuminated, that is exposed to the view of potential clients or customers or the general public, is located on public or private property, inside or outside of buildings and that directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise or any emblem, painting, banner, pennant or placard designed to advertise, identify or convey information, except the following:

- a. Merchandise temporarily displayed in show windows that is available for sale on the premises and that does not include flashing, neon or colored lights
- b. National and/or State flags
- c. Decorative devices or emblems as may be displayed on a residential mailbox

Site Plan: A document or group of documents containing sketches, drawings, maps, photographs, and other material intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicular and pedestrian access, the provision of improvements, and the interrelationship of these elements.

Stable, Private: A building, incidental to an existing residential, principal use that shelters animals for the exclusive use of the occupants of the premises.

Stable, Public: An accessory building in which horses are kept for commercial use including boarding, hire, and sale.

Stealth Design (for a Wireless Communications Facility): Any communications tower or Wireless Communications Facility (WCF) which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and tower structures designed to look other than like a WCF and with a visual appearance whereby the structure suggests a purpose other than a WCF. This includes steeples, flagpoles and trees. Towers and other WCF utilizing Stealth Design may be approved by the Planning Commission and do not require a Conditional Use Permit under this Ordinance.

Story: That portion of a building included between the floor and the ceiling above the floor; or any portion of a building used for human occupancy, between the top most floor and the roof. A basement not used for human occupancy shall not be counted as a story. A basement shall be counted as a story if its ceiling is over six (6) feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

Story, Half: A story under a sloping roof, the finished floor area which does not exceed one half of the floor area of the floor immediately below it, or a basement used for human occupancy, the floor area of the part of the basement thus used not to exceed fifty (50) percent of the floor area of the floor immediately above.

Street or Road: A right-of-way for vehicular traffic, whether it is designated as an avenue, arterial, collector, boulevard, road, highway, street, expressway, lane, alley or other way, and for the purpose of these regulations, streets or roads are divided into the categories defined below.

Street, Arterial: A major highway used primarily for heavy through traffic that will be so designated on the Tunica County Major Road Plan.

Street, Arterial Highway: a major highway officially designated as a Federal or State Aid highway.

Street, Collector: A street designed to carry traffic from local streets to the arterial streets, including the principal entrance streets to a residential development and the streets for major circulation within such a development.

Street, Local: A street designed to carry traffic from residential areas to collector streets.

Street Line: The property line that bounds the rights-of-way that is set aside for use as a street. Where sidewalks exist and the location of the property line is questioned the side of the sidewalk farthest from the traveled street shall be considered as the street line.

Structure: Any thing constructed or erected, except a fence, the use of which requires location on the ground, or attachment to something being located on the ground.

Subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots, or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines, provided, however, that this definition of a subdivision shall not include division of land for agricultural purposes.

Telecommunications Structure: A building, tower or other structure and equipment used for the transmission, retransmission, broadcast or promulgation of telephone, telegraph, radio, television or other communications signals.

Temporary Emergency, Construction, or Repair Residence: A residence (which may be a mobile home) that is: a) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or b) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed, or c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. (1 year limit).

Temporary Structure: A factory assembled, movable building not designed or used as a dwelling unit which is towed on its own chassis composed of a frame and wheels. The structure is to be used without a permanent foundation.

Topography: General term to include characteristics of the ground surface such as plains, hills or mountains. Also refers to the degree of relief, steepness of slopes and other physiographic features of the land.

Tower: A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications. May also include private radio towers on residential sites in rural areas.

Truck Terminal: Land and buildings used as relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

Use: The purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

Utilities: Gas, water, electricity, sewer and telephone services provided by government agencies or private companies.

Variance: A relaxation of the dimensional requirements of the zoning regulations where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

Vehicle wash: An area of land and / or a structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

Veterinarians and Kennels, Small Animals: Any establishment maintained and operated by a licensed veterinarian for the surgery, diagnosis and treatment of diseases or injuries of animals. Such an establishment may include accessory boarding facilities provided that they are located within the building. This definition excludes livestock and other large animals.

Violation: The failure of a structure or other development to be fully compliant with the Zoning Ordinance and/or building code. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

Warehouse: A building used primarily for the storage of goods and materials.

Warehousing and Distribution: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Watercourse: A permanent channel designed to carry concentrated stormwater flows without erosion; applicable to open channels, roadside ditches and natural channels that are modified to accommodate increased flows generated by land development.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Wholesale Trade: Establishments or places of business primarily engaged in selling merchandise to retailer, to industrial, commercial, farm, or professional business users, or to other wholesalers, or acting as agents or brokers in buying merchandise for, or selling merchandise to such persons or companies.

Wireless Communications: Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes Federal Communications Commission (FCC) licensed commercial telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR) enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or may be under development.

Wireless Communications Facility (WCF): A WCF is any unstaffed facility for the transmission and/or reception of wireless telecommunication services, usually consisting of an antenna array, cabling and associated equipment and a support structure.

Wireless Communications Structure: A communications tower is a structure designed to support an antenna array. A monopole tower is permitted within the guidelines of this Ordinance. Guyed towers hereinafter referred to as Communications Towers, and requiring external wire supports are allowed only in the Agricultural and Industrial Districts as Conditional Uses.

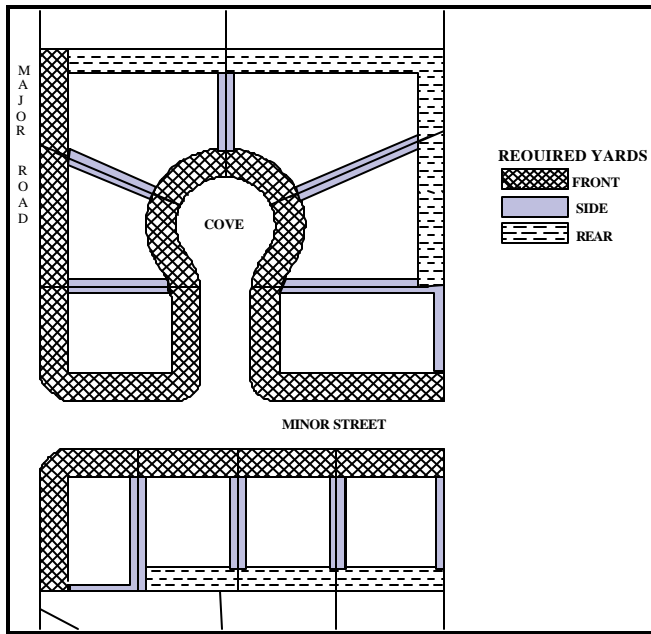
Yard: Any open space on the same lot with a principal building that is open, unoccupied and unobstructed by building from the ground to the sky except as otherwise provided in this Ordinance (see Figure II-2 - Required Yards). The measure of a yard shall be the minimum horizontal distance between any part of the principal building and the property or street right-of-way lines.

Yard, Front: The unoccupied space on the same lot with a building and situated between the street line and the front line of the building projected to the sideline of the lot. (See Figure II-2)

Yard, Side: Yard between the main building and the sideline of the lot, and extending from the front yard line to the rear yard line on a corner or interior lot, or from one front yard line to the other front yard line on a double frontage lot. (See Figure II-2)

Yard, Rear: A yard extending the full width of the lot between a main building and the rear lot line. (See Figure II-2)

Figure II-2 – Required Yards



Zero Lot Line: The location of a building on a lot in such a manner that one or more of its sides rest directly on a lot line.

Zoning District: Any section of the County for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of the yards and the intensity of use are uniform.

ARTICLE III

ZONING DISTRICTS AND OFFICIAL MAP

Section 300.

TITLE

Tunica County is hereby divided into zones, or districts, listed below and as shown on the Official Zoning Map which, together with all explanatory matter therein, is hereby adopted by reference and declared to be a part of this resolution.

The Zoning Districts shall be known as:

A-1	Agricultural Residential District
A-5	Agricultural District
R-R	Rural Residential District
R-1	Single Family Residential District
R-2	Single Family Residential District
R-3	Multiple Family Residential District
M-H	Manufactured Home Residential District
O	Office District
C-1	Neighborhood Commercial Services District
C-2	Highway Commercial District
RA	Resort Area District
CA	Casino District
I-L	Light Industrial District
I-H	Heavy Industrial District
PR	Preservation/Recreation District

Section 310.

OFFICIAL ZONING MAP

The zoning districts set forth herein are identified and delineated on record map(s) entitled "Official Zoning Map of Tunica County, Mississippi", on file in the office of the County Planner.

- A. The zoning map shall carry the signature of the President of the Board of Supervisors and the County Planner certifying that it is the official map adopted by the Board of Supervisors. All amendments shall be identified and detailed on the map and similarly certified. No changes of any nature shall be made in the zoning map or matter shown therein except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by person or persons shall be considered a violation of this resolution. Regardless of the existence of purported copies of the zoning map which may from time to time be made or published, the zoning map located in the office of the County Planner shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in Tunica County.
- B. The zoning map shall be drawn on stable base mylar or other durable material from which prints can be made, shall be dated, and shall be kept current by the County Planner. No amendment to this ordinance that involves any matter portrayed on the zoning map shall become effective until after such change and entry have been made on the map.

- C. The official zoning map is adopted and incorporated herein by reference. The zoning map may be prepared in sections, as required, to adequately portray the boundaries of districts. The zoning map may include supplemental zoning maps as required to portray street classifications, boundaries of areas subject to specific limitations or exceptions, or such other information as may be required by the Zoning Regulations.
- D. In the event that the zoning map becomes damaged, destroyed, lost, or difficult to interpret, because to the nature or number of changes and additions, the Board of Supervisors may, by resolution, adopt a new zoning map. The new zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such correction shall have the effect of amending the original zoning map or any subsequent amendment thereof.

Section 320.

INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the zoning map accompanying and made a part of this ordinance, the following rules shall apply:

- A. Where a boundary line is given a position within a street, road, railroad, or alley, it shall be deemed to be in the center of the street, road, railroad, or alley; and if the actual location of such street, road, railroad, or alley varies from the location as shown on the zoning map, then the actual location shall control.
- B. Where a boundary line is shown as approximately following a municipal, county, or state boundary, it shall be construed to follow such boundary.
- C. Where a boundary line is indicated as approximately following the centerline of streams, rivers, bayous, ditches, lakes, or other bodies of water, it shall be construed to follow such centerline.
- D. Where a boundary line is shown as being located a specific distance from a street or road line or other physical feature, this distance shall control.
- E. Where a boundary line is shown adjoining or coincident with a levee, it shall be deemed to be in the center of the levee maintenance road and distances measured from a levee shall be measured from the center of the designated maintenance road.
- F. In unsubdivided areas where district boundaries, as shown on the zoning map, do not coincide or approximately coincide with road line, alley lines, or lot lines, and no dimensions are shown, the location of such district boundary lines shall be determined by the use of the scale appearing on the zoning maps.
- G. Where a public road, street, alley, or right-of-way is officially vacated or abandoned, the regulations applicable to abutting property shall apply equally to each half of such vacated or abandoned street, alley, or right-of-way.

- H. Should any uncertainty remain as to the location or meaning of a boundary or other feature indicated upon the zoning map, said location or meaning shall be determined by the Tunica County Planning Commission.

Section 330.

COMPLIANCE WITH THE REGULATIONS

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind or structure or land, except as hereinafter provided:

- A. No building shall be erected, converted, placed, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose and in the manner permitted in the district in which the building or land is located.
- B. No land required for yards, open spaces, or off-street parking or loading spaces about an existing building or any building hereafter erected or structurally altered shall be considered as required yard of lot area for more than one (1) building.
- C. Every building hereafter erected or structurally altered shall be located on an approved lot and in no case shall there be more than one (1) main building on one (1) lot except as otherwise provided in these regulations.
- D. No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of this ordinance.

The provisions of these regulations shall be considered the minimum requirements for the promotion of the public health, safety, morals, comfort and welfare. Where provisions of the regulations of this ordinance impose greater restrictions than those of any statute, other ordinance or regulations, the provisions in the regulations of this ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this ordinance, the provision of such statute, other ordinance or regulation shall be controlling.

ARTICLE IV SCHEDULE OF DISTRICT REGULATIONS

SECTION 400. ALL DISTRICTS

Except as hereinafter provided, no land and no buildings shall be used except for a purpose permitted in the district in which it is located. No building shall be erected, converted, placed, enlarged, reconstructed, structurally altered or used except for a purpose and in a manner permitted in the district in which the building is located.

All permitted uses and conditional uses in each district are shown on Chart 1, Uses Permitted in Zoning Districts. All setbacks and other bulk regulations are shown on Chart 2, Bulk Regulations and Permitted Residential Densities

Section 401. A-1 AGRICULTURAL RESIDENTIAL DISTRICT

The intent of this district is to permit, conserve, and promote the utilization of agricultural land, which plays a vital role in the local economy. A vast amount of open, undeveloped land should be used for agricultural purposes. Uses customary to agriculture, dwellings, and accessory structures will be allowed which are necessary to carry on agricultural activities. This district will also allow a range of single family residential dwellings at a rural density. Likewise, aquacultural practices shall be permitted in this district. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Also, this district is intended to conserve natural areas as open spaces, which are not developed for agricultural practices. The regulations are designed to protect the essentially open, rural character of the district by controlling the establishment of scattered business, industrial and other uses which might inhibit the best use of the land. The minimum land area for a residential lot in this district is one (1) acre.

Section 402. A-5 AGRICULTURAL DISTRICT

The intent of this district is to permit, conserve, and promote the utilization and preservation of agricultural land, which plays a vital role in the local economy. A vast amount of open, undeveloped land should be used for agricultural purposes. Uses customary to agriculture, dwellings, and accessory structures will be allowed which are necessary to carry on agricultural activities. Likewise, aquacultural practices shall be permitted in this district. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Also, this district is intended to conserve natural areas as open spaces, which are not developed for agricultural practices. The regulations are designed to protect the essentially open, rural character of the district by controlling the establishment of scattered business, industrial and other uses which might inhibit the best use of the land. The minimum land area for a residential lot in this district is five (5) acres.

Section 403. R-R RURAL RESIDENTIAL

The intent of this district is to accommodate single-family, detached residential development with a rural density. The minimum land area for a residential lot in this district is one (1) acre. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Agricultural use will be allowed on vacant lands located in this district.

Section 404. R-1 SINGLE FAMILY RESIDENTIAL

The intent of this district is to accommodate single-family, detached residential development at low densities in areas consistent with the Comprehensive Plan. The minimum lot size shall be 15,000 square feet. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Agricultural use will be allowed on vacant lands located in this district.

Section 405. R-2 SINGLE FAMILY RESIDENTIAL

The intent of this district is to provide areas for moderate density single family, detached residential use, with a minimum lot size of 10,000 square feet. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Agricultural use will be allowed on vacant lands located in this district.

Section 406. R-3 MULTIPLE FAMILY RESIDENTIAL

The intent of this district is to accommodate a wide range of residential development, including multiple family use with the maximum gross density of up to 16 dwelling units per acre. This district is appropriate for a mixture of attached and detached residential unit types and multiple family uses. It can also serve as a buffer between lower density single-family residential districts and higher intensity uses. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Agricultural use will be allowed on vacant lands located in this district.

Section 407. M-H MANUFACTURED HOME RESIDENTIAL

The M-H District is intended to provide locations for development of manufactured home residence parks and manufactured home subdivisions with standards that ensure a quality residential environment and compatibility with other residential neighborhoods. Manufactured home parks are maintained under one ownership and spaces are leased to tenants. Manufactured home subdivisions are platted and sold as lots. . Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are

permitted outright or as conditional uses, subject to requirements and conditions intended to preserve and protect the character of the district. Agricultural use will be allowed on vacant lands located in this district. This district also allows certain limited commercial uses such as day care and self-service laundry as conditional uses, to serve the residents of the manufactured home subdivisions and parks.

Section 408. O OFFICE DISTRICT

The office district is intended to serve as a location for professional offices and limited commercial and business services. This district may serve as a buffer between residential and other nonresidential uses. Site development regulations and performance standards are intended to ensure that uses will be compatible and complementary in scale and appearance with a residential environment. Agricultural use will be allowed on vacant lands located in this district.

Section 409. C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

The C-1 Neighborhood Commercial District is intended for neighborhood shopping facilities which provide limited business service and office facilities predominately for the convenience of residents of the area. Site development regulations and performance standards are intended to ensure that uses will be compatible and complementary in scale and appearance with a residential environment. Agricultural use will be allowed on vacant lands located in this district.

Section 410. C-2 HIGHWAY COMMERCIAL DISTRICT

This district is intended predominately for major mixed-use developments of a service nature, which typically have operating and traffic generation characteristics requiring location on major roads and highways. Site development regulations and performance standards are intended to ensure adequate access to and from all uses, and to permit combinations of office, service, commercial and business within a single district. Agricultural use will be allowed on vacant lands located in this district.

Section 411. RA RESORT AREA DISTRICT

The purpose of this district is to permit the development mixed use developments including residential, shopping and commercial centers entertainment, public, and open space and recreational uses of integrated design and various sizes to service the growing tourist industry in Tunica. This district shall be of such size, shape and location as to enable development of well-organized facilities with proper access streets, ingress and egress, off-street parking and loading space, and other requirements and amenities.

It is intended that the grouping of buildings and parking areas be designed to protect, insofar as possible, residential areas, and that screening from noise and light be provided where necessary.

A special Zoning Map has been developed that designates use areas within the Resort Area. This map divides the Resort Area into one of seven use areas: Low

Density Residential; Medium Density Residential; High Density Residential; Commercial Resort; Commercial General; Commercial Entertainment; and Public. A specific list of Permitted and Conditional Uses for each use area has been provided in Chart 3, Uses Permitted in Resort Area District. Minimum lot sizes, setbacks, and densities have been provided on Chart 4, Resort Area Bulk Regulations and Permitted Densities.

As stated above, the purpose of this district is to provide a maximum of flexibility for the development of mixed use projects. There are many large tracts in the resort area that would be suitable for major mixed use developments. Many tracts have been planned and re-planned as conditions have changed in the area. Flexibility should be provided in the location of uses, setbacks, and other bulk regulations in these overall plans. When these plans are inconsistent with the use areas on the Resort Area Zoning Map, an overall plan may be submitted as a Planned Development in accordance with the Standards and Criteria in Section 601 and the Application and Procedures in Section 602 of Article VI. Provided however, the use areas on the Resort Area Zoning Map and the Bulk Regulations may be amended by these Overall Plans, but in all cases the uses permitted shall be limited to the permitted and conditional uses allowed in Chart 3, Uses Permitted in Resort Area District.

Section 412. CA CASINO DISTRICT

This is a special district set aside for the purpose of the location of casinos and the accessory recreational, commercial, lodging, restaurant, and other uses that are part of an overall casino development. This district shall be located between the levee and the Mississippi River. Agricultural use will be allowed on vacant lands located in this district.

Section 413. I-L LIGHT INDUSTRIAL DISTRICT

The purpose of this district is to provide for a wide variety of light manufacturing establishments including assembling, processing, storage, and distributing activities. No new residential development shall be permitted except for watchmen and caretaker dwelling units. The districts should adjoin good highways or roads, which can accommodate heavy loads from truck traffic. In the "I-L" Light Industrial District, a building or premises shall be used only for general light industrial, warehousing, and other uses, including certain open or enclosed storage or products, materials, and vehicles, and including the following uses and any similar uses which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from other uses listed in this section. Such listed uses generally are wholesale establishments, service industries, and light industries that manufacture, process, store and distribute goods and materials, and are dependent on raw materials refined elsewhere. Agricultural use will be allowed on vacant lands located in this district.

Section 414.

I-H HEAVY INDUSTRIAL DISTRICT

This district is intended to provide area for industrial uses that are intensive in nature and could exert nuisance, environmental or safety factors to abutting use districts or neighboring residential areas. This district is created to assure that any heavy industrial development will be located within to protect the health, safety, and general welfare of residents and property owners in the County. Agricultural use will be allowed on vacant lands located in this district.

Section 415.

PR PRESERVATION-RECREATION DISTRICT

It is the intent of this district to protect the large riverine or riparian area of the County along the Mississippi River by creating a scenic zone to control misuse of the land and water: to promote recreational usage for county residents and tourists and to preserve natural and scenic beauty of the area. Agricultural use will be allowed on vacant lands located in this district.

Chart 1

USES PERMITTED IN ZONING DISTRICTS

	A-1	A-5	R-R	R-1	R-2	R-3	M-H	O	C-1	C-2	RA	CA	I-L	I-H	PR
AGRICULTURAL USES															
Agricultural, Aquacultural and Forestry Production:	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Agricultural flying service	C	X											X	X	
Agriplex											C				
Aquaculture food processing plant	C	X											X	X	
Beekeeping (apiary)	X	X													
Boat Dock, public or private	X	X										X	X	X	X
Bulk Storage of fuels for on premises agricultural activities	X	X											X	X	
Cotton gin, lumber mill, or grain elevator	C	X											X	X	
Fur bearing animal, rodent or reptile production farm		X													
Hunting and Fishing Club	C	X										X			X
Livestock production	X	X										X			X
Livestock auction or barn		X												X	
Nature Study area, wildlife preserve	X	X										X			X
Marina or bait shop with commercial stores not over 2,000 square feet	X	X										C			C
Plant nursery and horticultural activities	C	X								X			X		
Poultry hatchery and broiler production	X	X													
Roadside stand for display and sale of agricultural products produced on premises	X	X													
Seasonal farm worker housing	C	X													
Stable, public or private	C	X													
Zoo or wild animal park		C													
DWELLINGS AND ACCESSORIES															
Single Family Detached	X	X	X	X	X	X	X				P				X
Single Family Attached					C	X					P				
Two Family					C	P					P				
Townhouse					C	P					P				
Multiple Family						P					P				
Manufactured Homes	X	X*			C*	P*	X								P
Mobile Homes	X						X								P
Elderly housing, including congregate						P					P				
Life care facility for elderly						P									
Elderly dependent care facility						P									
Group home for the handicapped						P									
Accessory Buildings and Uses	X	X	X	X	X	P	X	X	X	X	X	P	X	X	X
Home Occupations	X	X	X	X	X	X	X				P				X
INSTITUTIONS															
Cemetery	X	X	C	C	C	C	C		C	C	C		C	C	C
Child care home	X	X	X	X	X	X	X								
Church	X	X	X	X	X	X	X	X	X	X	P		X	X	X
College, vocational school, or technical school	C		C							X	P		X	X	

X - Uses Permitted by Right

IV-6C - All of these uses require special Planning Commission approval as to location and screening

P – Requires Site Plan Approval

* - Requires specific design considerations

Chart 1 continued	A-1	A-5	R-R	R-1	R-2	R-3	M-H	O	C-1	C-2	RA	CA	I-L	I-H	PR
Hospital										X	P				
Lodge, Club, Country Club, or Golf Course	C	C	C	C	C	C	C		X	X	P	P			X
Museum	C	C						X	X	X		P			
Nursery School								X	X	X	P	P	X		
Parks/Recreation	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X
Public Building and/or service facility	X	X	X	X	X	X	X	X	X	X	P	P	X	X	X
Riding Academy, Private Stable	C	X													X
School	X	X	X	X	X	X	X		X	X	P		X	X	X
Post Office Facility	X	X	X	X	X	X	X	X	X	X	P	P	X	X	
COMMERCIAL															
Accessory residential above or behind commercial space									X	X					
Agricultural chemical sales										X			X	X	
Amusement arcade									X	X	P	P			
Automobile Service Station with vehicle wash									X	X	P		X		
Automobile repair									C	X			X		
Automobile Sales & Service										X					
Bakery, Retail									X	X	P		X		
Bank, savings and loan, or credit union								X	X	X	P		X	X	
Bar, cocktail lounge, or night club										X	P		X		
Barber or Beauty Shop								X	X	X	P	P	X		
Bus terminal or repair services										X			X		
Business and personal services								X	X	X	P		X		
Casino and Casino related uses												P			
Commercial indoor recreation or entertainment									X	X	P		X		
Commercial outdoor recreation and amusements										X	P				
Convenience store							C		X	X	P		P		
Cultural, Entertainment, & Recreational		P							X	X	P	P	X		P
Day Care Center							C	X	X	X	P	P	X		
Department or Discount Store										P	P				
Drug Store									X	X	P				
Dry Cleaning & Laundry Pick-up Station									X	X	P				
Dry Cleaning & Laundry										X	P				
Farmer's market, indoor or outdoor		C								X					
Farm equipment heavy equipment sales										X			X		
Flea market										X					
Flower or Plant Store (indoor)								X	X	X	P				
Funeral Homes									X	X					
Funeral Homes with crematory										X					
Furniture and appliance store									X	X	P		X		
Grocery and Food Markets									X	X	P				
Garage for Auto Repair									X	X			X		
General Service and Minor Repair Shop									X	X			X		
Greenhouse or Nursery-Commercial	X	X								X					
Hardware store										X					
Hotel or Motel										X	P	P			
Laundry, self service							C		X	X					
Lumberyard										X			X	X	
Medical or dental office or clinic								X	X	X	P				

