

Zoning Ordinance

City of Brookhaven, Mississippi

Previously Adopted by City