X - Uses Permitted by Right

C - All of these uses require special Planning Commission approval as to location and screening

P - Requires Site Plan Approval

Chart 1 continued	A-1	A-5	R-R	R-1	R-2	R-3	M-H	O	C-1	C-2	RA	CA	I-L	I-H	PR
Mobile or manufactured home sales										X					
Offices								X	X	X	P	P	X	X	
Other Retail Services									X	X	P				
Package Liquor Store										P	P		P		
Pawn shop										X	C				
Personal Service Establishment								X	X	X	P				
Photo-Finishing-Pick-up Station									X	X	P				
Professional and research services								X	X	X	P		X	X	
Plumbing electrical, heating and ventilating shop										X			X	X	
Radio or TV Studio									X	X			X	X	
Recreation vehicles sales and service										X			X		
Repair services									X	X			X	X	
Restaurant, Conventional (Sit Down Dining)							C		X	X	P	P	X		
Restaurant, Drive In									P	P	P				
Restaurant, Fast Food (Drive through Service)									P	P	P				
Retail Stores									X	X	P	P	P		
Self storage facility							C			X			X		
Self storage facility with open area for automobiles, boats and recreational vehicles										X			X		
Services, Business								X	X	X	P		X		
Services, Personal								X	X	X	P		X		
Sexually oriented business													P	P	
Shoe Repair & Tailoring									X	X	P		X		
Truck sales and service										X			X	X	
Vehicle Wash									C	X			X	X	
Veterinarians Kennels, Small Animals		C							X	X			X		
Video rental									X	X	P				
INDUSTRIAL															
Fabrication, Processing, Packaging, Manufacture, Storage, Distribution of:															
Boxes, crates, furniture and other similar wood products													X	X	
Clothing, textiles and other fabric products													X	X	
Cosmetics, Drugs, Perfume, Pharmaceuticals, Toiletries, & Related Products													X	X	
Electrical or Electronic Equipment, Appliances & Instruments													X	X	
Fabricated Metal Products & Machinery													X	X	
Food & Beverage Products, except Live Animal Processing													X	X	
Jewelry, Silverware, Musical Instruments, Toys, Sporting Goods, Art Supplies													X	X	
Medical, dental, optical equipment													X	X	
Motor Freight Depot or Terminal													X	X	
Petroleum, Products and Distribution													X	X	
Stone, Clay, Glass and Concrete Products													X	X	
Live animal processing														X	
Parcel delivery and service center													X	X	
Printing & Publishing													X	X	

X - Uses Permitted by Right

P – Requires Site Plan Approval

C - All of these uses require special Planning Commission approval as to location and screening

Chart 1 continued	A-1	A-5	R-R	R-1	R-2	R-3	M-H	O	C-1	C-2	RA	CA	I-L	I-H	PR
Primary Metal distribution and storage														X	
River port														X	
Rubber and Plastic products manufacture													C	X	
Recycling center													X	X	
Transportation terminal for air, rail, truck, or water													X	X	
Utility Substation													X	X	
Utility Production or Treatment Station													X	X	
Warehouse													X	X	
Welding shop										X			X	X	
Wireless communication supporting structures	C	C	C							P	C		X	X	C
Wood products assembly and production													X	X	
Wholesale, Display										X			X	X	
Wholesale & Distribution													X	X	
Other light industrial uses													C		
Other heavy industrial uses														C	
OTHER USES															
Airstrip, private															
Borrow Pit	C	C											C	C	
Construction office, temporary	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dwelling for resident watchman or caretaker													X	X	
Heliport															
Homeowners or property owner's association recreation facility			X	X	X	X	X				X				
Planned Development	P		P	P	P	P	P	P	P	P	P	P	P	P	
Recreational vehicle (RV) park		C										C			X
Rifle or pistol range		C												C	
Sanitary landfill or refuse dumping site		C													
Temporary emergency, construction and repair residence (one year limit)	X	X	X	X	X	X	X								
Utility transmission, production, treatment or distribution facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

X - Uses Permitted by Right

C - Use requires special Planning Commission approval as to location and screening

P - Requires Site Plan Approval

Chart 2

BULK REGULATIONS AND PERMITTED RESIDENTIAL DENSITIES

	AREA	WIDTH (FEET)	FRONT (FEET)#	SIDE (FEET)	REAR (FEET)	HEIGHT (FEET)	UNITS PER ACRE	(%) LOT COVERAGE
A-1 AGRICULTURE/ RESIDENTIAL								
1. Single Family Detached Dwelling	1 Acre	150	50	25	50	35' or 2.5 stories	1	30
2. Manufactured Housing	1 Acre	150	50	25	50	35	1	30
3. Mobile Home	1 Acre	150	50	25	50	35	1	30
4. Agriculture	NA	NA	100	25	25	35	NA	NA
5. Other	2 Acres	150	50	25	50	35	NA	30
A-5 AGRICULTURE								
1. Single Family Detached Dwelling	5 Acres	250	100	50	50	35' or 2.5 stories	0.2	20
2. Manufactured Housing	5 Acres	250	100	50	50	35	0.2	20
2. Agriculture	5 Acres	250	100	50	50	35	0.2	20
3. Other	5 Acres	250	100	50	50	35	0.2	30
R-R RURAL RESIDENTIAL								
1. Single Family Detached Dwelling	1 Acre	150	50	25	50	35' or 2.5 stories	1	30
2. Agriculture	5 Acres	NA	100	25	25	35	NA	NA
3. Other	2 Acres	150	50	25	50	35	1	30
R-1 SINGLE FAMILY RESIDENTIAL								
1. Single Family Detached Dwellings	15,000 sq. ft.	100	40	10	35	35' or 2.5 stories	2.5	30
2. Other	2 Acres	150	50	25	50	35	1	30
R-2 SINGLE FAMILY RESIDENTIAL								
1. Single Family Detached Dwelling	10,000 sq. ft.	80	30	10	25	35' or 2.5 stories	3.5	30
2. Other	2 Acres	150	50	25	50	35		30
R-3 MULTI-FAMILY RESIDENTIAL								
1. Single Family Detached Dwelling	7,200 sq. ft.	60	25	5	20	35' or 2.5 stories	4.8	40
2. Manufactured Housing	7,200 sq. ft.	60	25	5	20	35'	4.8	40
3. Single Family Attached	4,000 sq. ft.	40	20	5	20	35	8	50
4. Townhouse Units	2,000 sq. ft.	20	20	0	10	35	12	NA
5. Two Family Dwelling	8,000 sq. ft.	80	25	5/0	20	35	8	40
6. Multi Family Dwellings	20,000 sq. ft.	200	35	25	25	35' or 2.5 stories	16	45
7. Other	2 Acres	150	50	25	50	35		30
M-H MANUFACTURED HOME RESIDENTIAL								
1. Single Family Detached Dwelling	5,000 sq. ft.	40	25	5	20	35' or 2.5 stories	4.8	40
2. Manufactured Housing	5,000 sq. ft.	40	25	5	20	35'	4.8	40
3. Mobile Home	5,000 sq. ft.	40	25	5	20	25		40
4. Other	2 Acres	150	50	25	50	35		30
O OFFICE	10,000 sq. ft.	100	30	15	20	35'		30
C-1 NEIGHBORHOOD COMMERCIAL								
	None	80	50	10	20	35'		35
C-2 HIGHWAY COMMERCIAL								
	None	100	50	0	20	5 stories		50
RA RESORT								
	None	None	NA	NA	NA	5 stories		NA
CA CASINO								
	20 Acres	250	100	25	25	8 stories		50
I-L LIGHT INDUSTRIAL								
	10,000 sq. ft.	100	50	30	30	50		50
I-H HEAVY INDUSTRIAL								
	None	100	50	50	50	85		50
PR PRESERVATION/ RECREATION								
	5 Acre	150	50	50	50	35		NA

Chart 3 USES PERMITTED IN RESORT DISTRICT

	Residential Low Density	Residential Medium Density	Residential High Density	Commercial Resort	Commercial General	Commercial Entertainment	Public
AGRICULTURAL USES							
Agricultural, Aquacultural and Forestry Production:	X	X	X	X	X	X	X
AgriPlex					C		
DWELLINGS AND ACCESSORIES							
Single Family Detached	X	X	X	C	C	C	
Single Family Attached	C	X	X	C	C	C	
Two Family	C	X	X	C	C	C	
Townhouse	C	P	P	C	C	C	
Multi Family	C	C	P	C	C	C	
Elderly housing, including congregate	C	C	P	C	C	C	
Accessory Buildings and Uses	P	P	P	P	P	P	
Home Occupations	X	X	X	C	C	C	
INSTITUTIONS							
Cemetery	C	C	C	C	C	C	
Church	C	C	C	C	C	C	
College, vocational school, or technical school	C	C	C	P	P	P	
Hospital	C	C	C	C	P	P	
Lodge, Club, Country Club, or Golf Course	C	C	C	C	C	C	P
Nursery School	C	C	C	C	P	P	
Parks/Recreation	P	P	P	P	P	P	P
Public Building and/or service facility	P	P	P	P	P	P	P
School	P	P	P	P	P	P	P
Post Office Facility	C	C	C	P	P	P	P
COMMERCIAL							
Amusement arcade	C	C	C	P	P	P	
Automobile Service Station with vehicle wash	C	C	C	P	P	C	
Automobile Sales & Service	C	C	C	C	P	C	
Bakery, Retail	C	C	C	P	P	P	
Bank, savings and loan, or credit union	C	C	C	P	P	P	
Bar, cocktail lounge, or night club	C	C	C	P	P	P	
Barber or Beauty Shop	C	C	C	P	P	P	
Business and personal services	C	C	C	P	P	P	
Commercial indoor recreation or entertainment	C	C	C	P	P	P	
Commercial outdoor recreation and amusements	C	C	C	C	P	P	
Convenience store	C	C	C	P	P	P	
Cultural, Entertainment, & Recreational	C	C	C	P	P	P	
Day Care Center	C	C	C	C	P	C	
Department or Discount Store	C	C	C	C	P	C	
Drug Store	C	C	C	P	P	P	

X - Uses Permitted by Right
C - Use requires special Planning Commission approval as to location and screening

P - Requires Site Plan Approval

Chart 3 continued	Residential Low Density	Residential Medium Density	Residential High Density	Commercial Resort	Commercial General	Commercial Entertainment	Public
Dry Cleaning & Laundry Pick-up Station	C	C	C	P	P	P	
Dry Cleaning & Laundry	C	C	C	P	P	P	
Flower or Plant Store (indoor)	C	C	C	P	P	P	
Furniture and appliance store	C	C	C	C	P	C	
Grocery and Food Markets	C	C	C	P	P	C	
Hardware store	C	C	C	C	P	C	
Hotel or Motel	C	C	C	P	P	P	
Medical or dental office or clinic	C	C	C	P	P	P	
Offices	C	C	C	P	P	P	
Other Retail Services	C	C	C	P	P	P	
Package Liquor Store	C	C	C	P	P	P	
Pawn shop	C	C	C	C	P	C	
Personal Service Establishment	C	C	C	P	P	P	
Photo-Finishing-Pick-up Station	C	C	C	P	P	P	
Professional and research services	C	C	C	P	P	P	
Restaurant, Conventional (Sit Down Dining)	C	C	C	P	P	P	
Restaurant, Drive In	C	C	C	P	P	P	
Restaurant, Fast Food (Drive through Service)	C	C	C	P	P	P	
Retail Stores	C	C	C	P	P	P	
Services, Business	C	C	C	P	P	P	
Services, Personal	C	C	C	P	P	C	
Shoe Repair & Tailoring	C	C	C	C	P	C	
Video rental	C	C	C	P	P	P	
OTHER USES							
Homeowners or property owner's association recreation facility	X	X	X	C	C	C	
Utility transmission, production, treatment or distribution facility	P	P	P	C	C	C	

X - Uses Permitted by Right

C – Use requires special Planning Commission approval as to location and screening

P – Requires Site Plan Approval

Chart 4

RESORT DISTRICT BULK REGULATIONS AND PERMITTED RESIDENTIAL DENSITIES

	AREA	WIDTH (FEET)	FRONT (FEET)#	SIDE (FEET)	REAR (FEET)	HEIGHT (FEET)	UNITS PER ACRE	(%) LOT COVERAGE
Agriculture	NA	NA	100	25	25	35	NA	NA
Single Family Detached Dwelling	7,200 sq. ft.	60	25	5	20	35' or 2.5 stories	3.5	40
Single Family Attached	4,000 sq. ft.	40	20	5	20	35	8	50
Townhouse Units	2,000 sq. ft.	20	20	0	10	35	12	NA
Two Family Dwelling	8,000 sq. ft.	80	25	5/0	20	35	8	40
Multi Family Dwellings	20,000 sq. ft.	200	35	25	25	35' or 2.5 stories	16	45
Commercial	None	80	50	10	20	35'		35
Institutions and Other	2 Acres	150	50	25	50	35		30

ARTICLE V. SPECIAL DISTRICTS AND USES

SECTION 500. FLOOD DAMAGE PREVENTION

Section 501. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

A. STATUTORY AUTHORIZATION.

The Legislature of the State of Mississippi has in Title 17, Chapter 1, Mississippi Code 1972 Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of Tunica County does hereby adopt the following floodplain management regulations.

B. FINDINGS OF FACT.

- (1) The flood hazard areas of Tunica County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-protected, or otherwise unprotected from flood damages.

C. STATEMENT OF PURPOSE.

It is the purpose of this Section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage, and;

- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

D. OBJECTIVES.

The objectives of this Section are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) To ensure that potential homebuyers are notified that property is in a flood area.

METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this Section includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or increase flood hazards in other areas.

Section 502.

DEFINITIONS.

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

A Zone: Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings.

Accessory structure (Appurtenant structure): A structure, which is located on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing building): Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal: A request for a review of the floodplain administrator's interpretation of any provision of this Section or a request for a variance.

Area of special flood hazard (SFHA): The land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year.

Base flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

Base Flood Elevation (BFE): The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one (1) percent or greater chance of being equaled or exceeded in any given year.

Basement: That portion of a building having its floor sub-grade (below ground level) on all sides.

Building: see Structure.

Community: A political entity that has the authority to adopt and enforce floodplain regulations for the area under its jurisdiction.

Community Rating System (CRS): A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Community Flood Hazard Area (CFHA): An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, to be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare.

Critical facility: A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations that produce, use or store hazardous materials or hazardous waste.

Development: A manmade change to improved or unimproved real estate, including, but not limited to, the division of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; also includes mining, dredging, filling, grading, paving, excavating, drilling operations, land disturbance, permanent storage of materials and any use or extension of the use of land.

Elevated building: A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Elevation Certificate: A certified statement that verifies a building's elevation information.

Emergency Program: The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable buildings in that community before the effective date of the initial FIRM.

Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction: Any structure for which the "start of construction" commenced before July 3, 1990.

Existing manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community before July 3, 1990.

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Five Hundred Year Flood: The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a.) The overflow of inland or tidal waters;
- b.) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM): The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Hazard Boundary Map (FHBM): An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

Flood Insurance Rate Map (FIRM): An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): The official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Floodplain: Any land area susceptible to being inundated by floodwaters from any source.

Floodplain Administrator: The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations: This Section, other ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination

thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing Certificate: A form used to certify compliance for non-residential structures as an alternative to elevating buildings to or above the BFE.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway fringe: That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Freeboard: A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Functionally Dependent Facility: A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship (as related to variances of this Section): The exceptional hardship that would result from a failure to grant the requested variance. The Board of Supervisors requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic Structure: Any structure that is:

- a.) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b.) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:

- c.) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d.) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Increased Cost of Compliance (ICC): The cost to repair a substantially damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business policies with effective dates on or after June 1, 1997 will include ICC coverage.

Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective NFIP map. A LOMA establishes a property's location in relation to the SFHA.

Letter of Map Revision (LOMR): An official revision, by letter, to an effective NFIP map. A LOMR may change flood insurance risk zones, floodplain boundary delineations, planimetric features, and/or BFEs.

Letter of Map Revision Based on Fill (LOMR-F): is an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade: The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the non-elevation provisions of this code.

Manufactured home: For the purposes of this Section, a manufactured home is a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map Panel Number: The four (4) digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA; the letter “B” is the first revision.)

Map Amendment: A change to an effective NFIP map that results in the exclusion from the SFHA or an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA.

Market value: The building value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

Mean Sea Level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Section, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Mitigation: Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

National Flood Insurance Program (NFIP): The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD): As corrected in 1929, NGVD is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction: Any structure for which the “start of construction” commenced after July 3, 1990. The term also includes all improvements to all buildings.

New manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by a community.

Non-Residential: Includes, but is not limited to, small business concerns, churches, schools, farm buildings (including grain bins and silos), poolhouses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

Obstruction: Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One Hundred Year Flood (100-Year Flood): The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

Participating Community: Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Post-FIRM Construction: Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

Pre-FIRM Construction: Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation: A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance: Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle: A vehicle that is:

- a.) Built on a single chassis;
- b.) 400 square feet or less when measured at the largest horizontal projection;
- c.) Designed to be self-propelled or permanently towable by a light duty truck; and
- d.) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program: The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Repetitive Loss: Flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

Section 1316: That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA): That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, AR, V, VE, or V1-V30.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348): Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For the purposes of this Section, "structure" refers to all walled and roofed buildings, including gas or liquid storage tanks and manufactured homes that are principally above ground.

Subrogation: An action brought by FEMA when flood damages have occurred, flood insurance has been paid, and all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial Damage: Any repair to a building for which the cost of repairs equals or exceeds fifty percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- a) A project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b) Alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”, or
- c) Improvement to a building.

Substantial Improvement: means any combination of reconstruction, alteration, or improvement to a building, taking place during the life of the building, in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” Or
- c.) Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions:

Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Suspension: The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance: A grant of relief from the requirements of this Section, which permits construction in a manner otherwise prohibited by this Section where specific enforcement would result in unnecessary hardship.

Violation: The failure of a structure or other development to be fully compliant with this Section. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

X zone: The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2-percent annual probability of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone: A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Section 503.

GENERAL PROVISIONS

A. LANDS TO WHICH THIS SECTION APPLIES

This Section shall apply to all Special Flood Hazard Areas (SFHA) and Community Flood Hazard Areas (CFHA).

B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Maps, dated July 3, 1990, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this Section.

C. ESTABLISHMENT FLOODPLAIN DEVELOPMENT PERMIT

A development permit shall be required in conformance with the provision of this Section prior to the commencement of any development activities in Special Flood Hazard Areas and Community Flood Hazard Areas.

D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Section and other applicable regulations.

E. ABROGATION AND GREATER RESTRICTIONS

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. INTERPRETATION

In the interpretation and application of this Section all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body, and;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the Special Flood Hazard Area or the Community Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the Board of Supervisors of Tunica County or by any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

Section 504.

ADMINISTRATION

A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR

The Board of Supervisors of Tunica County hereby appoints the County Planner to administer and implement the provisions of this Section and is herein referred to as the Floodplain Administrator and/or the administrator.

B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the

area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Application Stage.
 - a.) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
 - b.) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
 - c.) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Section 505, B (2) and Section D (2);
 - d.) Description of the extent to which any watercourse will be altered or relocated as result of proposed development, and;

(2) Construction Stage:

Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder' risk. (The Floodplain Administrator shall review the lowest floor & flood-proofing elevation survey data submitted.) The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

C. POWERS, DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator and/or staff is hereby authorized and directed to enforce the provisions of this Section. The administrator is further authorized to render interpretations of this Section, which are consistent with its spirit and purpose.

Right of Entry

- (1) Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever the administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the administrator

may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the administrator by this Section.

- (2) If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.
- (3) If entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry.
- (4) When the administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the administrator for the purpose of inspection and examination pursuant to this Section.

Stop Work Orders

- (1) Upon notice from the administrator, work on any building, structure or premises that is being done contrary to the provisions of this Section shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

Revocation of Permits

- (1) The administrator may revoke a permit or approval, issued under the provisions of this Section, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- (2) The administrator may revoke a permit upon determination by the administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Section.

Duties of the administrator shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this Section have been satisfied;
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.

- (3) Notify adjacent communities, the State NFIP Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Section 504 (2).
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 504, (2).
- (7) Review certified plans and specifications for compliance.
- (8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard or community flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (9) When base flood elevation data or floodway data have not been provided in accordance with Section 503, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Section 505.

Liability

- (1) Any officer or employee, or member of the administrator's staff, charged with the enforcement of this Section, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because of such act performed by him in the enforcement of any provision of this Section shall be defended by the department of law until the final termination of the proceedings.

Section 505.

PROVISIONS FOR FLOOD HAZARD REDUCTION

A. GENERAL STANDARDS

In all areas of special flood hazard and community flood hazard areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities including, but not limited to, circuit breaker panels, furnaces, air exchangers, water heaters, heat pumps, duct work, etc., shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Section shall meet the requirements of "new construction" as contained in this Section; and,
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this Section, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

B. SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 503, Section B, the following provisions are required:

- (1) Residential Construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded

movements of floodwaters shall be provided in accordance with standards of Section 505, (3).

- (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the level of the base flood elevation. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the BFE (plus any community free board) elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 504, (9).
- (3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a.) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - b.) Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
 - c.) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

- d). Where elevation requirements exceed 6 feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

(4) Standards for Manufactured Homes and Recreational Vehicles.

- a.) All manufactured homes placed, or substantially improved, on individual lots or parcels in expansions to existing manufactured home parks or subdivisions, in new manufactured home parks or subdivisions or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

Existing Manufactured homes must be:

Elevated on a permanent foundation, and

- i. Have its lowest floor elevated no lower than an elevation of **196**, and
 - ii. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b.) Excepting manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
 - (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, and
 - (ii) The shall have the lowest floor elevated to no lower than one foot above the level of the base flood elevation, or
 - (iii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.
 - c.) All recreational vehicles placed on sites must either:
 - (i) Be on site for fewer than 180 consecutive days, or
 - (ii) Be fully licensed and ready for highway use, or

- (iii) Must meet all the requirements for new construction, including anchoring and elevation requirements of Section 505, (4)(a) or (b) (i) and (iii), above.

A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Mississippi motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS

Located within the areas of special flood hazard and community flood hazard areas established in Article 3, Section B, where flood sources exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in Accordance with Section 503, B, then the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Section 505. If data is not available from outside sources, then the following provisions (2, 3 and 4) shall apply.
- (2) In special flood hazard areas with base flood elevations (Zones AE and A1-30) but without floodways, no encroachments, including fill material or structures, shall be permitted unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (3) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to 2.5 times the width of the stream at the top of the bank or 20 feet each side from the top of the bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (4) In Special Flood Hazard Areas and Community Flood Hazard Areas without Base Flood Elevation Data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than one 1 foot above the highest adjacent grade at the building site.

D. STANDARDS FOR SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.

G. CRITICAL FACILITIES

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA and Community Flood Hazard Area if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Critical facilities constructed within the CFHA shall have the lowest floor elevated above the identified flood hazard level. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 506.

VARIANCE PROCEDURES

A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The Planning Commission as established by the Board of Supervisors of Tunica County shall hear and decide appeals and requests for variances from requirements of this Section.

B. DUTIES OF VARIANCE AND APPEALS BOARD

The Planning Commission shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this Section. Any person aggrieved by the decision of the board may appeal such decision to the appropriate court, as provided in State statute.

C. VARIANCE PROCEDURES

In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Section, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. CONDITIONS FOR VARIANCES

- (1) Variances shall only be issued when there is:
 - a.) A showing of good and sufficient cause;
 - b.) A determination that failure to grant the variance would result in exceptional hardship; and,
 - c.) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an “historic structure,” a determination that the

variance is the minimum necessary so as not to destroy the historic character and design of the building.

- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Section 506.)
- (4) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency or Mississippi Emergency Management Agency upon request. (See Section E.)

E. VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and;
- (2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Tunica County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (3) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

F. HISTORIC STRUCTURES

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

G. SPECIAL CONDITIONS

Upon consideration of the factors listed in Section 506, and the purposes of this Section, the Planning Commission may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this Section.

Section 510.

WIRELESS COMMUNICATIONS

Wireless communication supporting structures are subject to the following restrictions:

1. Within agricultural and residential zoning districts, support structures and associated appurtenances may be located on publicly owned and/or leased properties, public/private utility owned properties, or Institutional Uses, as detailed in Article IV, Chart 1 of this Section. These structures may be located on other agricultural or residential land provided that it is demonstrated that there are no publicly owned and/or leased properties, public/private utility owned properties, or Institutional Uses, which are suitable for such structures.

No support structure may be located within 300 feet of a property line of any lot used for residential purposes, unless stealth design is incorporated into the site, and approval is granted by the Planning Commission.

2. The location, size and design of such facilities shall be such that minimal negative impact results from the facility. Any application for a new wireless communication support structure shall not be approved, nor building permit issued, unless the applicant obtains a letter from a licensed engineer certifying that the wireless communication facility equipment planned for the proposed support structure cannot be accommodated on an existing or approved support structure, or other structure due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of existing and approved support structures, and those structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
 - (b) The planned equipment would result in technical or physical interference with, or from other existing or planned equipment and the interference cannot be prevented at a reasonable cost;
 - (c) There are no appropriate existing or pending support structures to accommodate the planned equipment;
 - (d) The existing or proposed support structures would not accommodate the applicant's geographic service requirements.
3. Any proposed support structure (excepting those utilizing stealth design) shall be structurally designed so as to accommodate a minimum of three (3) sets of fully sectored antenna arrays. A letter from a licensed engineer certifying compliance with this condition shall accompany the conditional use application. In addition, any application for a new support structure must include an affidavit stating that space on the proposed support structure will be made available to future users when technically possible. The applicant shall not charge any unreasonable application fee or rental rate, and may not require any unreasonable construction or maintenance conditions that inhibit the ability of other users to co-locate on the support structure.

4. Support structures shall be the minimum height needed to comply with these regulations; however, in no instance shall support structures extend beyond 200 feet in height in Residential areas and not more than 400 feet in agricultural and industrial areas.
5. Associated appurtenances, including cabinets, cabling and equipment shall be permitted, but shall not include offices, long-term vehicle storage, other outdoor storage or broadcast studios, or any use not needed to send or receive transmissions.
6. The minimum setback requirements for support structures including associated appurtenances shall correspond to the zoning district in which they are located, except that a minimum buffer of 300 feet shall be maintained between any support structure (excepting sites incorporating stealth design) and any residential property line.
7. All wireless transmission facilities including buildings, cabinets, support towers and facilities shall be designed and constructed of materials so as to be architecturally compatible with the architectural character of the surrounding area.
8. Existing on-site vegetation shall be preserved to the maximum extent practicable, and shall be supplanted as required by the Planning Commission.
9. Security fencing and/or equipment screening shall be required for any ground-mounted equipment associated with a support structure, and approved by the Planning Commission.
10. Towers shall not be lighted unless required by the Federal Aviation Administration or other Federal or State authority.
11. Antenna Arrays
 - a. Within residential zoning districts, attached antenna arrays may be permitted on previously approved or proposed institutional structures, municipally owned structures; public/private utility owned towers, and existing support structures.
 - b. Wireless communication facilities (i.e. attached antenna arrays and related equipment) may be permitted on previously approved buildings and support structures, subject to administrative review by the County Planner. Such facilities shall not exceed the height required to accomplish their intended function; however, in no instance shall they extend more than 20 feet above the height of the supporting structure upon which they are proposed to be attached. Additionally, such facilities shall utilize stealth design and be finished in a color compatible with the colors of the supporting structure and designed so as to be as visually unobtrusive as possible.

- c. For the purposes of this Section, attached antenna arrays shall be permitted accessory uses in all zoning districts, subject to administrative approval.
12. All owners of communications facilities in Tunica County shall provide a list of the locations and all users of these facilities to the County Planner on or prior to January 1 of each year.

Section 515.

MANUFACTURED HOUSING

A manufactured home, as defined in Article II and permitted under the conditions of the A-5, R-2, R-3 Districts, having the same general appearance as a site-built home shall also be allowed on individual lots in those Districts, provided the following conditions are met (manufactured homes and mobile homes located in the A-1 and M-H Districts shall not be required to meet these conditions):

- A. The unit must be installed on a permanent masonry foundation in compliance with all applicable requirements of the Building Code.
- B. The home must be covered with an exterior material customarily used on conventional dwellings. Suitable exterior materials include, but shall not be limited to, metal or vinyl siding, but excluding smooth, ribbed or corrugated metal or plastic panels.
- C. The hitches or towing apparatus, axles and wheels must be removed.
- D. The roof must be pitched so that the pitch of the roof of the unit has at least a two-inch vertical rise for each twelve (12) inches of horizontal run. The roof must consist of material that is customarily used for conventional dwellings including, but not limited to approved wood, asphalt composition shingles or fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass or corrugated metal roof.
- E. The unit must be oriented on the lot so that its long axis is parallel with the street.

All such units shall be required to connect to a public utility system which includes, gas, electric water and sewer or septic system, where available, in compliance with Building Code and National Electrical Code.

Section 520.

AIRPORT OVERLAY ZONE

Section 521.

AUTHORIZATION AND OBJECTIVES

It is hereby found that an obstruction has the potential for endangering the lives and property of users of Tunica Airport and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Tunica Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Tunica Airport and the public investment therein. Accordingly, it is declared:

- A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Tunica Airport.
- B. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

Section 522.

DEFINITIONS

The following definitions shall be used in this Section, unless the context otherwise requires.

Airport: Tunica County Airport

Airport Elevation: The highest point of an airport's usable landing area measured in feet from sea level.

Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Section. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones: These zones are set forth in Subsection III of this Section.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Hazard to Air Navigation: an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height Limits: For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum used shall be mean sea level elevation unless otherwise specified.

Heliport Primary Surface: The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this Section or an amendment thereto.

Nonprecision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Section.

Person: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Planning Commission: The Commission appointed by the Tunica Board of Supervisors that is authorized to approve variances from this Ordinance.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning documents.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Section. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional

surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical Surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

Section 523.

AIRPORT ZONES

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Tunica Airport. Such zones are shown on Figure V-1. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Runway Larger Than Utility With a Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- D. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

Section 524.

AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Section to a height in excess of the application height limit herein

established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- A. Runway Larger Than Utility With A Visibility Minimum As Low As 3/4 Mile Nonprecision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- B. Precision Instrument Runway Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forth (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- C. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 194.42 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
- D. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 344.42 feet above mean sea level.
- E. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- F. Excepted Height Limitations - Nothing in this Section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 60 feet above the surface of the land.

Section 525.

USE RESTRICTIONS

Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 526.

NONCONFORMING USES

- A. Regulations Not Retroactive - The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.

- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Planning Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Tunica County Airport.

Section 527.

PERMITS

- A. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Section shall be granted unless a variance has been approved in accordance with Section VII, 4.
 - 1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

 - 2. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

 - 3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical

height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Section.

- B. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Section or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- C. Nonconforming Uses Abandoned or Destroyed - Whenever the County Planner determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- D. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Section, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. Additionally, no application for variance to the requirements of this Section may be considered by the Planning Commission unless a copy of the application has been furnished to the Tunica County Airport Commission for advice as to the aeronautical effects of the variance. If the Tunica County Airport Commission does not respond to the application within fifteen (15) days after receipt, the Planning Commission may act on its own to grant or deny said application.
- E. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to require the owner to permit the Tunica County

Airport Commission at its own expense, to install, operate, and maintain the necessary markings and lights.

Section 528.

ENFORCEMENT

It shall be the duty of the County Planner to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the County Planner upon a form published for that purpose. Applications required by the Ordinance to be submitted to the County Planner shall be promptly considered and granted or denied. The County Planner shall forthwith transmit application for action by the Tunica County Airport Commission.

Section 529.

PLANNING COMMISSION

- A. The Tunica County Planning Commission as provided in Article X is given the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the County Planner in the enforcement of this Section: (2) to hear and decide conditional uses to the terms of this Section upon which such Planning Commission under such regulations may be required to pass; and (3) to hear and decide specific variances.
- B. The Planning Commission shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Section
- C. The concurring vote of a majority of the members of the Planning Commission shall be sufficient to reverse any order, requirement, decision, or determination of the County Planner or decide in favor of the applicant on any matter upon which it is required to pass under this Section, or to effect variation to this Section.

Section 530.

APPEALS

- A. Any person aggrieved, or any taxpayer affected, by any decision of the County Planner made in the administration of the Ordinance, may appeal to the Planning Commission.
- B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Planning Commission, by filing with the County Planner a notice of appeal specifying the grounds thereof. The County Planner shall forthwith transmit to the Planning Commission all the papers constituting the record upon which the action appealed from was taken.
- C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Planning Commission certifies to the Planning Commission after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of

Planning Commission cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Planning Commission on notice to the Planning Commission and on due cause shown.

- D. The Planning Commission shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- E. The Planning Commission may, in conformity with the provisions of this Section reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

Section 531. LEGISLATIVE REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Planning Commission, may appeal to the Board of Supervisors as provided in Section 1012 of this Ordinance.

Section 532. PENALTIES

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Enforcement of the requirements of this section shall be as provided in Section 1091 of this Ordinance.

Section 533. CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Section and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE VI

PLANNED DEVELOPMENTS

Section 601.

STANDARDS AND CRITERIA

A. Intent

This section is intended to provide the means and guidelines through which tracts of land may be developed through an overall unified approach rather than the traditional lot-by-lot treatment afforded by conventional zoning districts in this Ordinance. It is intended to provide a maximum of design freedom to create a better living environment by making the best use of topography and land features, and by granting the developer an opportunity to more fully utilize the physical characteristics of the site through the reduction of lot sizes, the absence of yard and bulk restrictions and the mixing of uses. Through the requirements of a development plan, it is intended that a better environment will be achieved by the development of property through a unified design that provides continuity between the various uses and elements.

B. Criteria for Approval

1. The Board of Supervisors may, upon proper application and review, grant a Special Permit for a Planned Development to facilitate the use of flexible techniques of land development and site design by providing relief from conventional zoning requirements designed for traditional developments.
2. The Board may establish standards and procedures to ensure that the proposed uses are compatible to the area surrounding the development prior to the issuance of a Special Permit.
3. In order to obtain a Special Permit, the proposed planned development must achieve one or more of the following objectives:
 - a. Promote flexibility in design and permit planned diversification in the location of structures
 - b. Protect existing topography and natural features
 - c. Promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use and utilities
 - d. Provide for more usable and suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional land development procedures
 - e. Continue and coordinate architectural styles, building forms and building relationships within the planned developments

- f. Insure a quality of construction commensurate with other developments within the County
- g. Create a safe and desirable living environment that is characterized by a unified building and site development program
- h. Provide a rational economic development program or phasing of development plan in relation to public services
- i. Provide for an efficient and effective traffic circulation both within and adjacent to the development site; utilize traffic calming techniques
- j. Create a variety of dwelling units that are compatible with surrounding neighborhoods to provide a greater choice of housing and living environment
- k. Provide attractive and appropriate locations for business and manufacturing uses in well-designed centers

C. Relationship Between Planned Developments and Zoning Districts

1. Planned Development Permitted

Planned Developments shall be permitted in all districts except for Preservation Recreation. There shall be a minimum area of three (3) acres to apply for a Planned Development.

2. Modification of District Regulations

Planned Developments may be constructed in any zoning district as described in paragraph 1. above, and subject to the standards and procedures set forth below.

- a. Except as expressly modified by the Board of Supervisors by approval of a preliminary development plan, a Planned Development shall be governed by the regulations of the zoning district or districts in which it is located.
- b. Preliminary development plan approval for the Planned Development may provide for such exceptions from the zoning district regulations governing use, area, setback, height, signage, loading, width and other bulk regulations, parking, other design features and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed Planned Development, provided such exceptions are consistent with the standards and criteria contained in this section; no modification of the district requirements or subdivision regulations may be allowed when the modification would result in:

- (1) Inadequate or unsafe access to the development
- (2) Traffic volume exceeding the anticipated capacity of the existing or proposed street network in the vicinity of the development
- (3) An undue burden on public parks, recreation areas, schools, fire and police protection and other public facilities which serve or are proposed to serve the Planned Development
- (4) A development which will be incompatible with the purposes of this Ordinance

Such exceptions shall supersede any conflicting Subdivision Regulations and Zoning District restrictions in which the Planned Development is located. In no case shall the uses, intensities, or densities be varied, except as herein provided. All setbacks along the boundary of the Planned Development shall not be less than those allowed in the zoning district in which the Planned Development is located.

D. Coordination with Subdivision Regulations

The uniqueness of each proposal for a planned development may require that such things as the width and surfacing of streets, public ways, public utility right-of-ways, curbs and other standards may be subject to modification from the specifications established in the Subdivision Regulations adopted by the Planning Commission. Modifications may be incorporated only with the review of the Planning Commission and approval of the Board of Supervisors as a variation in the preliminary approval of the subdivision, which must be concurrent with the final approval of the plan by the Planning Commission.

1. It is the intent of the Ordinance that subdivision review required by the Subdivision Regulations is carried out simultaneously with the review of a Planned Development under this section of the Zoning Ordinance.
2. The development plans submitted under this Section must be submitted in a form that will satisfy the requirements of the Subdivision Regulations for preliminary, construction and final plats.
3. The requirements for this section of the Zoning Ordinance and those of the Subdivision Regulations shall apply to all Planned Developments. All actions of the Board of Supervisors pertaining to Planned Developments shall be based upon a recommendation by the Planning Commission.

E. General Standards and Criteria

The Board of Supervisors may grant a Special Permit which modifies the applicable zoning and subdivision regulations upon written findings and recommendations by the Planning Commission which shall be forwarded pursuant to the provisions contained in this section.

1. The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the Tunica County Comprehensive Plan and current development policies.
2. Water supply, wastewater treatment and disposal and storm water drainage facilities are available and adequate to serve the proposed development.
3. The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses. Any part of the proposed development not used for structures, parking, loading areas or access ways shall be landscaped or otherwise improved except where natural features are such as to justify preservation.
4. Any modification of the zoning or other regulations that would otherwise be applicable to the site are warranted by the design of the preliminary development plan and the amenities incorporated therein, and are not inconsistent with the public interest.
5. Homeowners' or property owners' associations or some other responsible party shall be required to maintain any and all common and open space and/or common elements, unless conveyed to a public body which agrees to maintain such areas.

F. General Provisions

The following general provisions shall apply to any Planned Developments created by Special Permit by the Board of Supervisors.

1. Application for Planned Development Permit Required

Each application for a Special Permit for a planned development shall be submitted in accordance with requirements of this Ordinance and the requirements of the Subdivision Regulations. Variations to the requirements of both regulations may be granted upon review and recommendation by the Planning Commission and approval by the Board of Supervisors.

2. Waiver of Board of Zoning Appeals Action

No action of the Board of Zoning Appeals shall be required in the approval of a Special Permit for a Planned Development.

3. Professional Design

The preliminary and final development plans shall contain a certification that the services of one or more of the following professionals were utilized in the design and planning process.

- a. An urban planner who possesses the education and experience to qualify for membership in a recognized professional planning association.
- b. A practicing landscape architect licensed by the State of Mississippi.
- c. A practicing architect licensed by the State of Mississippi.
- d. A practicing civil engineer licensed by the State of Mississippi.

4. Completion Period

The Planning Commission may recommend and the Board of Supervisors may establish a reasonable period of time for the completion of the Planned Development at the time that the Special Permit is granted.

Each stage shall be planned and related to existing surrounding and available facilities and services such that failure to proceed to subsequent stages will not have an adverse impact on the development or its surroundings at any stage of the development.

- a. If no actual construction has begun or no use has been established in the Planned Development within the approved time period, the Board of Supervisors may, in its discretion, terminate the final development plan by giving written notice to the applicant. Actual construction is defined to include the placing of construction materials in a permanent position and fastened permanently or extensive grading including demolition or removal of existing structures necessary for the development. If actual construction is not commenced within this approved time period, the final development plan may be terminated as provided herein.
- b. Upon the request of the applicant and review and recommendation of the Planning Commission, the Board of Supervisors may extend for a reasonable time, not to exceed one (1) year, the period for the commencement of actual construction or the establishment of a use of the Planned Development.

If a final development plan is terminated under the provisions of this section, the planned development designation shall be removed from the Official Zoning Map and a notice of revocation shall be filed on the recorded development plan. The zoning regulations applicable before the development was approved shall then be in effect. However, if any portion of the property is constructed or developed as provided by the approved Planned Development, the remaining portion(s) of the

property shall be in conformance with the approved Planned Development regardless of the existing conventional zoning district of the property.

5. Common Open Space and Public Facilities

The requirements of common open space and public facilities shall be in accordance with the provisions of this Section.

- a. Common open space must be usable for recreational purposes or must provide visual, aesthetic environmental amenities. The uses authorized for the common open space must be appropriate to the scale and character of the Planned Development considering its size, density, expected population, topography and the number and type of structures to be provided.
- b. Common open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. Any building, structure or improvement to be located in the common open space must be appropriate to the uses which are authorized therefore, and must conserve and enhance the amenities of the common open space with regard to its topography and the intended function.
- c. The development phasing sequence that is part of the preliminary development plan must coordinate the improvements of the common open space, the construction of the buildings, structures and improvements in the common open space, the construction of public improvements and the construction of residential dwellings, but in no event shall occupancy permits for any phase of the final development plan be issued unless and until the open space that is part of that phase has been dedicated or conveyed and improved.
- d. No common open space of a residential Planned Development shall be conveyed or dedicated by the developer or any other person to any public body, homeowners/property owners association or other responsible party unless the Planning Commission has determined that the character and quality of the tract to be conveyed make it suitable for the purpose for which it was intended.
- e. All land shown on the final development plan as common open space may be either:
 - (1) Conveyed to a public body, if said public body agrees to accept conveyance and to maintain the common open space and any buildings, structures or improvements which have been placed on it; or
 - (2) Conveyed to an organization for ownership and maintenance subject to the following:

- (i) The Planning Commission and Board of Supervisors may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space and such organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise, (except to an organization conceived and established to own and maintain the common open space), without first offering to dedicate the same to the Tunica County and the said dedication be approved by the Board of Supervisors.
- (ii) In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of the planned development fail to maintain the common open space in reasonable order and condition in accordance with the adopted final development plan, the County may serve written notice upon such organization and/or the owners or residents of the Planned Development. After 30 days when the deficiencies of maintenance are not corrected, the County may call upon any public or private agency to maintain the common open space for a period of one (1) year. When the County determines that the agency is prepared for the maintenance of the common open space such agency shall continue maintenance for yearly periods.
- (iii) The cost of such maintenance by such agency shall be assessed proportionally against the properties within the planned development that have a right of enjoyment of the common open space and shall become a lien on said properties.
- (iv) If the common open space is deeded to a Homeowners' and/or Property Owners' Association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for preliminary approval. The provisions shall include, but not be limited to the following:
 - (a) The Association must be set up before the homes or property are sold.
 - (b) Membership must be mandatory for each home or property buyer, and any successive buyer.
 - (c) The open space restrictions must be permanent, not just for a period of years.
 - (d) The Association must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities.

- (e) Homeowners/Property owners must pay their pro rata share of the cost of the assessment levied by the association to meet changed needs.

G. Dedication of Public Facilities

In addition to the normal dedications required in the Subdivision Regulations and other County Ordinances, the Planning Commission and the Board of Supervisors may, as a condition of approval and adoption and in accordance with the final development plan, require that additional suitable areas for streets, public rights-of-way, schools, parks and other public areas be set aside, improved and/or dedicated for public use.

H. Relation to Utilities and Public Facilities

Planned Developments shall be located in relation to sanitary sewers, water lines, storm and surface drainage systems and other utility systems and installations so that neither extension nor enlargement of such systems will be required in manner, form character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development in a form generally permitted in the area. Such planned developments shall be located with respect to schools, parks, playgrounds and other public facilities required so as to have access in the same degree as would development in a form generally permitted in the area.

I. Relation to Major Transportation Facilities

Planned Developments shall be located with respect to major arterials, collector streets, or other transportation facilities to provide access without creating unnecessary traffic along minor streets in residential neighborhoods outside such developments.

J. Vehicular Movement and Standards

The street design should include a clearly defined hierarchical street system. Streets, drives, parking and service areas must provide a safe and convenient access to development and project facilities, and for service and emergency vehicles. Streets will not be laid out as to encourage outside traffic to traverse the development on minor streets or occupy more land than is required to provide access as needed or create unnecessary fragmentation of the development into small tracts.

1. Principal vehicular access points - shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic.
2. Private streets - The methods for designing and constructing private streets are flexible. If no agreement between the developer and the County Engineer can be reached, then private streets must be designed and built according to the Tunica County's "Subdivision

Standards" unless modified by the Planning Commission; construction plans are subject to approval by the County Engineer.

3. Traffic Calming Techniques – Certain flexibility will be allowed for the use of generally accepted traffic calming techniques within the Planned Development. Acceptable techniques include but are not limited to such things as speed humps, chicanes, raised crosswalks, roundabouts/traffic circles, traffic diverters, curb extensions or radius reductions and raised median islands.

K. Pedestrian Movement

1. Internal pedestrian and bicycle paths shall be provided within Planned Developments and provide linkages. Access for pedestrian and cyclists shall be arranged to provide safe, convenient routes and need not be limited to the vehicular access points.
2. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwelling units, to all project facilities and to off-site destinations likely to attract substantial pedestrian traffic. Walkways to be used by substantial numbers of children as play areas or routes to school or other principal destinations shall be so located and safeguarded as to minimize contacts with normal automobile traffic. Street crossings shall be held to a minimum on such walkways, located and designed to promote safety, appropriately marked and otherwise safeguarded. If substantial bicycle traffic is anticipated, bicycle paths shall be incorporated in the walkway system. Pedestrian ways, appropriately located, designed and constructed, may be combined with other easements.

L. Relationships with Adjoining Developments

1. The design of any Planned Development shall illustrate how land uses within the Planned Development will blend harmoniously with adjacent land uses.
2. Screening such as fences, walls or vegetative screening shall be provided along the edges of Planned Developments where needed to protect residents from undesirable views, lighting, noise, or other off-site influences or to protect occupants of adjoining residential districts from similar adverse influences within the Planned Development. Screening requirements may be waived where terrain makes protection against overview impracticable.

M. Specific Standards and Criteria for Residential Planned Developments

It is the intent and purpose of residential Planned Developments to permit innovative design, and to enhance the environmental quality of residential development beyond what can be achieved under conventional zoning districts and standard subdivision development. The clustering of lots, protection of significant environmental features of the land, and the

provision of public benefit features are important features of residential Planned Developments.

A development shall be considered a residential planned development if it contains a single residential use or a combination of residential uses, including multi-family residential, in accordance with the permitted use provisions in this chapter.

In addition to the general standards and general provisions set forth above, planned residential developments shall comply with the following requirements and standards:

1. Permitted Uses

Within Residential Planned Developments, any permitted use, accessory use, or conditional use permitted in any residential district may be allowed, subject to review of the Planning Commission and approval of the Board of Supervisors.

2. Evaluation criteria

The following factors shall be considered in the evaluation of residential Planned Developments:

- a. Preservation of existing major environmental features of the site including but not limited to major stands of trees, significant historical features, protection of scenic corridors, and protection of drainageways.
- b. Provision of additional recreational uses and facilities, or imagination in recreation design such as providing club houses, swimming pools, tennis courts and other major facilities.
- c. Providing land for parks, recreation areas, schools, police and fire protection and other public facilities that serve or are proposed to serve the Planned Development. Such facilities shall be in addition to required facilities or dedication of land under conventional subdivisions.
- d. Development of a system of pedestrian walkways for safe circulation to schools, churches, shopping and other traffic generators.
- e. Exceptional design of the automobile circulation system to include a minimum of paved surfaces.
- f. The inclusion of traffic calming techniques such as speed humps, chicanes, raised crosswalks, traffic circles, curb extensions or radius reductions, traffic diverters and raised median islands in the road design.

- g. Combining distinctiveness and excellence in architectural setting and design.
- h. Provision of subdivision entrance and fencing treatments along roadways.
- i. Providing a comprehensive fencing or screening system, which offers the greatest possible degree of privacy.
- j. Providing enclosed or sub-surface parking where applicable.

3. Accessibility of Site

All proposed streets and driveways shall be adequate to serve the residents, occupants, visitors or other anticipated traffic of the residential Planned Development, but may be designed to discourage outside through traffic from traversing the development. The location of the entrance points of the streets and driveways upon existing public roadways shall be subject to the approval of the Planning Commission.

4. Off-Street Parking

Off-street parking shall be conveniently accessible to all dwelling units and other uses. Where appropriate, common driveways, parking areas, walks and steps may be provided, maintained and lighted for night use. Screening of parking and service areas shall be required through use of trees, shrubs, berms and/or hedges and screening walls.

The pedestrian circulation system and its related walkways shall be separated from the vehicular street system wherever possible in order to provide an appropriate degree of separation of pedestrian and vehicular movement.

N. Specific Standards and Criteria for Non-residential Planned Developments (Office, Commercial, Industrial)

A development shall be considered a Non-residential Planned Development if it contains office, commercial or industrial uses or any combination thereof. In addition to the general standards and criteria outlined in this Section, Non-residential Planned Developments shall comply with the following standards:

1. Limits of Residential Uses

Except for hotels and motels, no buildings within a Non-residential Planned Development shall be designed, constructed, structurally altered or used for dwelling purposes except to provide, within permitted buildings, facilities for a custodian, caretaker or watchman employed on the premises. This provision shall not be applicable in Planned Development Special Permits approved for mixed uses.

2. Screening

When structures or uses in a Non-residential Planned Development about a residential district or residential buildings are permitted in the same development, screening shall be provided as required in Article IV of this Ordinance.

3. Display of Merchandise

All business, manufacturing and processing and all merchandise and materials shall be conducted, displayed or stored within a completely enclosed building or within an open area that is completely screened from the view of adjacent properties and public rights-of-way. However, where automobile service stations or gasoline sales are permitted, gasoline may be sold from pumps outside of a structure.

4. Accessibility

The site shall be accessible from the existing and proposed street network in the vicinity. The street network shall be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located therein and may be designed to discourage outside through traffic from traversing the development. Shared driveways or access points shall be encouraged.

5. Landscaping

Landscaping shall be required to provide screening of objectionable views of uses and the reduction of noise. Buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining buildings.

O. Mixed Use Planned Developments

Planned Developments which do not qualify as a Residential Planned Developments and that are not exclusively for Office, Commercial or Industrial uses shall be considered Mixed Use Planned Developments and shall be subject to all of the applicable standards contained in this Article.

Section 602.

APPLICATION AND PROCEEDURES

A. Procedures for Planned Development Approval

The provisions of this Section govern the procedures for approval of all Planned Developments (residential, non-residential, mixed use) provided herein.

1. Pre-Application Conference

At least one (1) month prior to filing an application for a Planned Development, the prospective applicant shall request a Pre-

application Conference with the Tunica County Planning and Development staff. The purpose of the Pre-application Conference is to afford the developer an opportunity to avail him/herself of the advice and assistance of the professional staff of the Planning Commission before the planned development is formally submitted for approval.

Such request shall include a brief and general narrative description of the nature, location and extent of the proposed Planned Development and a list of professional consultants advising the prospective applicant.

The Pre-application submittal shall include the following:

- a. A map showing property lines and dimensions;
- b. A written statement generally describing the proposed planned development and the market it is intended to serve
- c. Schematic drawings at an appropriate scale for the size of the project.

The Pre-application Conference shall, at minimum, consist of the developer, their consulting engineers and/or planners and the following representatives from the Tunica County:

- a. County Engineer or their designee
- b. County Administrator or their designee
- c. Planning Director and/or any other members of the Planning Staff

The response from the Tunica County Staff shall not be binding upon the Tunica County Planning Commission or Board of Supervisors.

2. Preliminary Development Plan

A preliminary development plan shall be submitted to the Planning Commission with the application for the Planned Development within six (6) months of the Pre-application Conference. A final development plan that includes all of the requirements of a preliminary development plan, may be submitted as a single application when the proposed development plan contains all items required by this Ordinance and those items that the Planning Commission specifies in rules published from time to time, as well as the following:

a. *Written Documents*

- (1) A legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.
- (2) A statement of planning objectives to be achieved by the Planned Development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
- (3) A development schedule that indicates the approximate date that construction of the Planned Development or stages of the Planned Development can be expected to begin and end. If the Planned Development is proposed for construction in stages or units during a period extending beyond a single construction season, a development schedule indicating the following shall be submitted:
 - (a) The approximate date when construction of the project can be expected to begin
 - (b) The order in which the phases of the project will be built
 - (c) The minimum area and the approximate location of common open space and public improvements that will be required at each stage.
- (4) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the Planned Development, such as land areas, dwelling units, etc.
- (5) Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures; approximate residential densities; total amount of open space (including a separate figure for usable open space); total amount of nonresidential construction (including separate figure for commercial or industrial facilities); economic feasibility studies or market analysis where necessary and other studies as required by the Planning Commission.
- (6) A statement setting forth in detail either, (1) the exceptions which are required from the zoning and subdivision regulations, otherwise applicable to the property to permit the development of the proposed Planned Development or, (2) permitted uses, the bulk

regulations, transportation facilities, staging of development, landscaping and screening provisions, signage provisions, public facility infrastructures and any other conditions under which the Planned Development is proposed.

- (7) A tabulation setting forth:
 - (a.) Maximum total square feet of building floor area proposed for commercial uses and for industrial uses, by general type of use;
 - (b) Maximum total land area, expressed in acres and as a percent of the total development area, proposed to be devoted to commercial or industrial uses; minimum public and private open space; streets; and, off-street parking and loading areas.

b. *Preliminary Plan and Supporting Maps*

A Preliminary Plan and any maps necessary to show the major details of the proposed Planned Development must, at minimum, contain the following information:

- (1) The existing site conditions, including contours at one (1) foot intervals, water courses, floodplains, unique natural features and forest cover
- (2) Proposed lot lines and plot designs
- (3) The location and floor area of all existing and proposed buildings, structures and other improvements including maximum heights, types of dwelling units, density per type and nonresidential structures, including commercial or industrial facilities to include preliminary elevations and/or architectural renderings of typical structures and improvements. Such drawings should be sufficient to relay the basic architectural intent of the proposed improvements, but should not be encumbered with final detail at this stage.
- (4) The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common open space, public parks, recreational areas, school sites and similar public and semi-public uses
- (5) The differentiation between park, open space and other facilities required under conventional zoning and subdivision regulations, and that provided by the Planned Development.

- (6) The existing and proposed circulation system of arterial, collector and local streets including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way, (including major points of ingress and egress to the development). Notations of proposed ownership, public or private, should be included where appropriate. (Detailed engineering drawings of cross sections and street standards shall be required in the final development plan stage.
- (7) The existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system, indicating proposed treatments of points of conflict
- (8) The existing and proposed utility systems including sanitary sewers, storm sewers, water lines and drainage. (Detailed drainage plan and calculations shall be required at the final development plan stage.)
- (9) A general landscape plan indicating the treatment of materials used for private and common open spaces.
- (10) Enough information on land areas adjacent to the proposed Planned Development to indicate relationships between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities and unique natural features of landscape.
- (11) The proposed treatment of the perimeter of the Planned Development, including materials and techniques used such as screen, fences, walls, existing trees, and grading concepts.
- (12) Any additional information as required by the Planning Commission necessary to evaluate the character and impact of the proposed Planned Development.
- (13) The relationship of the Planned Development to the Tunica County Comprehensive Plan and Major Road Plan. The County may in its discretion, modify or waive any of requirements contained in this subsection items (1) through (12) to reasonably adopt these requirements to a particular Planned Development to facilitate an orderly application process. If any informational requirement is waived, however, provisions shall be made to supply such information in a form satisfactory to the County prior to final development plan approval.

3. Preliminary Development Plan Approval Process and Effect of Approval

- a. At least sixty (60) days prior to the Planning Commission meeting at which it is to be considered, the owner of the property or their agent shall submit to the Planning Commission the Preliminary Development Plan, a completed application form, and all other information required under this Section. The Planning Commission shall review the application and shall recommend to the Board of Supervisors to approve, disapprove or approve the Planned Development subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until its next meeting.
- b. Any owner or their agent may appeal to the Board of Supervisors any recommendation or condition of the Planning Commission by filing written notice of appeal at least ten (10) days prior to review by the Board of Supervisors. However, the applicant shall submit a preliminary development plan incorporating any and all conditions not appealed within ninety (90) days after the Planning Commission's decision on the requested Planned Development or the application shall be deemed withdrawn.
- c. The Board of Supervisors shall hold a public hearing on the application for the Planned Development and the preliminary plan after receipt of recommendations from the Planning Commission and any notice of appeal. The Board of Supervisors shall establish a date for a public hearing and shall provide written notice and publication in accordance with this Ordinance. The Board of Supervisors shall render a decision on any appeal and shall approve, disapprove, or approve the proposed Planned Development and preliminary development plan subject to conditions. If approved the Board shall set forth the conditions imposed.
- d. The approved preliminary development plan shall bind the applicant, owner and mortgagee, if any, with respect to the contents of such plan.
- e. The preliminary development plan shall be used in lieu of a Master Subdivision Plan to comply with the provisions of the Subdivision Regulations pertaining to Master Plans.
- f. The Planning Commission may amend or waive a development schedule upon submission of written justification by the applicant.

4. Construction Plans

The Planning Commission in accordance with the Subdivision Regulations and/or this Ordinance shall review the construction

plans for the entire development or a phase of the development, as applicable.

5. Final Development Plan Approval Process

- a. An application for approval of final development plan of the entire Planned Development, if it is to be completed in one phase, or of a portion of the Planned Development, if it consists of more than one phase, shall be submitted by the applicant at least thirty (30) days prior to the Planning Commission meeting and in sufficient time so that the applicant may develop the Planned Development in accordance with the phasing schedule, if any, of the approved preliminary development plan.
- b. The application for final development plan approval shall be filed with the Planning Commission and shall include, but not be limited to the following:
 - (1) A plan suitable for recording with the Tunica County Chancery Clerk's Office.
 - (2) Proof referred to on the plan and satisfactory to the County Attorney as to the provision and maintenance of common open space
 - (3) All certificates, seals and signatures required for the dedication of land and recordation of documents
 - (4) Tabulations of each separate use area, including land area, bulk regulations and number of dwelling units per gross acre and gross floor area for commercial and industrial uses
 - (5) Location and type of existing and proposed landscaping
 - (6) Location and dimensions of utility and drainage facilities
 - (7) All other requirements of a Final Plan under the Tunica County Subdivision Regulations and/or this Ordinance
- c. The Planning Commission shall review the plan and determine whether the final plan substantially conforms or substantially deviates from an approved preliminary development plan in accordance with the following:
 - (1) A final plan shall be found to conform substantially to an approved preliminary development plan if:
 - (a) It provides for less density than the approved preliminary plan; or

- (b) It provides greater open space by the elimination of a reduction in the size of residential, commercial or industrial buildings.
 - (2) A final development plan with other minor changes from the approved preliminary development plan may be found to be in substantial conformity and approved for further processing and final action provided, however, that any increase in density or intensity of use, any decrease in open and recreational space, any deviation from the approved conditions and/or any modification of the development staging shall be deemed to be a substantial deviation and require such final plan to be rejected by the Planning Commission.
- d. The Planning Commission shall render a decision on a final development plan. If a final plan is disapproved by the Planning Commission, the applicant may file a final development plan, which substantially conforms to the approved preliminary plan or the applicant may file for an amendment to the approved preliminary development plan.
- e. After a final development plan is approved by the Planning Commission, the plan shall be recorded in the Tunica County Chancery Clerk's Office after receipt of any necessary bonds, fees and contracts to provide improvements required in the Tunica County Subdivision Regulations and the required signatures for a recordation have been secured.

6. Site Plan Review

All site plan reviews required under the provisions of this Zoning Ordinance shall be completed prior to application for approval of any final development plan for any Planned Development.

7. Zoning Administration - Permits

The Building Official may issue building permits for the area of the Planned Development covered by the approved final development plan for work in conformity with the approved final development plan and with all other applicable Ordinances and regulations. However, the Building Official shall not issue an occupancy permit for any building or structure shown on the final development plan of any stage of the Planned Development unless the open spaces and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or Homeowner's Association or a responsible party. The Building Official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final development plan, if the completed building or structures conforms to the requirements of

the approved final development plan and all other applicable regulations and Ordinances.

8. Reapplication if Denied

If any application for a Planned Development is denied by the Board of Supervisors, a reapplication pertaining to the same property and requesting the same Planned Development may not be filed within twelve (12) months of the date final action was taken on the previous application, unless such reapplication is initiated by the Planning Commission or authorized by the Board of Supervisors.

9. Procedure for Amendment

A Planned Development and the approved preliminary development plan may be amended in accordance with the procedure which governed its approval as set forth in this Section.

10. Post Completion Certificate

Upon completion of a Planned Development in accordance with the approved final development plan, the Building Official shall issue a certificate certifying its completion.

ARTICLE VII

SEXUALLY ORIENTED BUSINESSES

Section 701.

SPECIAL DEFINITIONS

Adult Arcade - means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult Bookstore, Adult Novelty Store or Adult Video Store - means a commercial establishment that offers for sale or rental for any form of consideration any one or more of the following:

- (a) Books, magazines, periodicals or other printed matters, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities or " specified anatomical areas"; or,
- (b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for any form of consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult Cabaret - means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (a) Persons who appear in a state of nudity or semi-nude; or,
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or,
- (c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult Motel - means a hotel, motel or similar commercial establishment which:

- (a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "Specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or,
- (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or,
- (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater - means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas. "

Adult Theater - means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical area" or by "specified sexual activities."

Employee - means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Escort - means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency - means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment - means and includes any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

- (c) The additions of any sexually oriented business to any other existing sexually oriented business; or,
- (d) The relocation of any sexually oriented business.

Licensee - means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Nude Model Studio - means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Mississippi or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and,
- (b) Where in order to participate in a class a student must enroll at least three days in advance of the class; and,
- (c) Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or a state of Nudity - means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Person - means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Semi-Nude or Semi-Nude Condition - means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

Sexual Encounter Center - means a business or commercial enterprise that offers for any form of consideration:

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or,

- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Business - means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Specified Anatomical Areas - Specified anatomical areas means, but is not limited to, the following:

- (a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or,
- (b) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

Specified Criminal Activity - means any of the following offenses:

- (a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- (b) for which:
 - (1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (2) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, which ever is the later date, if the conviction is of a felony offense; or,
 - (3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- (c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified Sexual Activities - means any of the following:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or,
- (c) Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

Substantial Enlargement - of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25 percent), as the floor areas exist on the date this ordinance takes effect.

Transfer of Ownership or Control - of a sexually oriented business means and includes any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or,
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Section 702.

PURPOSE AND FINDINGS

- A. Purpose – It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the County. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.
- B. Findings – Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board of Supervisors, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas;

Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Council finds:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there are presently no mechanisms to make the owners of these establishments responsible for the activities that occur on their premises.
- (2) Certain employees of sexually oriented businesses defined in this ordinance as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, and oral and anal sex occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
- (4) Offering and providing such space encourages such activities, which creates unhealthy conditions.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.
- (8) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
- (9) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and FHV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

- (10) According to the best scientific evidence, AIDS and IUV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (11) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (12) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where people view "adult" oriented films.
- (13) The findings noted in paragraph number I through 15 raise substantial governmental concerns.
- (14) Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
- (15) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the County. It is appropriate to require reasonable assurance that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (16) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.
- (17) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
- (18) The disclosure of certain information by those persons ultimately responsible for the day- to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

- (19) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this ordinance is designed to prevent or who are likely to be witnesses to such activity.
- (20) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.
- (21) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct that leads to the transmission of sexually transmitted diseases.
- (22) The general welfare, health, morals and safety of the citizens of the County will be promoted by the enactment of this ordinance.

Section 703.

CLASSIFICATION

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores, adult novelty stores, or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion pictures theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

Section 704.

LICENSE REQUIRED

- A. It is unlawful:
 - (1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the County pursuant to this ordinance.
 - (2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the County pursuant to this ordinance.

- (3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this ordinance.
- B. An application for a license must be made on a form provided by the County.
- C. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the County to determine whether the applicant meets the qualifications established in this ordinance.
- D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.
- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
 - (1) If the applicant is:
 - a. An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;
 - b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the same of the registered corporate agent and the address of the registered office for service of process.
 - (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state 1) the sexually oriented business's fictitious name and 2) submit the required registration documents.
 - (3) Whether the applicant or a person residing with the applicant has been convicted of a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

- (4) Whether the applicant, or a person residing with the applicant has had a previous license under this ordinance or other similar sexually oriented business ordinances from another County or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (5) Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
- (6) The single classification of license for which the applicant is filing.
- (7) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number (s)
- (8) The applicant's mailing address and residential address.
- (9) A recent photograph of the applicant(s).
- (10) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number.
- (11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (12) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park, residential zoning classifications, occupied residential dwelling, or property devoted to use as a residence, or recreation area within 300 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

- (13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 13. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the County the following information:
 - (i) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 - (ii) Age, date, and place of birth;
 - (iii) Height, weight, hair and eye color;
 - (iv) Present residence address and telephone number;
 - (v) Present business address and telephone number;
 - (vi) Date, issuing state and number of driver's permit or other identification card information;
 - (vii) Social Security number; and,
 - (viii) Proof that the individual is at least eighteen (18) years of age.

F. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

- (1) A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the police department. The applicant shall pay any fees for the photographs and fingerprints.
- (2) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
- (3) A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

Section 705.

ISSUANCE OF LICENSE

- A. Upon the filing of said application for a sexually oriented business employee license, the County shall issue a temporary license to said applicant. The applicant shall then be referred to the appropriate County departments for an investigation to be made on such information as is

contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the County shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- (1) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- (2) The applicant is under the age of eighteen (18) years;
- (3) The applicant has been convicted of a "specified criminal activity" as defined in this ordinance;
- (4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance; or,
- (5) The applicant has had a sexually oriented business employee license revoked by the County within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 9.

B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the County that the applicant has not been convicted of any specified criminal activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 5.

C. Within 30 days after receipt of a completed sexually oriented business application, the County shall approve or deny the issuance of a license to an applicant. The County shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings are true:

- (1) An applicant is under eighteen (18) years of age.
- (2) An applicant or a person with whom applicant is residing is overdue in payment to the County of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

- (4) An applicant or a person with whom the applicant is residing has been denied a license by the County to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 - (5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance.
 - (6) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
 - (7) The license fee required by this ordinance has not been paid.
 - (8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.
- D. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 2. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- E. The health department, fire department, and the building official shall complete their certification that the premises is in compliance within twenty (20) days of receipt of the application by the County.

A sexually oriented business license shall issue for only one classification as found in Section 2.

Section 706.

FEES

- A. An application fee of one thousand dollars (\$1,000) shall accompany every application for a sexually oriented business license (whether for a new license or for renewal of an existing license). In addition to the renewal fee, a late penalty of one hundred dollars (\$100) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. If the application is denied, one-half (1/2) of the fees shall be returned excluding the late penalty charges.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the County an annual license fee of five hundred dollars (\$500) within thirty (30) days of license issuance or renewal. Failure to pay annual license fee shall within thirty (30) days of license issuance or renewal shall result in the immediate revocation of license by the County. If the application is denied, one-half (1/2) of the fees shall be returned.

- C. Every application for a sexually oriented business employer license (whether for a new license or for renewal of an existing license) shall be accompanied by an one thousand dollar (\$1,000) application, investigation, and license fee. In addition to the application, investigation, and license fee, a late penalty of one hundred (\$100) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires. If the license is denied, one-half (1/2) of the fees shall be returned excluding the late penalty charges.
- D. All license applications and fees shall be submitted to the Chancery Clerk of Tunica County.

Section 707.

INSPECTION

- A. An applicant or licensee shall permit representatives of the Sheriff Department, Health Department, Fire Department, Planning & Development Department, or other County departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

Section 708.

EXPIRATION OF LICENSE

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 704. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- B. When the County denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to the denial, the County finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

Section 709.

SUSPENSION

- A. The County shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:
 - (1) Violated or is not in compliance with any section of this ordinance;
 - (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

Section 710.

REVOCAATION

- A. The County shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.
- B. The County shall revoke a license if it determines that:
 - (1) A licensee gave false or misleading information in the material submitted during the application process;
 - (2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (3) A licensee has knowingly allowed prostitution on the premises;
 - (4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended,
 - (5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or,
 - (6) A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due.
- C. When the County revokes a license, the revocation shall continue for one (1) years, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the County finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The court shall promptly review the administrative action.

Section 711.

TRANSFER OF LICENSE

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Section 712.

LOCATION OF SEXUALLY ORIENTED BUSINESSES

- A. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than "I-L" Light Industrial District, as drafted and described in ARTICLE IV, Tunica County Zoning Ordinance
- B. A person commits an offense if the person operates or causes to be operated a sexually oriented business within 300 feet of:

- (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - (2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - (3) A boundary of any residential district as defined in, but not limited to, the following residential zoning classifications in ARTICLE IV, Tunica County Zoning Ordinance
 - a. A-1, Agricultural Residential District
 - b. A-5, Agricultural District
 - c. R-R, Rural Residential District
 - d. R-1, Single Family Residential District
 - e. R-2, Single Family Residential District
 - f. R-3, Multiple Family Residential District
 - g. M-H, Manufactured Home Residential Districts
 - (4) An occupied residential "dwelling" as defined in ARTICLE II. Definitions, Tunica County Zoning Ordinance.
 - (5) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the County which is under the control, operation, or management of the County park and recreation authorities;
 - (6) The property line of a lot devoted to use as a "residence" as defined in ARTICLE II. Definitions, Tunica County Zoning Ordinance.
 - (7) An entertainment business which is oriented primarily towards children or family entertainment; or
 - (8) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.
- C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.
- D. A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the

increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

- E. For the purposes of subsection B of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (B). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- F. For purposes of subsection C. of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures of objects of political boundaries, from the closest exterior wall of the structure in which each business is located.
- G. Any sexually oriented business lawfully operating on February 1, 1999 that is in violation of subsection A through F of this section shall be deemed a nonconforming use. The non-conforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a nonconforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business (es) is/are nonconforming.
- H. A sexually oriented business lawfully in operation as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of a the sexually oriented business license, of a use listed in subsection (B) of this Section within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

Section 713.

ADDITIONAL REGULATIONS FOR ADULT MOTELS

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a refutable presumption that the establishment is an adult motel as that term is defined in this ordinance.
- B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person, and within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

- C. For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

Section 714.

REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
- (1) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station shall not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. . The County may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - (2) The application shall be sworn to be true and correct by the applicant.
 - (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the County.
 - (4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in the manager's station at all times that any patron is present inside the premises.
 - (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view

required in this subsection must be by direct line of sight from the manager's station.

- (6) It shall be the duty of the licensee to ensure that the view area specified in subsection (5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this Section.
- (7) No viewing room may be occupied by more than one person at any time.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles, as measured at the floor level.
- (9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.
- (11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
- (12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
- (13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48") inches of the floor.

- B. A person having a duty under Subsection (1) through (14) of Subsection (A) above commits a misdemeanor if he knowingly fails to fulfill that duty.

Section 715.

ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

- A. An escort agency shall not employ any person under the age of 18 years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Section 716.

ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

- A. A nude model studio shall not employ any person under the age of 18 years.
- B. A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.
- C. A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of nude model studio premises that can be viewed from the public right of way.
- D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

Section 717.

ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY

- A. It shall be a misdemeanor for a person to knowingly and intentionally, in a sexually oriented business, appear in a state of nudity or depict specified sexual activities.
- B. It shall be a misdemeanor for a person to knowingly or intentionally in a sexually oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.
- C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.
- D. It shall be a misdemeanor for an employee, while semi nude, to touch a customer or the clothing of a customer.

Section 718.

PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS

A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

Section 719.

HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and noon (12:00) P.M. on Sundays.

Section 720.

EXEMPTIONS

- A. It is a defense to prosecution under Section 716 that a person appearing in a state of nudity did so in a modeling class operated:
- (1) By a proprietary school, licensed by the State of Mississippi; a college, junior college, or university supported entirely or partly by taxation;
 - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or,
 - (3) In a structure:
 - a. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and,
 - b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and,
 - c. Where no more than one nude model is on the premises at any one time.

Section 721.

INJUNCTION

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this ordinance is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable as provided in 1091 of this Ordinance.

ARTICLE VIII GENERAL REGULATIONS

Section 800. TITLE AND APPLICATION

Sections 800 through 895 shall be known as the General Regulations. These regulations apply to all districts and uses, except as specifically provided herein, in addition to other provisions of the Zoning Regulations.

Section 810. TEMPORARY USE REGULATIONS

Sections 810 through 818 shall be known as the Temporary Use Regulations. Provisions authorizing temporary uses are intended to permit occasional temporary uses and activities when consistent with the purposes of the Zoning Regulations and when compatible with other nearby uses.

Section 811. TEMPORARY USE TYPES

The following types of temporary use may be authorized, subject to specific limitations herein and such additional conditions as may be established by the County Planner.

- A. Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain.
- B. New subdivision sales offices located within the subdivision but not closer than 100 feet to an existing dwelling not a part of the new subdivision.
- C. Public, religious, patriotic, or historic assemblies, displays, or exhibits, including festivals, benefits, fundraising events or similar uses which typically attract a mass audience.
- D. Circuses, carnivals, rodeos, fairs, or similar transient amusement or recreational activities not closer than 200 feet to an existing dwelling nor within any residential district.
- E. Outdoor art and craft shows and exhibits.
- F. Christmas tree sales lots.
- G. One house trailer or mobile home to serve as a dwelling may be permitted on a constructing site during construction, upon application to the County Planner setting out the need therefore, to provide security against theft or vandalism of materials or other property left on the site during nighttime. This permit shall allow no more than one such dwelling per construction site; and shall run for no more than six months. Denial of such a permit shall be appealable to the Board of Supervisors.
- H. Outdoor special sales, including swap meets, flea markets, parking lot sales, or similar activities, limited to locations in C-2 commercial or industrial districts, and when operated not more than 3 days in the same week or more than 5 days in the same month.

- I. Temporary use of mobile trailer units or similar portable structures for nonresidential uses, located in districts where the use is a permitted use, and limited to a maximum period of 6 months.
- J. Seasonal retail sale of agricultural or horticultural products raised or produced off the premises, when located not closer than 100 feet to an existing dwelling nor within any residential district.
- K. Additional temporary uses determined to be similar to the foregoing by the County Planner.

Section 812.

REQUIRED CONDITIONS OF TEMPORARY USE

- A. Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of temporary use upon completion or removal of the use.
- B. The County Planner may establish such additional conditions as he deems necessary to ensure land use compatibility and to minimize potential impacts on nearby uses, including but not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following temporary use.

Section 813.

DETERMINATIONS

The County Planner may authorize a temporary use only when, in his judgment, the following determinations can be made.

- A. The temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site.
- B. The temporary use will be compatible with nearby uses in the general vicinity.
- C. The temporary use will not impact public health, safety, or convenience, or create traffic hazards or congestion, or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.

Section 814.

APPLICATION AND AUTHORIZATION

- A. Application to conduct a temporary use shall be made to the County Planner, and shall include a diagram and description of the use, and such additional information as the County Planner may require to evaluate the use and to make the determinations required by these provisions.
- B. Application shall be made no more than 20 days nor less than 10 days prior to the requested date for commencement of the temporary use, and the County Planner shall make a determination whether to approve, approve conditionally, or to deny the temporary use within the 10 days after the date of application. Authorization of a temporary use shall be by issuance of a building permit or a certificate of occupancy.

- C. A temporary use authorized pursuant to these provisions shall not be exempted or relieved from compliance with any other ordinance, law, permit, or license applicable to such use.

Section 815. EXTENSION

Authorization for a temporary use may be renewed by the County Planner, upon request of the applicant, provided temporary use shall not be authorized or continued for a period of more than one year except upon a new application and authorization.

Section 818. REPORTS BY THE COUNTY PLANNER

A report by the County Planner shall be made to the Planning Commission on a regular basis. This report shall inform the Planning Commission of the number and kinds of length of time temporary uses are applied for.

Section 820. ACCESSORY USES

The purpose of these provisions is to establish the relationship among principal and accessory uses and to establish provisions governing the conduct of accessory uses. Principal uses specified as permitted uses or conditional uses for a district by the District Regulations shall be deemed to include accessory uses and activities identified by these regulations and such other accessory uses that are necessarily and customarily associated with and are appropriate, incidental, and subordinate to such principal uses. Accessory uses shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations.

Section 821. ACCESSORY USES: RESIDENTIAL USE TYPES

Residential use types shall include the following accessory uses, activities, and structures on the same site or lots. Residential accessory activities and meetings shall not generate guest traffic to the site exceeding ten vehicles on any two days or twenty-four hour period per week and not to exceed thirty vehicles in any week.

No motor vehicle shall be kept, parked or stored on any lot, other than in a completely enclosed building, unless the vehicle is in operating condition, properly licensed, and capable of performing the transportation function for which it was manufactured.

The outdoor storage of machinery, appliances, scrap metals, commercial or industrial materials, or parts not suited for use upon the premises, or quantities of old or used building materials, shall be prohibited: provided, however, building materials fit to be used to improve the premises may be maintained in outside storage if maintained in a workmanlike manner and elevated from the ground level so as not to become a potential rat and rodent harborage.

The following accessory uses are permitted:

- A. Guest house, when the principal use is single family residential on a lot of 15,000 square feet or greater.
- B. Home occupations in compliance with Section 905.
- C. Keeping of dogs and cats and similar small animals as household pets.
- D. Playhouse, patios, cabanas, porches, gazebos, and incidental household storage buildings.
- E. Private garages and parking for the principle use.
- F. Radio and television receiving antennas and screened dish-type receivers of satellite signals.
- G. Recreational activities and facilities for use by residents.
- H. Religious study meetings.
- I. Residential convenience services when located in a multiple family residential use having at least 40 dwelling unit home sites. The convenience service shall be located and operated as an integral part of the principal use, not visible or identifiable from outside the site.
- J. Solar collectors that are an integral part of the building.

Section 822.

ACCESSORY USES: COMMERCIAL USE TYPES

Commercial use types shall include the following accessory uses, activities, and structures on the same site or lot:

- A. Any other commercial use type that is not listed as a permitted use in the same district, and complies with all of the following criteria:
 - 1. Is operated primarily for the convenience of employees, clients, or customers of the principal use.
 - 2. Occupies less than 20 percent of the total floor area of the use.
 - 3. Is located and operated as an integral part of the principal use and does not comprise a separate business use or activity.
- B. Any commercial use type that is not listed as a permitted use in the same district, and complies with the criteria listed in paragraph A, above and it is not located within 100 feet of any residential district.
- C. Parking for the principal use.
- D. One residence or dwelling unit above or behind commercial space.

Section 823.

ACCESSORY USES: INDUSTRIAL USE TYPES

Industrial use types shall include the following accessory uses, activities, and structures on the same site or lot:

- A. Any commercial use type or any other industrial use type that is not a permitted use in the same district, and complies with all of the following criteria:
 - 1. Is operated primarily for the convenience of employees, clients, or customers of the principal use.
 - 2. Occupies less than 25 percent of the total floor area of the use.
 - 3. Is located and operated as an integral part of the principal use and does not comprise and separate use or business activity.
- B. Parking for the principal use.
- C. Local utility services and major utility facilities located and operated as an integral part of the principal use which do not comprise a public utility.

Section 824.

ACCESSORY USES: CIVIC USE TYPES

Civic use types shall include accessory uses and activities necessarily and customarily associate with the purpose and function of the civic use as a principal use, including but not limited to the following on the same site or lot:

- A. Accessory dwelling.
- B. Cafeterias, dining halls, and similar eating and beverage services operated incidental to principal uses and primarily for the convenience of employees, residents, clients, patients, or visitors thereof.
- C. Gift shops, newsstands, and similar commercial activities operated incidental to principal uses and primarily for the convenience of employees, residents, clients, patients, or visitors thereof.
- D. Refreshment stands and food beverage sales of a convenience nature located in uses involving public assembly.

Section 825.

ACCESSORY USES: AGRICULTURAL TYPES

Agricultural use types shall include accessory uses and activities necessarily and customarily associated with the purpose and function of the agricultural use as a principal use.

Section 828.

ACCESSORY STRUCTURE LIMITS

- A. No accessory buildings shall be erected in any required front or side yard in a subdivision in a residential district, except on a corner lot, where the accessory building may be constructed in a side yard. A maximum of two

(2) accessory buildings may be constructed provided that a ten (10) foot setback is maintained from all property lines and no separate accessory building shall be erected within five (5) feet of the principal structure. More than two (2) accessory buildings shall be allowed on farms and parcels over one (1) acre.

- B. No accessory building shall exceed two (2) stories or twenty-five (25) feet in height as measured at its highest point above grade. When the lots on which accessory buildings or uses are constructed backs up to a street right-of-way, accessory building or uses in the rear yard area shall not exceed eight (8) feet in height. Any accessory building built at the ten (10) foot setback line shall be restricted to a height of eight (8) feet. For each foot that the accessory building is move toward the principal building, away from the ten (10) foot line, it may be increased one (1) foot to a maximum height of fourteen (14) feet.
- C. The total maximum area of all accessory buildings shall not exceed twenty (20) percent of the maximum lot coverage permitted within that zoning district, provided, however, that all residential lots shall be allowed to have six hundred (600) square feet of accessory buildings.
- D. On those recorded lots or tracts which contain one (1) acre or more, there may be erected two (2) or more accessory buildings, provided however, no accessory building shall exceed twenty-five (25) feet in height, and no accessory building shall be located closer to the property line than ten (10) feet at any point.
- E. When the accessory building houses livestock, it shall require a minimum of two (2) acres and shall be located no closer to the property line than twenty (20) feet at any point.

Section 830.

LANDSCAPING AND SCREENING REQUIREMENTS

When site plan review by the Planning Commission is required, these landscaping requirements are applicable. When an application is made for a building permit on any land where these landscaping requirements are applicable, such building permit application shall be accompanied by a site plan containing the information, which satisfies the following requirements:

- A. Screening shall be provided by the following use types, when located on sites as identified below:
 - 1. Townhouse. Condominium, multiple family, group, and mobile home residential use types: Each use shall provide screening at the property line where abutting any residential district in which the use is not listed as a permitted use.
 - 2. Commercial use types: Each use shall provide screening at the property line where abutting any residential district.

3. Industrial use types: Each use shall provide screening at the property line where abutting any residential district.
 4. Civic use types: Each use shall provide screening at the property line abutting any more restrictive district in which the use is not a permitted use.
- B. Screening shall be provided by installation and maintenance thereafter of a visual screen or buffer of one of the following types:
1. A solid wood and/or masonry fence or wall at least 6 feet in height.
 2. A hedge-like screen of evergreen plant material capable of attaining a minimum height of 6 feet at maturity, planted initially at minimum 4-foot centers and with a minimum height of 2.5 feet.
- C. Screening shall be designed to avoid adverse effect on surface water drainage.
- D. On all lots platted from previously unplatted land, zoned or rezoned or granted a conditional use permit after January 1, 1993 at least 10% of the area of the **front** yard shall be landscaped area.
- E. Landscape areas shall be provided along all public road rights-of-way. The streetscape type to be used shall be dependent upon either the presence of parking or a vehicular drive aisle adjacent to the streetscape area. See the following descriptions and Plates and list of suggested trees and shrubs.
1. Streetscape A shall be required where parking is located adjacent to the streetscape and facing public right-of-way and shall consist of a 8-15 foot wide area. Planting shall consist of A or B Streetscape Plates.

Planting shall consist of one (1) major shade tree planted 40 feet on center accompanied by a single, staggered row (straight or serpentine) of evergreen shrubs planted 3 feet on center between each pair of shade trees.

Where overhead wires exist planting shall consist of one (1) ornamental shade tree planted 30 feet on center. See list of suggested shade trees and evergreen shrubs.

Streetscape B consists of one (1) major shade tree planted every 40 feet accompanied by a single, staggered row of evergreen shrubs and a berm 1-3 feet in height.

2. Streetscape C shall be required where parking is not present but a vehicle drive aisle is located on the lot, adjacent to the streetscape and shall consist of a 15 foot wide area. Planting shall consist of either B or C.

Streetscape C consists of one (1) major shade tree planted every 40 feet accompanied by a single, staggered row of evergreen shrubs (straight or serpentine) planted 3 feet on center. This type should be used to maintain continuity of landscape within a unified development.

3. Streetscape D shall be required where the green space or lawn between a building and the public right-of-way is unbroken by parking or vehicular travel surface. Planting shall consist of one (1) major shade tree planted every 40 feet in the front yard.
- F. Parking Lot Landscaping shall include one (1) shade tree for every fifteen (15) parking spaces or increment thereof. Landscaping internal to the parking lot shall be provided at a minimum ratio of 170 square feet of landscaped parking islands (10' wide and 17' long for a single row of parking, or 35' for a double row of parking).
- G. Interior Lot Landscaping shall be provided in an amount equivalent to twenty (20) percent of the **total** area of the lot. Interior lot landscaping shall be considered the total, cumulative area devoted to greenspace (ie. Lawns, ground cover, shrubs, trees, walks, and other landscape features). This may include streetscapes, bufferyards, required screening, or any other landscape areas surrounding the building or contained within the boundary of the property.
- H. In determining whether there is compliance with this section the County Planner shall consider topographical constraints on design, drainage, access and egress, utilities, and other factors reasonable related to the health, safety and welfare of the public which necessitated disturbance of the existing natural landscape character: economic usefulness of the property without the disturbance of its natural character: the nature and quality of the landscaping installed to replace it: and such other factors as may be relevant and proper.

SUGGESTED SHADE TREES

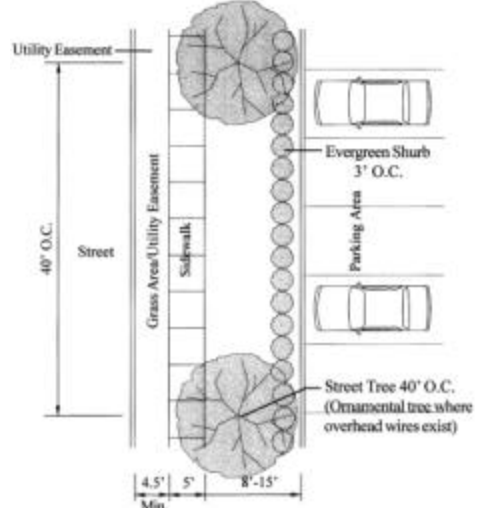
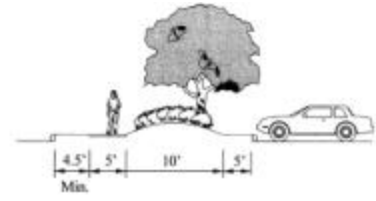
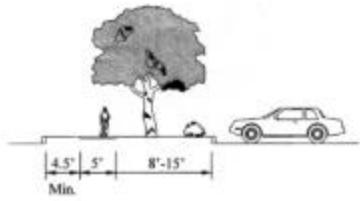
Deciduous	Evergreen
Ash, White	Cypress, Leland
Bald Cypress	Hemlock, Canadian
Elm, Lacebark	Magnolia, Southern
Oak, Laurel	Pine, Austrian
Oak, Pin or Willow	Pine, Loblolly

SUGGESTED ORNAMENTAL TREES

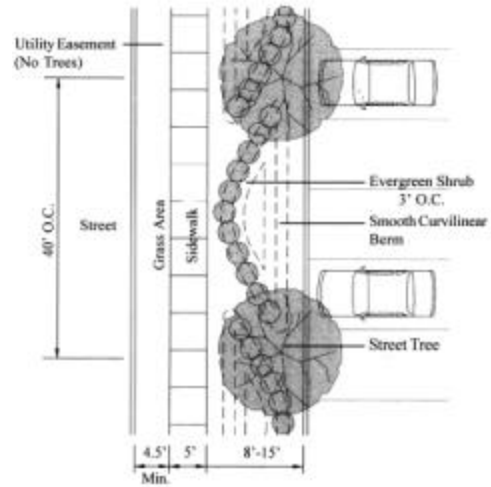
Flowering	Non-Flowering
Cherry, Kwanzan	Cherry-Laurel
Cherry, Yoshino	Holly, Foster
Crabapple	Holly, Savannah
Crepe Myrtle	Hornbeam, American
Dogwood, Flowering	Hornbeam, European

SUGGESTED EVERGREEN SHRUBS

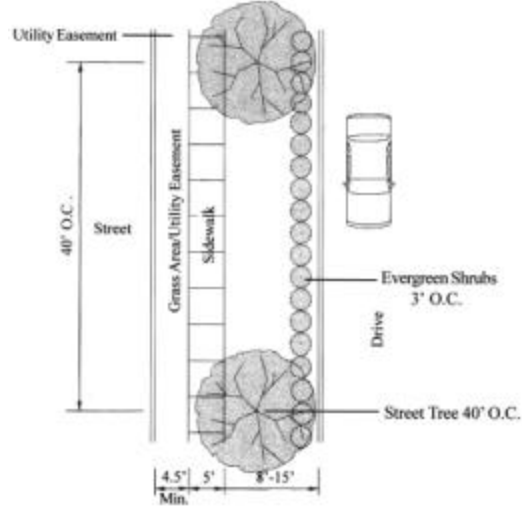
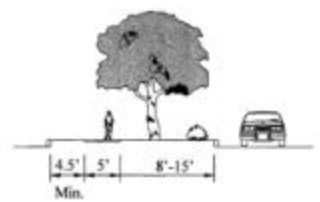
Fortunei, Euonymus	Juniper, Pfitzer
Holly, Dwarf Buford	Ligustrum
Nandina, Common	



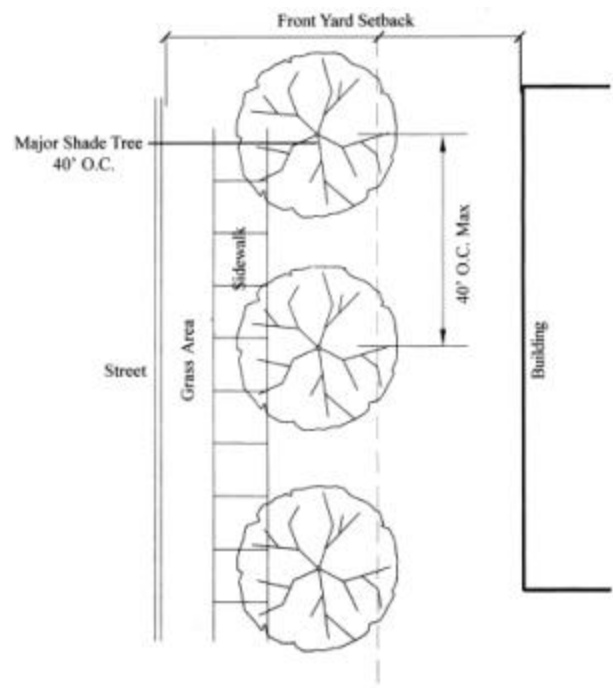
Streetscape 'A'



Streetscape 'B'

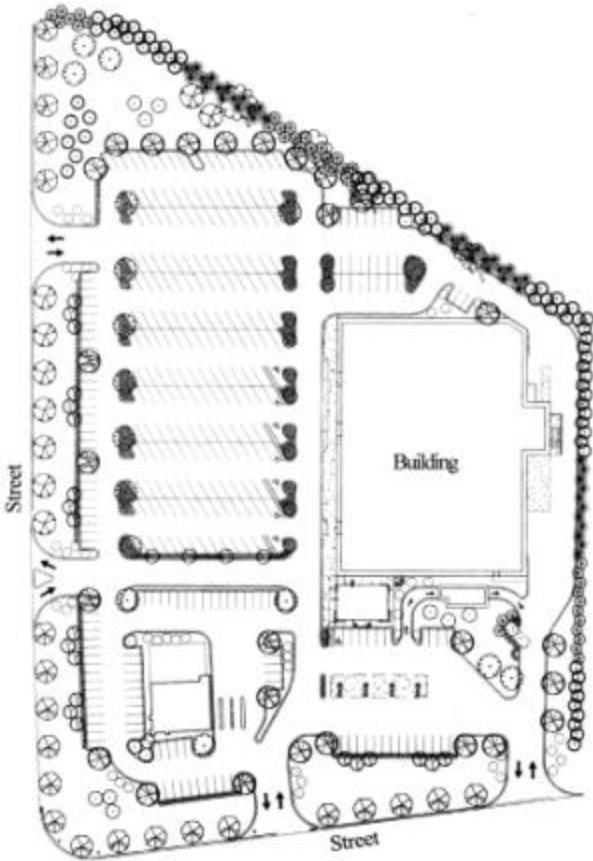


Streetscape 'C'



Streetscape 'D'

Parking and Interior Lot Landscaping Example



Section 840.

OFF-STREET PARKING AND LOADING REGULATIONS

Sections 840 through 849 shall be known as the Off-Street Parking and Loading Regulations. These regulations require off-street parking and loading facilities proportional to the need created by each use in order to ensure functionally adequate, aesthetically pleasing, and secure off-street parking and loading facilities. Development regulations and design standards are intended to ensure the usefulness of parking and loading facilities, protect the public safety, and where appropriate, to mitigate potential adverse impacts on adjacent land uses.

Section 841.

BASIC REGULATIONS: VEHICLE PARKING

- A. Off-street parking facilities shall be provided for any new building constructed and for any new use established. Off-street parking facilities shall be provided for any addition or enlargement of occupancy or manner of operation that would result in additional parking. The additional parking shall be required only for such addition, enlargement, or change and not for the entire building or use.
- B. Facilities being used for off-street parking on the effective date of the Zoning Regulations shall not be reduced in capacity to less than the number of spaces prescribed, or altered in design or function to less than the minimum standards prescribed in the Off-Street Parking and Loading Regulations.
- C. For sites with more than one use, or for adjacent sites served by a common parking facility, the parking requirement shall be the total number of spaces required for each site or use, except as adjusted pursuant to Section 844.
- D. Parking facilities constructed or substantially reconstructed subsequent to the effective date of the Zoning Regulations, whether or not required, shall conform to the Design Standards set forth in Section 848.
- E. All required parking facilities shall be maintained for the duration of the use requiring such areas. Such facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles, or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display, or storage of merchandise, or for the storage or repair of vehicles or equipment.
- F. All required parking facilities shall be located on the same site as the use for which such facilities are required, except as the authorized pursuant to Section 843.
- G. No use shall be required to provide more spaces than prescribed by these regulations or prescribed by the Planning Commission in accord with these Zoning Regulations, or prescribed pursuant to a Conditional Use Permit or a Variance. Where parking spaces are provided in excess of such requirements, the spaces may be considered as meeting the requirement for another use pursuant to Section 843.

Section 842.

SCHEDULE OF OFF-STREET PARKING

- A. Parking facilities for each use shall be provided in accord with the minimum requirements in Table VIII-2.
 - 1. Where the application of Table VIII-2 results in a fractional requirement, a fraction of 0.5 or greater shall be resolved to the higher whole number.
 - 2. For the purposes of this section, requirements shall be based on gross floor area, but shall not include enclosed or covered areas used for off-street parking or loading.
 - 3. Where requirements are established on the basis of seats or person capacity, Building Code provisions applicable at the time of determination shall be used to define capacity.

- B. Notwithstanding the provisions of Table VIII-2, a minimum of 5 parking spaces shall be provided for any single industrial use located individually on a site and served by a separate parking facility, and a minimum of 10 parking spaces shall be provided for any 2 or more industrial uses located on the same site and served by a common parking facility.

Section 843.

OFFSITE OR REMOTE PARKING

- A. The Planning Commission may approve locating a portion of the parking required for a use on another site, pursuant to this section.

- B. Offsite parking shall be located within 300 feet of the use that it serves. Pedestrian access is measured as the shortest practical walking distance from the nearest offsite parking space to the nearest entrance to the building or use which it serves. Satellite parking facilities may be approved for casinos.

- C. In determining whether to approve offsite parking, the Commission shall consider all relevant factors, including:
 - 1. The location of the use and the proposed offsite parking.
 - 2. Existing and potential parking demand created by other uses in the vicinity.
 - 3. The characteristics of the use, including employee and customer parking demand, hours of operation, and projected convenience and frequency of use of the offsite parking.
 - 4. Adequacy, convenience, and safety of pedestrian access between offsite parking and the use.
 - 5. Traffic patterns on adjacent streets, and proposed access to the offsite parking.

- D. The Commission may require such guarantees as it deems necessary to assure the continued availability and usability of any offsite parking
- E. Handicapped spaces shall not be located in an offsite parking facility.

Section 844.

PARKING FOR MIXED USE DEVELOPMENTS

- A. The Planning Commission may authorize an adjustment in the total parking requirement for separate uses located on the same site, or for separate uses located on adjoining sites and served by a common parking facility, pursuant to this section. A request for such adjustment shall require submission of a site plan and transportation engineering report addressing the relevant factors listed in paragraph C. below.
- B. All parking spaces subject to adjustment under this section shall be located in a common, contiguous parking facility providing reasonably equivalent accessibility and usability to all uses which the parking is intended to serve. When any adjustment is authorized, offsite parking pursuant to Section 843 shall not be permitted.
- C. In determining whether to approve an adjustment for mixed use developments, the Commission shall consider all relevant factors, including:
 - 1. The characteristics of each use and the differences in projected peak parking demand, including days or hours of operation.
 - 2. Potential reduction in vehicle movements afforded by multi-purpose use of the parking facility by employees, customers, or residents of the uses served.
 - 3. Potential improvements in parking facility design, circulation, and access afforded by a joint parking facility.
 - 4. The report and recommendation of the County Planner and County Engineer.

Section 845.

HANDICAPPED FACILITIES

In each parking facility of 20 or more spaces, a portion of the total parking spaces shall be specifically designed, located, and reserved for vehicles licensed by the State for use by the handicapped, according to the following schedule:

<u>Total Spaces</u>	<u>Handicapped Spaces Required</u>	<u>Van Accessible Spaces</u>
20-25	1	1
26-50	2	1
51-75	3	1
76-100	4	1
101-150	5	1
151-200	6	1
201-300	7	1
301-400	8	1
401-500	9	2
501-1000	2% of total	3

Section 846.

BASIC REGULATIONS: OFF-STREET LOADING

- A. Off-street loading facilities shall be provided for any new building constructed and for any new use established. Off-street loading facilities shall be provided for any addition or enlargement of an existing use, or any change of occupancy or manner of operation that would result in additional loading space being required, provided that the additional loading space shall be required only for such addition, enlargement, or change.
- B. Facilities being used for off-street loading on the date these Zoning Regulations are adopted shall not be reduced in capacity to less than the number of spaces prescribed, or altered in design or function to less than the minimum standards prescribed in the Off-Street Parking and Loading Regulations.
- C. Loading facilities constructed or substantially reconstructed subsequent to the effective date of the Zoning Regulations, whether or not required, shall conform to the Design Standards set forth in Section 848.
- D. All required loading facilities shall be maintained for the duration of the use or building requiring such facility, and shall be used exclusively for the purpose of loading and unloading goods, materials, and supplies, and shall not be used for the sale, display, or storage of merchandise, or for the storage or repair of vehicles or equipment.

Section 847.

SCHEDULE OF OFF-STREET LOADING REQUIREMENTS

Off-street loading facilities for each use shall be provided in accord with the minimum requirements prescribed in this Section.

- A. Gross Floor Area - For purposes of this section, requirements shall be based on gross floor area, but shall not include enclosed or covered areas used for off-street parking or loading.
- B. Mixed Uses - Where mixed uses or multiple occupancies are located in the same building, or are situated on the same site in such a manner that all uses can be equally and conveniently served by a common loading space, the schedule may be applied to the entire building and to the combination or buildings or uses so situated, in lieu of application of the schedule to

each individual use or occupancy. For this purpose, the schedule applicable to the use having the greatest requirement shall be utilized.

- C. Exterior Site Area - For purposes of this section, each two square feet of exterior site area used by commercial and industrial uses shall be considered equivalent to one square foot of enclosed floor area.
- D. Dimensions
 - 1. All spaces shall be laid out in the dimension of at least ten feet by fifty feet (10' x 50') or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.
 - 2. Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) feet by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.

E. Spaces Required

The following ratio of loading spaces to floor area applies to all districts.

Gross Floor Area	Space Required
0 - 20,000 sq. ft.	One (1) space
20,000 sq. ft. and over	One space plus one (1) additional space for each 20,000 sq. ft. in excess of 20,000 sq. ft.

Section 848.

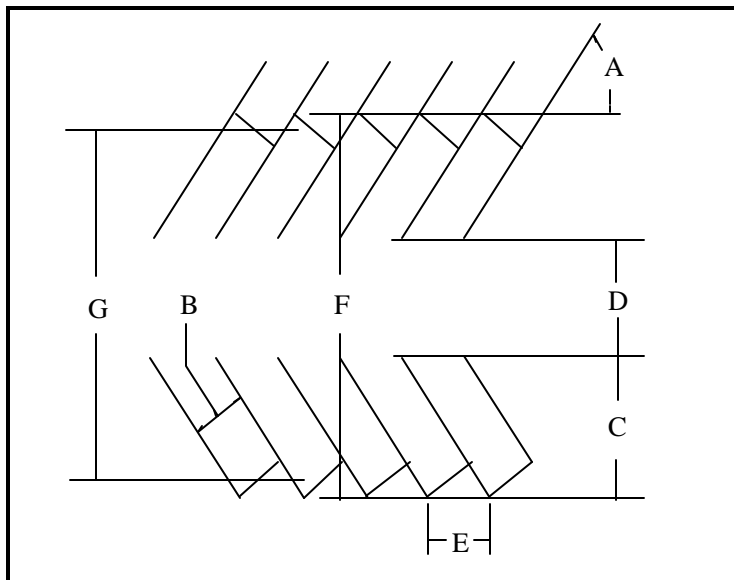
DESIGN STANDARDS

- A. Standards: Design standards are established by this section to set basic minimum dimensions and guidelines for design construction, and maintenance of parking and loading facilities.
- B. Parking dimensions: The following basic dimension shall be observed for parking spaces.

**TABLE VIII-1
PARKING DESIGN REQUIREMENTS**

A	B	C	D	E	F	G
0°	9.0'	9.0'	12.0'	25.0'	30.0'	30.0'
20°	9.0'	16.0'	12.0'	26.3'	44.0'	35.5'
30°	9.0'	18.0'	12.0'	18.0'	48.0'	40.0'
45°	9.0'	19.0'	13.0'	12.7'	52.0'	46.5'
60°	9.0'	19.5'	18.0'	10.4'	19.5'	55.0'
70°	9.0'	19.5'	19.0'	9.6'	60.5'	57.0'
80°	9.0'	19.0'	22.0'	9.1'	61.5'	60.0'
90°	9.0'	18.5'	22.0'	9.0'	61.5'	62.0'

- B** STALL WIDTH
- C** STALL TO CURB
- D** AISLE WIDTH
- E** CURB LENGTH PER CAR
- F** CURB TO CURB WIDTH OF DOUBLE ROW WITH AISLE
- G** CENTER TO CENTER WIDTH OF DOUBLE ROW WITH AISLE



- C. Parking facility design: Minimum parking facility design standards are illustrated above. Additional supplemental guidelines and standards for parking facility design, internal layout, acceptable turning radii and pavement slope, vehicular and pedestrian circulation, and other design features may be adopted by resolution of the Planning Commission, upon recommendation of the County Planner and/or the County Engineer.
- D. Paving and drainage: The following basic standards shall be observed:
1. Parking and loading facilities shall be surfaced and maintained with asphaltic, concrete, or other permanent hard surfacing material sufficient to prevent mud, dust, loose material, and other nuisances in all commercial and industrial districts.
 2. In the A-5 and A-1 agricultural districts, porous or non-paved surfacing may be permitted, subject to approval by the County Engineer.
 3. All parking and loading facilities shall be graded and provided with permanent storm drainage, meeting the construction specifications set by the County Engineer. Surfacing, curbing, and drainage improvements shall be sufficient to preclude free flow of water onto adjacent properties and prevent localized flooding of all structures on or off the premises.
- E. Safety features: Parking and loading facilities in commercial and industrial districts shall meet the following standards:
1. Safety barriers, protective bumpers or curbing, and directional markers shall be provided to assure safety, efficient utilization, protection to landscaping, and to prevent encroachment onto adjoining public or private property.
 2. Visibility of and between pedestrians, and motorists shall be assured when entering individual parking spaces, when circulating within a parking facility, and when entering and exiting a parking facility.
 3. Internal circulation patterns, and the location and traffic direction of all access drives, shall be designed and maintained in accord with accepted principles of traffic engineering and traffic safety.
- F. Lighting: Lights provided to illuminate any parking facility or paved area shall, to the maximum extent feasible, be designed to reflect downward and away from any residential use.
- G. Fencing and Screening:
1. A parking facility in any nonresidential district which adjoins or abuts property in a residential district shall have a wall or fence not less than 6 feet in height located for the length of the common boundary.

2. A parking facility in any residential district which has more than 10 spaces and which adjoins or abuts other property in a residential district shall have a wall or fence or landscaped screen not less than 6 feet in height located for the length of the common boundary.
- H. Noise: Areas used for primary circulation, for frequent idling of vehicle engines, or for loading activities shall be designed and located to minimize impacts on adjoining properties, including provisions for screening or sound baffling.
 - I. Maintenance: All parking and loading facilities shall be maintained to assure desirability and usefulness of the facility. Such facilities shall be maintained free of refuse, debris, or other accumulated matter and shall at all times be available for the off-street parking or loading use for which they are required or intended.
 - J. Adjustments: For a permitted use or a site subject to Site Plan Review or a Conditional Use Permit, the minimum requirements of this section may be varied or adjusted in their application, provided such change is determined by the Planning Commission, whichever is applicable, to provide improved design, usability, attractiveness, and protection to adjoining uses, in a manner equal to or greater than the specific requirements of this section.

TABLE VIII-2
OFF-STREET PARKING AND LOADING REQUIREMENTS
 (All requirements based on gross square feet)

Residential	Spaces Required
Condominiums and multiple family One bedroom, Two or more bedrooms	1.5 spaces per dwelling unit 2 spaces per dwelling unit
Dwelling, single and two family, townhouses, manufactured homes and mobile homes	2 spaces per dwelling unit
Hotels, motels, tourist courts and similar transient lodging First 50 rooms Each additional room 50 – 250 Each additional room over 250	1.25 space /room 1.0space / room 0.5 space / room
All other residential uses not listed	As determined by the Planning Commission
Retail Trade / Services	Spaces Required
Agricultural Equipment, Greenhouse, nursery products, agricultural equipment and lawnmower sales and service	1 space per 500 sq. ft. of total floor area.
Auto Sales, Rental and Service, Auto Parts, Boat Sales and Service, Boat Parts and Motorcycle Sales and Service, Motor home and Camper Sales and Service	1 space per 500 sq. ft. of total floor area
Automobile Wash, Full Service	Parking and cleaning space equal to 3 times the service capacity
Automobile Wash, Self Service	2 spaces plus 1 space per wash bay
Bait Shop	1 space per 200 sq. Ft. of total area
Bar, Cocktail, Lounge, Club	1 space per 2 person capacity
Convenience Store	1 space per 200 sq. ft. of total floor area
Delicatessens and Bakeries	1 space per 150 sq. ft. of total floor area
Entertainment and Amusements Indoor Outdoor	1 space per 100 sq. Ft. 1 space per employee plus one space per 400 sq. Ft.
Fuel or Gas Stations	1 space per 250 sq. ft. of total floor area with a minimum of 5 parking spaces
Furniture, Home Furnishings, Art, Antiques and Books and Stationary	1 space per 400 sq. ft. of total floor area
General Merchandise, Clothing, Variety and Department Stores	1 space per 200 sq. ft. of total floor area
Grocery Stores and Supermarkets	1 space per 200 sq. ft. of total floor area
Hardware, Paint, Lumber and Building Materials	1 space per 500 sq. ft. of total floor area
Package Liquor Store	1 space per 200 sq. ft. of total floor area
Plumbing and Heating Supply	1 space per 1,000 sq. ft. of total floor area
Restaurants, Cafes and Cafeteria	2 spaces per 50 sq. ft. of floor area devoted to patron use, or one space for each 2 seats.

Restaurants, Fast Food and Drive Through	1 spaces per 50 sq. ft. of floor area devoted to patron use, or one space for each 2 seats
Shopping Centers and Malls	1 space per 200 sq. ft of total floor area
All other retail not listed	1 space per 200 sq. ft. of total floor area
Finance, Insurance, and Real Estate	Spaces Required
Banks, Savings and Loans Real Estate Offices, and Insurance	1 space per 200 sq. ft. of total floor area.
All other finance/insurance/real estate not listed	1 space per 200 sq. ft. of total floor area
Personal Services	Spaces Required
Beauty, Barber and Photographic Services	1 space per 300 sq. ft. of total floor area and 1 space per employee
Kennels	1 space per employee plus 1 space per 1,000 sq. Ft of total floor area
Laundering, dry cleaning, apparel repair and cleaning services	1 space per 350 sq. ft. of total floor area
Laundry self service	1 space per 200 sq. Ft of total floor area
All other personal services not listed	As determined by the Planning Commission
Business Services	Spaces Required
Advertising, Consumer Credit Reporting and Collections	1 space per 400 sq. ft. of total floor area
Clerical Services, Monument Sales	1 space per 500 sq. ft. of total floor area
Photocopying, Mailing, Exterminating and Employment	1 space per 400 sq. ft. of total floor area
Printing and Publishing	1 space per 400 sq. ft. of total floor area
Warehousing and Storage	1 space per 1,000 sq. ft. of floor area or 1.5 spaces for each 2 persons employed on the largest shift, which ever is greater.
All other business services not listed	As determined by the Planning Commission
Repair Services	Spaces Required
Automobile Repair, Oil and Fluid Changing Services, Electrical Repair and Radio and Television Repair	1 space per 500 sq. ft. of total floor area with a minimum of 2 spaces
Watch Repair, Reupholstery, and other repair services not listed	1 space per 300 sq. ft. of total floor area with a minimum of 2 spaces
Professional Services	Spaces Required
Attorneys, Accountants, Engineers and other services not listed	1 space per 200 sq. ft. of total floor area.
Cleaning and Sanitary Services	1 space per 500 sq. Ft of total floor area
Day Care and Child Care Centers	1.5 spaces per care room with a minimum of 5 spaces plus a paved unobstructed pick-up area with adequate stacking area
Hospitals and Sanitariums	1 space for each employee, two 2 spaces for each bed plus 1 space for each emergency vehicle
Physicians and Dentist Offices and Clinics	1 space per 150 sq. ft. of total floor area.
Veterinarians and Animal Hospitals	1 space per 300 sq. ft. of total floor area.
All other professional services not listed	1 space per 200 sq. ft. of total floor area.

Construction Services		Spaces Required	
Construction Sales and Services		1 space per 500 sq. Ft of total floor area	
All other Construction Services		1 space per 1,000 sq. ft. of total floor area.	
Governmental Services		Spaces Required	
Administrative Services		1 space per 300 sq. Ft. of total floor area	
Meeting/Assembly		1 space for each 3 seats in the assembly area	
Postal Facilities		1 space per 200 sq. Ft. of total area	
Utility Services		1 space per 1,000 sq. Ft. of total floor area	
All Other Government Services		1 space per 300 sq. Ft. of total floor area, or as determined by the Planning Commission	
Educational Services		Spaces Required	
Business or Trade School		1 space per 5 persons capacity	
College Facilities		As determined by the Planning Commission	
Elementary school or junior high school		One (1) space for each classroom, plus one (1) space for each staff member and employee other than teachers, plus ten (10) additional spaces. This provision is not applicable where parking space required for an auditorium is provided.	
Senior high school		One (1) space for each classroom plus one (1) space for each staff member and employee other than teachers, plus one (1) space for each fifteen (15) students based on the capacity for which the building was designed. This provision is not applicable where parking space required for an auditorium is provided.	
Other Educational Services		1 space per 300 sq. ft. of total floor area	
Miscellaneous Services		Spaces Required	
Funeral Home or Mortuary		1 space per 1,000 sq. ft. of floor area or 1 space per 4 persons capacity whichever is greater	
Labor Unions, Clubs Lodges and Civic, Social or Fraternal Associations		1 space per 100 sq. ft. of total floor area or 1 space per 4 persons capacity, whichever is greater	
Scrap and Salvage Service		1 space per 1,000 sq. Ft. of floor area	
Other miscellaneous services not listed		As determined by the Planning Commission	
Cultural Activities		Spaces Required	
Libraries, Museums and Art Galleries		1 space per 100 sq. ft. of floor area	
All other cultural activities not listed		As determined by the Planning Commission	
Public Assembly		Spaces Required	
Motion Picture Theaters, Amphitheaters and Stadiums		1 space per 3 seats or 6 feet of bench space	

Amusements	Spaces Required
Arcades and Pool Halls	1 space per 200 sq. ft. of total floor area
All other amusements not listed	As determined by the Planning Commission
Recreational Activities	Spaces Required
Campground	1 space per camping unit
Playgrounds and athletic fields	1 space per 4 person capacity
Roller Skating Rinks, Gymnasiums and athletic clubs	1 space per 250 sq. ft. of total floor area
All other recreation activities not listed	As determined by the Planning Commission
Communications and Utilities	Spaces Required
All communications and utilities services	As determined by the Planning Commission
Institutional	Spaces Required
Churches, Synagogues and other Places of Worship	1 space per 3 seats in the sanctuary
Casino and Casino Related Uses	Spaces Required
Visitor Parking (by Auto)	1 space per 2.6 visitors capacity
Bus Parking	5 spaces (10' x 50' each)
Miscellaneous Parking (may be adjoining site or satellite facility)	Additional space for RV / Truck parking recommended
Wholesale Trade	Spaces Required
Drugs, Chemicals and Allied Products	1 space per 1,000 sq. ft. of total floor area.
Groceries, Electrical Goods, Hardware and other items not listed	1 space per 1,000 sq. ft. of total floor area.
Self Storage (convenience storage)	1 space per 1,000 sq. Ft. of total floor area
All other wholesale uses	As determined by the Planning Commission
Industrial	Spaces Required
Resource Extraction, or Landfill	1 space per employee on largest shift plus 25% cover shift change
All Industrial Uses	1 space per 1,000 sq. ft. of floor area or 1.5 spaces for each 2 persons employed on the largest shift, whichever is greater

ARTICLE IX

SUPPLEMENTAL USE AND SITE DEVELOPMENT REGULATIONS

Section 900.

PURPOSE

Sections 900 through 990 shall be known as the Supplemental Use Regulations. These provisions apply to specific use classifications in addition to regulations established by the District Regulations. In event of any conflict in provisions, the more restrictive provision shall apply unless specifically indicated to the contrary.

Section 905.

HOME OCCUPATIONS (refer to Definitions for urban or rural locations)

Home occupations accessory to residential use shall be subject to the following:

- A. The home occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioner(s), or entirely within only one accessory garage building (not to include a carport, driveway, yard or outside area).
- B. No person other than a family member who resides in the dwelling unit participates in the home occupation on the premises.
- C. The residential character of the lot and dwelling shall be structurally altered so as to require compliance with non-residential construction codes to accommodate the home occupation. No additional buildings shall be added on the property to accommodate the home occupation.
- D. The home occupation shall not generate customer related vehicular traffic in excess of three vehicles per twenty-four hour day in the residential neighborhood.
- E. No direct selling of merchandise shall occur on the premises, this does not include sales utilizing telephone, internet, and other electronic equipment for of-site sales, from the residence .
- F. No materials associated with the home occupation shall be displayed or stored where visible from anywhere off the premises.
- G. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit.
- H. No vehicle used in connection with the home occupation which required a commercial driver's license to operate shall be parked on the premises or on any street adjacent to the residentially zoned property.
- I. A home occupation in an A-1 or A-5 district may be advertised by one sign on the premises not to exceed 12 square feet on an area and three (3) feet in height. Home occupation advertising by an on-premises sign shall not be allowed in an R-R, R-1, R-2, R-3 or M-H District.

- J. Nothing herein shall be construed to allow the following businesses or occupations as home occupations: animal hospitals, clinics, hospitals, contractor's yards, dancing schools, junk yards, restaurants, rental outlets, vehicle repair shops or massage parlors.

Section 910. CLUB/LODGE

When located in any residential district, a club, or lodge use shall be subject to the following limitations established by a Conditional Use Permit:

- A. Vehicular access shall be by way of a dedicated street or road with a minimum width of 60 feet for the full block face.
- B. The club or lodge shall be operated as a non-profit organization.
- C. Food and beverage service, including alcoholic beverages, shall be limited to service incidental to the primary activity of the facility.

Section 915. BAR, COCKTAIL LOUNGE, OR NIGHTCLUB

When located in an acceptable district, these uses shall be subject to the following restrictions in addition to any limitations established by a Conditional Use Permit:

- A. Any main building or structure shall not be closer to a residential district boundary than two hundred (200) feet or closer to a church or public school than one thousand (1,000) feet.
- B. Adequate off-street parking area shall be provided for maximum capacity on the site and located at least ten (10) feet from the perimeter of the site.

Section 920. COMMUNITY RECREATION (COMMUNITY CLUB)

When located in any residential district, a community recreation use shall be subject to the following limitations:

- A. Vehicular access shall be by way of a dedicated street or road with a minimum width of 60 feet for the full block face.
- B. The use shall be operated as a non-profit organization.
- C. Food and beverage service, including alcoholic beverages, shall be limited to service incidental to the primary activity of the facility.

Section 930. LOT AREA AND DIMENSIONS

- A. Minimum lot regulations are established to ensure that sites in each district have sufficient area and dimensions to accommodate allowable uses, consistent with reasonable current standards for development of such uses, and compatible with other uses in the district.

- B. The area of a lot for purposes of compliance with minimum site development requirements shall be the net horizontal area within bounding lot lines.
- C. No portion of the required area of a lot shall be used or considered as part of the required area for any other lot. No lot shall be reduced in area, width, or depth to less than the minimum requirements, except when such reduction results from partial acquisition for public use.
- D. If a portion of a legally existing lot in any district is required for public use in any manner including dedication, condemnation or purchase, the remainder of such lot shall be considered as a conforming lot.
- E. Lot width shall be measured horizontally between side lot lines, along the minimum required front setback line, or the front lot line if no front yard is required and at all points for a distance of 50 feet to the rear thereof.

Section 935.

RESIDENTIAL DENSITY

Residential density regulations are established to coordinate the intensity of residential development with existing and planned public service and utility capabilities, to ensure residential development compatible with existing and anticipated uses of nearby property, and to promote the growth, population distribution, and development policies of the Comprehensive Plan. Maximum residential density shall be expressed as a maximum number of dwelling units allowable on each site.

Section 940.

HEIGHT

Height limitations are established to ensure that buildings and structures shall not exceed heights generally compatible with purposes of the district and other uses therein, and shall not unnecessarily impact upon the privacy, views, or desirability of development of adjoining sites.

Section 945.

MEASUREMENT OF HEIGHT

- A. **Building:** The height of a building shall be measured from the average of the highest and lowest grade adjacent to the building, to the highest point of the coping of a flat roof, deck line of a mansard roof, or to the average height of the highest gable on a pitched or hipped roof.
- B. **Building Segment:** The height of buildings having visually distinct segments, such as stepped or terrace construction or building segments connected by a lower so the structure, shall be measured separately for each segment of the building.
- C. **Linear Structures and Features:** The height of linear features, such as fences, walls, hedges, screen plantings, or like features shall be the average height measured from grade to the highest portion of such feature at all points along the feature. For purposes of applying maximum or minimum requirements, a linear feature which has an average height for its entire

length in conformity with such requirement by more than 15 percent at any point shall be deemed to comply.

- D. **Maximum Height Adjacent to Residential Uses:** For purposes of applying maximum heights allowed for buildings located within an area of the site adjacent to less intense use, the height of the building shall be measured from the average of highest and lowest grade adjacent to the side of the building adjacent to such less intensive use.

Section 950.

PERMITTED EXCEPTION TO HEIGHT LIMITS

The following structures and features may exceed the maximum height for the district in which they are located, subject to limits specified herein:

- A. The following structures may exceed the height limit of any district by not more than 15 percent, or such height as may be necessary to comply with generally accepted engineering practices for stacks and vents, or any applicable Federal or State law, regulation, guideline, or order, whichever is greater:
 - 1. Parapet walls, chimneys and vents, and mechanical or safety features such as fire towers, stairways, elevators, penthouses, heating and cooling equipment, and protective covers.
 - 2. Ornamental towers, cupolas, domes, and spires not designed for occupancy.
- B. The following structures may exceed the height limit by not more than 25 percent, when having a total height of not more than 50 feet when located on the ground nor extending more than 25 feet above a building to which they are attached.
 - 1. Radio and television receiving antennas of the type customarily used for home radio and television receivers.
 - 2. Flagpoles.
- C. Radio towers operated by licensed radio operators no more than 60 feet in height plus 15 feet for antenna. A conditional use permit will be required to exceed tower and antenna height of 60 feet and 15 feet respectively.
- D. The permitted exceptions to height limits In “I-L” and “I-H” Industrial Districts shall not apply unless the structure is located at least 150 feet from any property classified as A-1, A-5,R-1, R-2, R-3, C-1, C-2, PD, or M-H.

Section 955.

YARD AND SETBACK REGULATIONS

Minimum yard requirements (setbacks) are established to ensure safety, light, air, privacy, building separation, and open areas appropriate to each use and district, and to minimize impacts of uses and structures on one site upon adjoining sites.

Section 960.

MEASUREMENT

- A. Minimum Required Yards: No portion of an easement or right-of-way providing access to another lot shall be considered a part of a required yard, and for the purposes of measurements of required yards and determination of setbacks, the boundary line of such easement or right-of-way shall be considered a lot line, except for easements providing access under a reciprocal easement agreement in a common development.
- B. Actual Yards: Where buildings are located a greater distance from a property line than required by minimum yard provisions, a yard greater than the minimum requirements will result. For the purposes of regulations governing the location of accessory buildings, incidental site improvements, off-street parking and loading, signs, and other features in yards, the following provisions of the Zoning Regulations shall be deemed to apply to the minimum required unless specifically stated otherwise.

Section 965.

EXCEPTIONS TO REQUIRED OPENNESS OF REQUIRED YARDS

Every part of each required yard shall be open and unobstructed from finished grade to the sky except for structures and projections specified herein. Any buildings, structure, or projection not specifically allowed in a required yard by the following table is prohibited. These restrictions shall not apply to buildings, structures, or projections located in yards or portions thereof which are not minimum required yards.

- A. Landscaping.
- B. Parking area.
- C. Pools: including but not limited to swimming pools, reflecting pools and fountains.
- D. Uncovered steps, porches or stoops located not more than 2 feet above adjacent ground level may project 3 feet into a required yard.
- E. Windowsills, belt courses, cornices, flues and chimneys, and eaves may project 2 feet into a required yard.

Section 970.

REAR YARD LOT

The minimum rear yard on a Through Lot shall be the same as would apply if the rear lot line were designated as the front line of the site.

Section 975.

MEASUREMENT – BUILDINGS

Building coverage of lot shall be deemed the total horizontal area of all buildings and roofed or covered spaces on the lot, expressed as a percent to total lot area. Eaves and roof overhangs extending not more than 2 feet from the supporting walls or members of a building, shall not be counted as building coverage. Where eaves or overhangs extend more than 2 feet from a building, the outermost 2 feet

shall not be counted as coverage where required for passive energy design. Additional eaves and roof overhangs shall not be counted as building coverage.

Section 980.

COMPATIBILITY STANDARDS FOR MULTI-FAMILY DEVELOPMENT

Section 980 through 984 shall be known as the compatibility standards, and shall apply to all multiple family residential, townhouse and condominium uses across the street from or adjoining a single family use, and to any religious assembly, church, community recreation, primary or secondary educational facility or commercial child care center across the street from, adjoining, or within 100 feet of a single family residential use.

Section 981.

SITE PLAN REQUIRED FOR MULTI-FAMILY DEVELOPMENT

- A. No multiple family residence, townhouse residence or condominium residence which is across a street from or adjoins a single family use, or church, community recreational facility, primary or secondary school or commercial child care center, or within 100 feet of an R-1 or R-2 classification shall be erected unless a site plan and other materials necessary for Site Plan Review according to Section 925 of this Article are provided indicating that the requirements outlined in this ordinance and any other Code requirements including restrictions, permits, etc. have been met. These other materials shall include a map showing private easements, drainageways, and other areas used to calculate the base site area, and a cross section of the property demonstrating the proposed height of all structures.
- C. The site plan shall include a representation of land use and character of land within 200 feet of the site.
- D. The Site Plan Review and approval process shall conform to procedures outlined in Section 925 of the Zoning Regulations, unless the proposed use is a conditional use, in which case the process shall conform to procedures outlined in Section 1020 through 1039.
- E. The site plan and other materials necessary for Site Plan Review shall be submitted for review and approval prior to issuance of building permits and granting of zoning change request, or approval of a conditional use permit, whichever occurs first. This site plan shall show all of the information outlined in Section 925 of these Zoning Regulations.
- F. The impact on local traffic and the site plan must be evaluated by the Planning Commission with a recommendation from the County Planner and County Engineer.

Section 982.

HEIGHT REQUIREMENTS FOR COMPATIBILITY

- A. No multi-family structure shall be within 15 feet of the property line adjacent to a single-family residence.
- C. At a 25 foot setback a multi-family structure may be no more than 2 stories or 25 feet in height.

- D. Multi-family structures set back 100 feet may be a maximum of 60 feet in height.
- E. If a structure is placed at the 15 foot setback the adjacent structure must be set back at least 10 feet from the side lot line.

Section 983.

BUFFERING REQUIREMENTS

- A. Front setback on multi-family structures must be a minimum 50 feet from the right-of-way when across the street from existing single family or two-family residential structures.
- B. Landscaping shall be provided according to the provisions to Section 820.
- C. Yards, fences, vegetation screening or berms shall be provided on the periphery of each project to screen single family residential uses or districts from views of the parking lot, mechanical equipment, and from noise or other impacts of the proposed project. The following requirements shall apply:
 - 1. Mechanical equipment storage areas and areas for refuse-collection must be screened from adjacent residential uses or districts.
 - 2. If fences are selected for screening, the height shall be restricted to six (6) feet maximum height.
 - 3. The owner shall be responsible for the upkeep and maintenance of all fences, berms and vegetation used for screening.

Section 984.

DESIGN REGULATIONS - MULTI-FAMILY

- A. All exterior lighting shall be hooded or shielded so that the light source is not directly visible from adjacent single family residential areas.
- B. The noise level of mechanical equipment shall not exceed 55 dba at the property line.
- C. Location of on-site dumpsters and any other refuse receptacles shall be screened and shall be invisible from any residential dwelling unit both on and off the property.
- D. The use of highly reflective surfaces, such as reflective glass and reflective metal roofs, whose pitch is less than a run of 7 and rise of 12, shall be prohibited. This section shall not apply to solar panels and copper or painted metal roofs.
- E. No intensive recreational use (e.g. swimming pool, tennis court, ball court, or playground with equipment) shall be permitted within 50 feet of a single-family residence on any adjoining lot.
- F. No parking shall be permitted within 25 feet of a lot used for single-family residential use.

Section 990.

RIGHT TO WAIVE SPECIFIC REQUIREMENTS

The Planning Commission shall have the right to waive one or more of the requirements discussed in this section if the Planning Commission finds that eliminating one or more of the criteria will not harm the surrounding area.

ARTICLE X ADMINISTRATION AND PROCEDURES

Section 1000. SITE PLAN REVIEW PROCEDURE

Section 1001. TITLE AND PURPOSE

Sections 1000 through 1018 shall be known as the Site Plan Review Procedure. The purpose of this procedure is to provide for review and evaluation of site development and design features of selected uses, and to afford a procedure for mitigation of potentially unfavorable effects on adjacent land uses.

Section 1002. JURISDICTION

The County Planner shall be responsible for the administration of the Site Plan Review procedure. The County Planner shall review and evaluate all site plans submitted pursuant to these procedure and make reports to the Planning Commission. The Planning Commission shall be responsible for review, evaluation and recommendation or action on all site plans in excess of 2,000 sq. ft. submitted pursuant to this procedure. The Board of Supervisors shall be responsible for review, evaluation and action on all site plans submitted as an appeal from a Planning Commission decision.

Section 1003. USES AND ZONING DISTRICTS REQUIRING SITE PLAN REVIEW

A complete listing of all uses requiring site plan approval are shown on Chart 1, Article IV.

Section 1004. APPLICATION AND USE

Application for Site Plan Review shall be filed with the County Planner. The application shall include the following material unless some of it is determined to be unnecessary by the County Planner.

- A. Name and address of the owner and applicant.
- B. Address and legal description of the property.
- C. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner.
- D. The property address and the name and mailing address of the owner of each property abutting or opposite the subject property.
- E. A site plan, submitted on 4 mil. Mylar, twenty-four by thirty-six inches, drawn or printed to scale in permanent medium (not pencil) and sufficiently dimensioned as required to show the following:
 - 1. The date, scale, north point, title, name of owner, and name of person(s) preparing the site plan.

2. The location and dimensions of boundary lines, easements, and required yards and setbacks of all existing and proposed buildings and land improvements.
 3. The location, height, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting sites within 50 feet.
 4. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, utility or service areas, fencing and screening, and lighting.
 5. The center line of existing water courses, drainage features and location and size of existing and proposed streets and alleys, and the 100-year flood plain as determined from the Federal Emergency Management Agency's FIRM maps.
 6. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.
 7. Topography proposed contours and trees on the site. Contour intervals should be 1 foot.
 8. The approximate location and size of proposed signs, if known
 9. The location and size of the existing and proposed landscaped areas.
- F. A tax certificate will be submitted showing all taxes, for which the application identifies, are paid; or a letter from the County Tax Assessor/Collector indicating payment for back due taxes is current.
- G. Any applicable fee established by the Board of Supervisors.

Section 1005.

NOTICE TO ADJACENT PROPERTIES

Not more than 10 days after the date of filing of an application, the Planning Commission shall mail notice of the application to the record owner of each lot or parcel adjacent to the property. Notice shall contain the following:

- A. A brief description of the location of the property and the nature of the application.
- B. A statement of how and where information regarding the application may be obtained.
- C. A description of the site review and plan appeal procedure.
- D. A summary of the project and any administrative recommendation.

Section 1006.

PLANNING COMMISSION APPROVAL

Not more than 10 days after the filing, the County Planner shall prepare a report to the Building Official of those site plans approved or approved subject to modifications. Copies of this approved site plan shall be forwarded to the applicant and Building Official. A decision of the Planning Commission shall be forwarded to the Board of Supervisors within 10 days after the date on which it was approved. All denials of site plans by the Planning Commission shall automatically be appealed to the Board of Supervisors for consideration pursuant to Section 1002.

Section 1007.

ACTION BY THE BOARD OF SUPERVISORS

Not more than 20 days after the date of filing, the Board of Supervisors shall consider disapproved site plans, or site plans appealed by an applicant or other interested party aggrieved by a decision of any of the authorized departments made pursuant to this section. The appeal will identify in writing the specific reasons and basis of the appeal. The Board of Supervisors shall review the site plan on the first available meeting date.

Section 1008.

REVIEW AND EVALUATION CRITERIA

The County Planner and the Planning Commission shall review and evaluate site plans using the following criteria. Criteria B, C, and D below apply to multi-family residential, not abutting single-family classification or use. Multi-family abutting single-family classification or use shall be revised according to apartment compatibility criteria of Section to Items A, B, C, and G of Section 1003 shall be reviewed subject to criteria "A" through "D" below:

- A. Conformance with applicable regulations and standards established by the Zoning Regulations.
- B. Compatibility with existing or permitted uses on abutting sites or within 100 feet of the proposed development, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, access and circulation features.
- C. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonable may occur.
- D. Modifications to the site plan which would result in increased compatibility, would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulation and standards.

Section 1009.

FINDINGS

The County Planner and the Planning Commission shall make the following findings before approval of a site plan:

- A. That the proposed use and site development, together with any modifications applicable thereto, will be compatible with existing or permitted use on abutting sites or within 100 feet of the proposed development.
- B. That any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable impacts on adjacent uses.

Section 1010. MODIFICATION OF SITE PLAN

The County Planner or the Planning Commission may require modification of a site plan as a prerequisite for approval. Such modifications may include, but shall not be limited to, provision for special setbacks, open spaces, buffers, fences, walls, and screening; for installation and maintenance of landscaping and erosion control measures; improvements of access and circulation's; rearrangements of structures or activities within the site; location and character of signs; and such other site plan features as necessary to ensure compatibility with surrounding uses and to support the findings required by Section 1009.

Section 1011. EFFECTIVE DATE

The decision of the Planning Commission on an application shall be effective ten (10) days after the decision is rendered unless it is appealed to the Board of Supervisors pursuant to Section 1012.

Section 1012. APPEAL TO BOARD OF SUPERVISORS

- A. A decision of the Planning Commission may be appealed to the Board of Supervisors within 10 days after the date on which notice of the decision is mailed to the applicant by the applicant or any other person. Upon appeal, jurisdiction shall be transferred to the Board. The appeal will identify in writing the specific reasons for and basis of appeal.
- B. Not more than 20 days following the filing of an appeal, the Board shall hold a public hearing on the appeal. Notice shall be given as prescribed in Section 1078. The Board shall act on the appeal not more than 10 days following the closing of the public hearing. The Board of Supervisors shall act in accord with Sections 1008 through 1010. The decision of the Board shall be effective immediately.

Section 1013. LAPSE OF APPROVAL FOR SITE PLANS

- A. Unless a longer time shall be specifically established as a condition of approval, a Site Plan approval shall lapse and become void two years following the date on which such permit became effective, unless a building permit is issued and construction is commenced and diligently pursued toward completion, or a certificate of occupancy is issued for use, or the site is occupied if no building permit or certificate of occupancy is required.

- B. The Planning Commission for an additional period of one year may renew a Site Plan approval subject to lapse, provided that prior to the expiration date, a written request for renewal is filed with the County Planner.

Section 1014. MODIFICATION OF SITE PLAN REVIEW APPROVAL

Sections 1004 through 1013 shall apply to an application for modification, expansion, or other change in an approved Site Plan, provided that minor revisions or modifications may be approved by the County Planner if he determines that the circumstances or conditions applicable at the time of original approval remains valid, and that changes would not affect the findings prescribed in Section 1009. The County Planner shall report to the Planning Commission on a quarterly basis the number and kinds of modification being approved.

Section 1015. SUSPENSION AND REVOCATION

- A. Upon violation of any applicable provision of this ordinance, or, if granted subject to conditions, upon failure to comply with conditions, a Site Plan approval shall be suspended upon notification to the owner of a use or property subject to the Site Plan.
- B. The Board of Supervisors shall hold a Public Hearing within 30 days of such notification, in accord with Section 1074, and if not satisfied that the regulation, general provision, or condition is being complied with, may revoke the Site Plan approval or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition.
- C. The decision of the Board of Supervisors to revoke a Site Plan approval shall be effective immediately.

Section 1016. NEW APPLICATIONS

Following no Application for Site Plan Review for the same or substantially the same Site Plan on the same or substantially the same site shall be filled within one year from the date of denial or revocation.

Section 1017. APPROVAL TO RUN WITH THE LAND

A Site Plan approval pursuant to these provision shall run with the land and continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

Section 1018. SITE PLANS APPROVED UNDER PRIOR REGULATIONS

A Site Plan approved pursuant to regulations in effect prior to the effective date of these provisions shall be deemed a pre-existing approved plan, and the use for which such site plan was approved shall be permitted to continue subject to any conditions prescribed at the time of site plan approval. A use subject to a pre-existing approved site plan shall be subject to these provisions with respect to lapse, modification, suspension, and revocation.

Section 1020. CONDITIONAL USES

Section 1022. TITLE AND PURPOSE

Sections 1020 through 1039 shall be known as the Conditional Use Procedure. The purpose of this procedure is to provide for review and discretionary approval of uses typically having unusual site development features or unique operating characteristics requiring special consideration so that they may be located, designed, and operated compatibility with uses on surrounding properties. The Conditional Use Procedure process is intended to encourage broad public review and to ensure adequate mitigation of potentially unfavorable impacts.

Section 1023. JURISDICTION

The County Planner shall be responsible for administration of the Conditional Use procedure, and the Planning Commission shall be responsible for review, evaluation, and action on all applications for a Conditional Use Permit.

Section 1024. CONCURRENT APPLICATIONS

Application for a Conditional Use Permit and for rezoning for the same property may be made concurrently, subject to the fees applicable to both a Conditional Use Permit and a Rezoning. The Planning Commission shall hold the public hearing on the rezoning and Conditional Use Permit at the same meeting and may combine the two hearings. For the purposes of this section, the date of the Commission decision on the Conditional Use Permit application shall be deemed to be the same as the date enactment by the Board of Supervisors of an resolution changing the zone boundaries, provided that if the Board of Supervisors modifies a recommendation of the Commission on a concurrent zoning reclassification, the Conditional Use Permit application shall be reconsidered by the Commission in the same manner as a new application; provided, however, that no additional fee shall be required.

Section 1025. APPLICATION AND FEE

Application for a Conditional Use Permit shall be filed with the Planning Commission. The application shall include the following:

- A. Name and address of the owner and applicant.
- B. Address and legal description of the property.
- C. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
- D. A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application. For uses involving public assembly or industrial processing, or uses potentially generating high volumes of vehicular traffic, the County Planner may require specific information relative to the anticipated peak loads and peak use periods, relative to industrial processes and the ability of the use to meet performance

standards, or substantiating the adequacy of proposed parking, loading, and circulation facilities.

- E. Site plans, preliminary building elevation, preliminary improvement plans, additional maps and drawings, all sufficiently dimensioned as required illustrated the following.
1. The date, scale, north point, title, name of owner, and name of persons preparing the site plan.
 2. The location and dimension of boundary lines, with distances and bearings, easements, and required yards and setbacks, water course drainage features and location and size of existing and proposed street and alleys, 100-year flood plains.
 3. The location, height, bulk general appearance and intended use existing and proposed buildings on the site, and the approximate location of existing buildings on abutting sites within 50 feet.
 4. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaping areas, utility or service areas, fencing and screening, signs, and lighting.
 5. The location of watercourses and drainage features.
 6. The number of existing and proposed off -street parking and loading spaces, and a calculation of applicable minimum requirements.
 7. A plan showing existing and proposed topography at 2-foot contour intervals, grading and proposed erosion control measures.
 8. The relationship of he site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made. Any applicable fee established by the Board Supervisors.

Section 1026.

PUBLIC HEARING AND NOTICE

The Planning Commission shall hold a public hearing on each application for a Conditional Use Permit. Notice shall be given as prescribed in Section 1073. At the public hearing, the Commission shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed condition under which it would be operated or maintained, particularly, with respect to the findings prescribed in Section 10830.

Section 1027.

REPORTS OF THE COUNTY PLANNER AND THE COUNTY ENGINEER

The County Planner and the County Engineer shall review the application or proposal and shall prepare a report thereon which shall be filled with the Planning Commission and available to the applicant at least 10 days prior to the public hearing.

Section 1028.

ACTION BY THE PLANNING COMMISSION

The Planning Commission shall act on the application not more than 10 days following the closing of the public hearing on a Conditional Use Permit. The Commission may grant a Conditional Use Permit as the permit was applied for or in a modified form or subject to conditions, or may deny the application. The Commission shall notify the applicant of its decision by mail.

Section 1030.

REVIEW AND EVALUATION CRITERIA

The County Planner and the Commission shall review and evaluate and make the following findings before granting Conditional Use Permit applications using the following criteria:

- A. Conformance with applicable regulations and standards established by the Zoning Regulations.
- B. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, and access and circulation features.
- D. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.
- E. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulation and standards and to protect the public health, safety, morals, and general welfare.
- F. Safety and convenience of vehicular and pedestrian circulation in vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonable and anticipated in the area; existing zoning and land uses in the area.
- G. Protection of persons and property from flood or water damage, odors, fire, noise, glare, and similar hazards or impacts.
- H. Location, lighting, and type of signs; and relation of signs to traffic control and adverse effect on adjacent properties.
- I. Adequacy and convenience of off-street parking and loading facilities.

- J. That the proposed use is in accordance with the objectives of these Zoning Ordinance and the purposes of the district in which the site is located.
- K. That the proposed use will comply with each of the applicable provisions of these Zoning Regulations.
- L. That the proposed use and site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity.
- M. That any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed use with existing or permitted uses in the same district and the surrounding area.
- N. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements on the vicinity.

Section 1031.

CONDITIONS OF APPROVAL

The Planning Commission may establish conditions of approval. Conditions may include but shall not be limited to: requirements for special setbacks, open spaces, buffer, fences, walls, and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress and egress, and traffic circulation: regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion; and such other conditions as the Commission may deem necessary to insure compatibility with surrounding uses, to the findings required by Section 1030.

Section 1033.

APPEAL TO BOARD OF SUPERVISORS

- A. A decision of the Planning Commission may be appealed to the Board of Supervisors by the applicant or any other aggrieved person within 10 days after the date on which the decision is announced at the public hearing. Upon appeal, jurisdiction shall be transferred to the Board of Supervisors.
- B. Not more than 30 days following the filing of an appeal, the Board of Supervisors shall hold a public hearing on the appeal. Notice shall be given as prescribed in Section 1073. The Board shall act on the appeal not more than 10 days following the closing of the public hearing. The Board shall act in accord with Sections 1030 through 1032. The decision of the Board shall be effective immediately.

Section 1034.

RENEWAL OR LAPSE OF A CONDITIONAL USE PERMIT

- A. A Conditional Use Permit shall lapse and shall become void two years following the date on which such permit became effective, unless prior to expiration a building permit is issued and construction is commenced and diligently pursued toward completion, or a certificate of occupancy is issued for the use, or the site is occupied if no building permit or certificate of occupancy is required.
- B. A Conditional Use Permit subject to lapse may be renewed by the Planning Commission for an additional period of two years, provided that prior to the expiration date, a written request for renewal is filed with the County Planner.
- C. A Conditional Use Permit for a gaming casino shall be renewed at the end of each two-year (2) year period. If the gaming establishment at that site still maintains a current gaming license from the State of Mississippi and has no other local building code violations pending then the Conditional Use permit shall be granted. Gaming casinos which have become inoperative for one-year period except for damage or destruction, must reapply for a Conditional Use Permit

Section 1035.

MODIFICATION OF CONDITIONAL USE PERMIT

Sections 1030 through 1031 shall apply to an application for modification, expansion, or other change in a Conditional Use Permit, provided that minor revision or modifications may be approved by the County Planner if he determines that the circumstances or condition applicable at the time of original approval remain valid, and that changes would not affect the findings prescribed in Section 1030.

Section 1036.

SUSPENSION AND REVOCATION

- A. Upon violation of any applicable provision of this ordinance, or, if granted subject to condition, upon failure to comply with conditions, a Conditional Use Permit shall be suspended upon notification to the owner of a use or property subject to a Conditional Use Permit.
- B. The Planning Commission shall make a recommendation to suspend or revoke the permit. The Board of Supervisors, within 30 days of such notification to the owner, and if not satisfied that the regulation, general provision, or condition is being complied with, may revoke the Conditional Use Permit or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition.
- C. The decision of the Board to revoke a Conditional Use Permit shall be effective immediately.

Section 1037.

NEW APPLICATIONS

Following the denial or revocation of a Conditional Use Permit application by the Planning Commission, no application for a Conditional Use Permit for the same

or substantially the same use on the same or substantially the same site shall be filed within one year from the date of denial or revocation.

Section 1038. APPROVAL TO RUN WITH THE LAND

A Conditional Use Permit granted pursuant to these provision shall run with the land and shall continue to be valid upon a change or ownership of the site or structure which was the subject of the Conditional Use Permit application.

Section 1039. PRIOR SPECIAL PERMITS AND CONVENANTS

- A. A use legally established pursuant to conditional rezoning prior to the date of adoption of these Zoning Regulations shall be deemed a pre-existing conditional use and shall be permitted to continue, provided that it is operated and maintained in accord with any condition prescribed at the time of its establishment.
- B. Alteration or expansion of a pre-existing conditional use shall be permitted only upon the granting of a Conditional Use Permit as prescribed in these regulations.
- C. A Conditional Use Permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, by act of God, or by the public enemy to a greater extent than 50 percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto, Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Official and shall be based on the minimum cost of construction in compliance with the Standard Building Code.

Section 1040. VARIANCE PROCEDURE

Section 1041. TITLE AND PURPOSE

Sections 1040 through 1059 shall be known as the variance procedure. This procedure is intended to provide relief from the terms of the Zoning Regulations when, because of special circumstances applicable to the property, the strict application of the Zoning Regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and to ensure that any adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the district in which such property is situated.

Section 1042. APPLICATION

- A. Application for a variance shall be filed with the Building Official. The application shall include the following:
 - 1. Name and address or the owner or applicant.

2. Address and legal description of the property.
 3. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
 4. A statement describing the variance request and the reasons why it complies with the criteria for variances provided in Section 1046.
 5. The property address and the name and mailing address of the owner of each lot within 500 feet of the subject property and a map with parcels keyed to the ownership and address data.
 6. Site plans, preliminary building elevation, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following , to the extent related to the variance application:
 - a. Existing and proposed location and arrangement of uses on the site, and on abutting sites within 50 feet.
 - b. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - c. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
 - d. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvement related to or necessitated by the proposed use.
- C. The Building Official may request additional information necessary to enable a complete analysis and evaluation of the variance request, and determination as to whether the circumstances prescribed for the granting of a variance exist.
- D. A fee established by the Board of Supervisors shall accompany the application. A single application may include request for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.

Section 1043.

REPORT OF THE BUILDING OFFICIAL

The Building Official shall review and prepare a report on the application. The report shall be filed with the Planning Commission and available to the applicant at least 10 days prior to the public hearings.

Section 1044.

PUBLIC HEARING AND NOTICE

The Planning Commission shall act on the application not more than 30 days on each application for a variance. Notice shall be given as prescribed in Section 1082. The Commission shall adopt rules governing the conduct of its public hearings, including rules for the presentation of evidence.

Section 1045.

ACTION BY THE PLANNING COMMISSION/BOARD OF SUPERVISORS

- A. The Planning Commission shall act on the application not more than 10 days following the closing of the public hearing on a variance. The Planning Commission may recommend that a variance be granted as the variance was applied for or in a modified form or subject to conditions, or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Board of Supervisors may prescribe. The Board of Supervisors shall notify the applicant of its decision by mail.
- B. The concurring vote of a majority or members of the Planning Commission and Supervisors shall be necessary to grant a variance.

Section 1046.

FINDINGS

- A. Basic Criteria: The Planning Commission may recommend that a variance be granted if it makes affirmative findings of fact on each of the following criteria:
 - 1. The Zoning Regulations applicable to the property do not allow for a reasonable use.
 - 2. The hardship for which the variance is requested is unique to the property and not general to the area in which the property is located.
 - 3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.
- B. Parking – Additional Criteria: The Planning Commission may recommend a variance to a regulation prescribed by this ordinance with respect to the number off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Those neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specified regulations.
2. That the granting of the variance will not result in the parking or loading of vehicles on public streets or roads in such manner as to interfere with the free flow of traffic on these streets or roads.
3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.
4. That the variance shall run with the use or uses to which it pertains, and shall not run with the site.

Section 1047.

LAPSE OF VARIANCE

- A. Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse and become void one year following the date on which the variance became effective, unless prior to expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application, or a certificate of occupancy is issued for the use, or the site is occupied if no building permit or certificate of occupancy is required.
- B. The Board of Supervisors may renew a variance subject to lapse for an additional period of one year, provided that prior to the expiration date, a written request for renewal is filed with the Planning Commission.
- C. The Board of Supervisors may grant or deny an application for renewal.

Section 1049.

SUSPENSION AND REVOCATION

- A. Upon violation of any applicable provision of these regulations, or, if granted subject to conditions, upon failure to comply with conditions, a variance shall be suspended upon notification to the owner of a use or property subject to a variance.
- B. The Planning Commission shall not hold a public hearing within 30 days of each notification, in accord with Section 1082, and if not satisfied that the regulation, general provision, or condition is being complied with, may recommend that the variance be revoked or action taken as may be necessary to ensure compliance with the regulation, general provision, or condition. Their recommendation shall be considered by the Board of Supervisors at its next regularly schedule meeting.
- C. The decision of the Board of Supervisors to revoke a variance shall be effective immediately.

Section 1050. NEW APPLICATIONS

Following the denial or revocation of a variance application no application for the same or substantially the same variance use on the same or substantially the same site shall be filed within one year from the date of denial or revocation.

Section 1051. VARIANCE TO RUN WITH LAND OR STRUCTURE

Unless pertaining to off-street parking and loading regulations, or otherwise specified at the time a variance is granted, a variance shall run with the land and shall continue to be valid upon a change ownership of the site or structure to which it appears.

Section 1052. ADMINISTRATIVE APPEALS

Section 1053. TITLE AND PURPOSE

Sections 1052 through 1059 shall be known as the Administrative Appeals Procedure. This procedure is intended to afford review of administrative actions taken pursuant to the Zoning Regulations where such action may be in error.

Section 1054. APPEALS

Any officer, department, or board of the city affected by any administrative decision of the Building Official or County Planner may take by any person aggrieved or appeals to the Planning Commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Building Official or County Planner and with the Planning Commission a notice of appeal, which shall specify the grounds thereof. The Building Official or County Planner shall forthwith transmit to the Planning Commission all the papers constituting the record upon which the action appealed from was taken.

Section 1055. FEE

A fee prescribed by the Board of Supervisors shall accompany the appeal. Fee shall be refunded if appeal is withdrawn prior to notification or if appeal is upheld.

Section 1056. STAY OF PROCEDURES

An appeal from the action of the Building Official or County Planner shall stay all proceedings in furtherance of such action unless the Building Official or County Planner certifies to the Planning Commission, after the notice appeal shall have been filed with him, that by reason of the fact stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In event the Building Official or County Planner shall make and file such certificate, his action shall not be stayed otherwise than by a restraining order that may be granted by the Board of Supervisors or by court of record, upon application of the party aggrieved by the action of the Building Official or County Planner and after notice to him and upon due cause shown.

Section 1057. PUBLIC HEARING AND NOTICE

The Planning Commission shall hold a public hearing within 30 days on the appeal. Notice shall be given as prescribed in Section 1080. Upon the hearing of such appeal, any interested party may appear in person or by an agent or attorney.

Section 1058. ACTION

- A. The Board of Supervisors shall act on the appeal recommendation from the Planning Commission within 10 days following the closing of the public hearing. In exercising the powers set out in this section, the Board of Supervisors may, in conformity with the provisions of the general laws, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appeal from, and may take such order, requirement, decision, or determination as ought to be made, and to that end shall have all powers of the Building Official or County Planner from whose action the appeal is taken. The Planning Commission shall notify the appellant of its decision by mail.
- B. The concurring vote of over seventy-five percent of the members of the Board of Supervisors shall be necessary to recommend a reversal of any order, requirement, decision, or determination of the Building Official or County Planner, or to decide in favor of the applicant any matter upon which it is required to pass under these provisions. Any reversal shall be submitted to be Board of Supervisors for consideration.

Section 1059. LAPSE

The reversal by the Board of Supervisors of any order, requirement, decision, or determination of the Building Official or County Planner of any decision in favor of the applicant on any matter upon which the Planning Commission is required to pass under this Section, shall lapse at the expiration of 90 days, in which event the Board of Supervisors may grant a greater length of time. In no event, however, shall such time granted exceed one year.

Section 1060. AMENDMENT (REZONING) PROCEDURE

Section 1061. TITLE AND PURPOSE

Section 1060 through 1072 shall be known as the Amendment Procedure. The purpose of this procedure is to prescribe the manner in which changes shall be made in the text of the Zoning Regulations (Text Amendment) and the application of such regulations to property within Tunica County, Mississippi by means of the Zoning Map (Rezoning). This opportunity for review of proposed changes by the public.

Section 1062. JURISDICTION

The Board of Supervisors shall have jurisdiction with respect to all Text Amendments and Rezoning. The Planning Commission shall review and submit a recommendation to the Board of Supervisors on Text Amendments and Rezoning.

Section 1063.

INITIATION

- A. The Planning Commission or the Board of Supervisors may initiate a text amendment.
- B. The owner may initiate a rezoning or authorized agent of the owner of property by filing an application for a change in district boundaries (rezoning) as prescribed in this chapter. If the property for which rezoning is proposed is in more than one ownership, all the owners or their authorized agents shall join in filing the application. A rezoning may be initiated also by the Planning Commission or the Board of Supervisors.

Section 1064.

APPLICATION AND FEE

- A. Application for a Rezoning initiated by a property owner shall be filed with the Planning Commission on a prescribed form and shall include the following data and maps:
 - 1. Name and address of the owner and applicant.
 - 2. Address and legal description of the property.
 - 3. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
 - 4. A tax parcel map of the area proposed for Rezoning and the surrounding area, showing existing streets or roads and property lines, and existing and proposed district boundaries. The map shall include an area determined by the County Planner to be necessary to illustrate the relationship to and potential impact on the surrounding area, but not less than 200 feet or more than 1000 feet from the property proposed for rezoning.
 - 5. A tax certificate reflecting all taxes have been paid for subject tract or a letter for the County tax office indicating payment arrangements have been made for back due taxes.
- B. The County Planner may require additional information or maps if they are necessary to enable the Planning Commission to determine whether the change is consistent with the objectives of this ordinance. These shall include:
 - 1. A description, nature and details for all proposed facilities to be located on the rezoning property, both present and future.
 - 2. Application for rezoning of any and all property in Tunica County must be on file for review by the Zoning Official at least 15 days prior to the next Planning Commission meeting. Otherwise, said application will not be submitted to the Planning Commission for consideration.

3. Upon submission and approved review by the County Planner, all persons, whose name and address have been furnished, as per the zoning application, will be notified by the Planning Office, as the time and place of the next Planning Commission meeting, at which time this request will be considered.
- C. An application for a fee shall accompany Rezoning initiated by a property owner established by the Board of Supervisors.
 - D. A rezoning initiated by the Planning Commission or by the Board of Supervisors shall be pursuant to a motion of the Commission or Board of Supervisors. The County Planner to the intent of the motion. No fee shall be applicable.
 - E. A text amendment initiated by the Planning Commission or by the Board of Supervisors shall be pursuant to a motion of the Commission or the Board of Supervisors. The County Attorney shall prepare a draft of an ordinance amending the text of the Zoning Regulations pursuant to the intent of the motion. No fee shall be applicable.

Section 1066.

RECOMMENDATION TO THE PLANNING COMMISSION

- A. The County Engineer and County Planner shall review the application and shall prepare a recommendation thereon which shall be filed with the Planning Commission and available to the applicant at least 5 days prior to the Planning Commission meeting.
- B. In event of withdrawal of an application after action by Planning Commission prior to action by Board of Supervisors, an application for same or permissive zoning for the property shall not be filed within one year of the or withdrawal.

Section 1072.

CHANGE OF ZONING MAP

A change in district boundaries shall be indicated on the Zoning Map.

Section 1073.

PUBLIC NOTICE PROCEDURE

Section 1073 through 1083 shall be known as the Public Notice procedure. The purpose of this Procedure shall be to establish the minimum requirements for notice to be given with respect to procedural actions and public hearings required by the Zoning Regulations.

Section 1074.

PLANNING COMMISSION: CONDITIONAL USE PERMITS

Notice or public hearing for consideration of a Conditional Use Permit by the Planning Commission shall be given as follows:

- A. Notice shall be given by mail to the applicant at least 15 days prior to the date of the hearing.

- B. Notice shall be given by mail to the owner of each site within 1,500 feet of the subject property at least 10 days prior to the date of the hearing.
- C. At the option of the County Planner, notice may be given by mail to the owner of any site more than 1,500 feet from the subject property at least 10 days prior to the date of the hearing.
- D. Notice may be given by mail to any civic organization having interest in the application.

Section 1075.

PLANNING COMMISSION: REZONING

Notice of public hearing for consideration of a Rezoning by the Planning Commission shall be given as follows:

- A. Notice shall be given by mail to the applicant at least 15 days prior to the date of the hearing.
- B. Notice shall be given by mail to the owner of each site within 1,500 feet of the subject property at least 15 days prior to the date of the hearing.
- C. At the option of the County Planner, notice may be given by publication of an informational notice in a newspaper of general circulation at least 15 days prior to the date of the hearing.
- D. At the option of the County Planner, notice may be given by mail to the owner of any site more than 1,500 feet from the subject property at least 15 days prior to the date of the hearing.

Section 1076.

BOARD OF SUPERVISORS: TEXT AMENDMENT

Notice of public hearing for a consideration of a Text Amendment by the Board of Supervisors shall be given by publication of a legal notice in a newspaper of general circulation in Tunica County at least 15 days prior to the date of the hearing.

Section 1077.

BOARD OF SUPERVISORS: REZONING

Notice of public hearing for consideration of a Rezoning by the Board of Supervisors shall be given as follows:

- A. Notice shall be given by publication of a legal notice in a newspaper of general circulation at least 15 days prior to the date of the hearing.
- B. Notice shall be given by mail to the applicant at least 15 days prior to the date of the hearing.
- C. Notice shall be given by mail to the owner of each site within 1,500 feet of the subject property at least 15 days prior to the date of the hearing.

Section 1078.

**BOARD OF SUPERVISORS: APPEAL OF SITE PLAN OR
CONDITIONAL USE PERMIT**

Notice of a public hearing for consideration of any appeal from a decision of the Planning Commission with respect to Site Plan Review or a Conditional Use Permit shall be given as follows:

- A. Notice shall be given by publication of a legal notice in a newspaper of general circulation at least 15 days prior to the date of the hearing.
- B. Notice shall be given by mail to the applicant, if different from the appellant, at least 15 days prior to the date of the hearing.
- C. Notice shall be given by publication of legal notice in a newspaper of general circulation at least 15 days prior to the date of the hearing.
- D. At the option of the Board of Supervisors, notice may be given by mail to the owner of any site in the vicinity of the subject property who, on the basis of the records pertinent to the appeal, has shown an interest in the application, at least 15 days prior to the date of the hearing.

Section 1079.

BOARD OF SUPERVISORS: SUSPENSION REVOCATION

- A. Notice of suspension of a Site Plan approval or of a Conditional Use Permit shall be given by the Building Official by certified mail to the current owner of the property to which the suspension applies.
- B. Notice of a public hearing for consideration of revocation of a Site Plan approval or a Conditional Use Permit by the Board of Supervisors shall be given by certified mail to the current owner of the property to which the suspension applies at least 15 days prior to the date of the hearing.
- C. Notice of revocation by the Board of Supervisors shall be given by certified mail to the current owner of the property to which the revocation applies within 5 days of the action by the Board.

Section 1080.

PLANNING COMMISSION: ADMINISTRATIVE APPEAL

Notice of public hearing for consideration of an Administrative Appeal by the Planning Commission shall be given as follows:

- A. Notice shall be given by mail to the appellant and to the applicant if different from the appellant, at least 15 days prior to the date of the hearing.
- B. Notice shall be given by publication of legal notice in a newspaper of general circulation at least 15 days prior to the date of the hearing.
- C. At the option of the Planning Commission, notice may be given by mail to the owner of any site potentially affected by an administrative appeal pertaining to a particular site, at least 15 days prior to the date of the hearing.

Section 1081.

PLANNING COMMISSION: SUSPENSION AND REVOCATION OF VARIANCE

- A. Notice of suspension of a variance shall be given by the Building Official by certified mail to the current owner of the property to which the suspension applies.
- B. Notice of a public hearing for considering of revocation of the Planning Commission shall be given by certified mail to the current owner of the property on which the revocation applies at least 15 days prior to the date.
- C. Notice of revocation by the Planning Commission shall be given by certified mail to the current owner of the property to which the revocation applies within 5days of the action by the Planning Commission.

Section 1082.

PLANNING COMMISSION: VARIANCE OR EXCEPTION

Notice of public hearing for consideration of a variance or special exception by the board of Adjustment shall be given as follows:

- A. Notice shall be given by mail to the appellant at least 15 days prior to the date of the hearing.
- B. Notice shall be given by publication of a legal notice in a newspaper of general circulation at least 15 days prior to the date of the hearing.
- C. Notice shall be given by mail to the owner of each site within 1,500 feet of the subject property at least 15 days prior to the date of the hearing.

Section 1083.

NOTICE REQUIREMENT DEFINED

- A. Requirements for notice, posting, and publication contained in this section shall have the following meanings:
 - 1. Notice by certified or regular mail shall refer to the date of deposit of such mail with the U. S. Post Office.
 - 2. Posting shall refer to the posting or equivalent display of at least one notice in a prominent, visible location on or near the subject property.
 - 3. Publication shall refer to the date of publication of a legal notice in a newspaper of general circulation in Tunica County. Two (2) publication days shall be sufficient.
- B. Each such notice, whether by mail, posting, or publication, shall include appropriate information pertaining to the general nature of the application or decision, and identifying the application or decision, and identifying the applicant, the subject property, the time and place of the

meeting or hearing, and the address and telephone number of the office from which additional information may be obtained.

Section 1084. FEE SCHEDULES

Sections 1084 through 1086 shall be known as the Fee Schedules. The purpose of the Fee Schedules is to establish a procedure for setting, and revising from time to time, fees to be applicable to applications, permits, and appeals pursuant to the Zoning Regulation.

Section 1085. FEE SCHEDULE ESTABLISHED

The Board of Supervisors has established a schedule of fees, charges, expenses, and a collection procedure for building permits, planning, and zoning applications, appeals, and other matters pertaining to these regulations. The schedule of fees shall be posted in the office of the Building Official and County Planner may altered or amended only by the Board of Supervisors.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1086. ADJUSTMENT OF FEES

The Board of Supervisors may from time to time, adjust and revise the fees established by the Zoning Regulations. Such action may be by resolution of the Board, and shall not require amendment of the Zoning Regulations pursuant to Section 1864.

Section 1087. ENFORCEMENT

Section 1088. FILING OF PLATS PREREQUISITE TO ISSURANCE OF BUILDING PERMITS

All applications for building permits from the County shall be accompanied by a plat, in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the location and size of the proposed building, the location of proposed accessory buildings, all in relation to lot lines, and such other information as may be necessary to provide for the enforcement of this chapter. A complete and accurate record of such applications and plats shall be kept in the office of the Building Official.

Section 1089. CERTIFICATES OF OCCUPANCY AND COMPLIANCE

- A. No existing building, and no building erected or structurally altered, shall be occupied, used or changed in use until a certificate of occupancy and compliance shall have been issued by the Building Official, stating that the building and proposed use of the building or land complies with all provision of the Zoning Regulations in effect when such certificates were issued. Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within five days after the erection or structural alteration of such building and shall have been completed in conformity with the provision of these

Zoning Regulations. The other laws and ordinances shall be kept on file in the office of the Building Official and copies shall be furnished on request to persons having a proprietary or tenancy interest in the building affected. No fee shall be charged for an original certificate; but for copies of any original certificate there shall be a charge of one dollar each.

- B. The use of a building shall not be changed from one class of use to another, unless and until a certificate of occupancy and compliance with the provisions of these Zoning Regulations has been obtained from the Building Official.
- C. No yard, court, or other open space provided about any building for the purpose of complying with the provisions of these Zoning Regulation shall again used as a yard, court, or open space for another building.

Section 1091.

ENFORCEMENT OF ZONING REGULATION: VIOLATIONS

The provision of these Zoning Regulations shall be administered by the County Planner and/or Building Official and enforced by the Building Official. The Building Official shall keep records of land uses, create inspection reports, issue violation notices and issue citations. Any person, partnership, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) and the cost of prosecution or in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed thirty (30) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the cost of such prosecution. Each day such a violation continues shall be considered a separate offense after the thirty (30) days from the date of written notification.

The owner of any structure or premises, where any condition in violation of this Ordinance shall exist or shall be created shall be guilty of a offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. Forbearance in enforcement of this Ordinance shall not be deemed the condoning of any violation thereof.

In addition to all other remedies, including the penalties provided in this section of the Ordinance, the County may commence and prosecute appropriate actions or proceedings in a Court of competent jurisdiction, to restrain or prevent any non-compliance with or violation of any of the provisions of this Ordinance , or to correct, remedy or abate such non-compliance. Violation of any provisions of this Ordinance are hereby declared to be a nuisance per use, and the Court shall order such nuisance abated.

Section 1092.

COMPLIANCE INFORMATION REQUIRED

Whenever the Building Official, on the basis of a sworn complaint from any credible person or on the basis of his own available information, has reason to believe that a violation of the Zoning Regulations may exist, he may require any person owning or operating a use to provide, within 30 days of notification, information of the nature of the complaint as may be necessary, in his judgement, to determine the existence or extent of any violation.

ARTICLE XI NONCONFORMING LOTS AND USES

Section 1100. NONCONFORMING DEVELOPMENT

Section 1105. TITLE AND PURPOSE

Sections 1100 through 1118 shall be known as the Nonconforming Development Provisions. The purposes of these provisions are:

- A. To assure reasonable opportunity for use of legally created lots which do not meet current minimum requirements for the district in which they are located (nonconforming lots).
- B. To assure reasonable opportunity for use, maintenance, and improvement of legally constructed buildings, structures, and site development features which do not comply with current minimum requirements for the district in which they are located.
- C. To assure reasonable opportunity for continuation of legally established uses which do not conform or comply with current use regulations for the district in which they are located.
- D. To limit continuation and expansion and encourage eventual replacement of nonconforming uses having potentially undesirable impacts on surrounding conforming uses.

Section 1108. RESTRICTIONS ADDITIVE

Regulation applicable to a nonconforming use are in addition to regulations applicable to a nonconforming structure, and in event of any conflict the most restrictive provision shall apply.

Section 1109. DETERMINATION OF VALUE

The value of structures for purposes of these Nonconforming Development Provisions shall be determined by the Building Official in accordance with the valuation established by the latest County appraisal for property tax purposes.

Section 1110. SUBSTANDARD LOT: RESIDENTIAL USE

A substandard lot may be used for any residential use allowed by these Zoning Regulations within the district in which the substandard lot is created.

A substandard lot of record after November, 1973 shall mean a lot having a minimum site area of less than 5000 square feet, and having a minimum width of less than 50 feet at the street or at the building.

Section 1115. SUBSTANDARD LOT: NONRESIDENTIAL USE

A substandard lot may be used for any nonresidential use allowed by the zoning regulation within the district in which the substandard lot is located, provided such use complies with all other provisions of the Zoning Regulations.

Section 1118. ABUTTING LOTS IN COMMON USE

When a substandard lot is used together with one or more contiguous lots for a single use or unified development, all of the lots used, including any lots used for off-site parking, shall be considered a single lot for the purposes of these Zoning Regulations.

Section 1120. NONCONFORMING STRUCTURES

A nonconforming structure may be continued and may be enlarged, maintained, repaired or altered. Except as provided in Section 1128, no such enlargement, maintenance, repair or alteration shall either create an additional noncompliance or increase the degree of existing noncompliance of all or any part of such a structure. No building, structure or property shall be made nonconforming solely as a result of a change in the use, zoning or development of adjacent property. No building, structure or property which complied with the Zoning Regulations in effect immediately prior to the date of adoption of these Revised Zoning Regulations shall be deemed to have become or shall become nonconforming due to the passage of these Revised Zoning Regulations.

Section 1122. NONCONFORMING STRUCTURES: DAMAGE OR DESTRUCTION

Nothing in this section shall prevent the substantial restoration, of a building within a period of twelve months, following damage or destruction by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind unless the nonconforming structure is in a FEMA-designated floodway. Any property which did not comply with the zoning regulations in effect prior to the adoption of this ordinance will be regulated in a manner consistent with the previously existing resolution.

Section 1125. NECESSARY REPAIRS

The Building Official may order unsafe nonconforming structure to be restored to a safe condition. Any such order is subject to the provisions of Section 1122 regulating the repair or restoration of partially damaged or destroyed nonconforming structures.

Section 1128. NONCONFORMING STRUCTURES: PERMITTED INCREASES IN NONCOMPLIANCE

- A. Height. A building which is noncomplying with respect to the height limits of these Zoning Regulations may be altered in a manner which increases the noncompliance, provided the total area exceeding the height limit shall not increase by more than 15 percent, and the height limit shall not exceed the height of that portion of the existing building which is in noncompliance.
- B. Yards. A building which is noncomplying with respect to required yards of these Zoning Regulations may be altered in a manner which extends the degree of noncompliance, provided the length of any such alteration or enlargement shall not extend more than 25 feet parallel to the lot line, the alteration or enlargement shall not extend further into the required yard than the existing noncomplying

portion of the building. This provision shall apply separately to each required yard with which the existing structure does not comply.

- C. Nonconforming structures shall be limited to one alteration as provided by subsection A, and one alteration as provided by subsection B of this section.

Section 1130. NONCONFORMING USE

No use of a building, structure (other than a sign) or property which conformed with the zoning regulations in effect immediately prior to the date of adoption of these Revised Zoning Regulations shall become or be deemed to have become nonconforming due to passage of these Revised Zoning Regulations.

Section 1132. NONCONFORMING USE: DAMAGE OR DESTRUCTION OF STRUCTURES

If the structure accommodating or serving a nonconforming use is damaged or destroyed to the extent that the cost of reconstruction or restoration will exceed 50 percent of evaluation for tax purposes of the structure immediately prior to the damage, the structure may not be rebuilt, and the nonconforming use may not be resumed, but any substantial changes in the structure shall require Planning Commission approval.

Section 1135. NONCONFORMING USE: REVISION OF NONCONFORMANCE

If a nonconforming use is changed to a conforming use, the nonconforming use shall be resumed.

Section 1137. NONCONFORMING USE: CONDITIONAL USE PERMIT REQUIREMENT

When a nonconforming use which is a conditional use in the district in which it is located is deemed a nonconforming use, and is subject to the Nonconforming Development Provisions. The Planning Commission may approve a Conditional Use Permit for any such nonconforming use under the provisions of Section 1020 of Article X.

Section 1140. NONCONFORMING USE: DISCONTINUANCE

When a nonconforming use of land, or a nonconforming use of all or part of a structure, is discontinued or abandoned for a period of 90 consecutive days, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Normal, seasonal cessation of a use, temporary discontinuance for purposes of maintenance, rebuilding after damage or destruction per Section 1122 or 1132, or improvements permitted by the Nonconforming Development Provisions shall not be included in determination of the 90 day period of discontinuance.

Section 1145.

NONCONFORMING USE PROVISION

The following provision shall apply to a nonconforming use:

- A. A nonconforming use occupying an open site, or conducted within or utilizing structures valued at less than \$2,500 shall be discontinued within 10 years following the date on which such use became a nonconforming use, or 10 years after January 1, 1993 whichever day is later. Maintenance or improvement of structures associated with the nonconforming use shall be limited to that required by law to meet minimum health and safety requirements, and the value of any such improvements shall not be used in determining the value of improvements associated with the use.
- B. A nonconforming use may be continued, and structures associated with the use may be maintained, provided no nonresidential use shall be enlarged or expanded in terms of floor space utilized, site area occupied, nor any change be made in the nature of the use which would result in an increase in required off-street parking.
- C. Structures associated with the nonconforming use may be improved, enlarged, or structurally altered, provided the total cost of such improvement shall not exceed 20 percent of the value of the structure prior to such improvement in minimum health and safety requirements, or improvement to a portion of structure used solely for a conforming use shall not be used in determining valuation under this provision.
- D. When authorized by a Conditional Use Permit, a nonconforming use may be replaced by another nonconforming use of a similar nature. A Conditional Use Permit authorizing a substitute nonconforming use shall require a finding of facts by the Planning Commission that the substitute will not have a greater undesirable impact on surrounding uses than the original use, in terms of traffic generation, noise hours of operation, number of employees, or such other measures deemed significant by the Commission.

ARTICLE XII SAVING CLAUSE

In the event any Article, Section, clause or provision of this ordinance is declared by the courts to be invalid, the same shall not affect the validity of these regulation as a whole or any part thereof other than the part so declared to be invalid.

ARTICLE XIII REPEAL OF PRIOR ORDINANCE

The Zoning Regulations adopted by Tunica County, Mississippi, recorded in Minute Book _____ and all amendments thereof, are repealed on the effective date of this ordinance. However, all application and matters which have commenced under that ordinance shall be completed with decisions rendered under regulations set forth in this ordinance without the necessity of a new application thereof.

ARTICLE XIV EFFECTIVE DATE

All notices, hearings, and matters to be performed, having been completed, this ordinance shall take effect on

ORDERED AND DONE, this the 6th day of January 2003.
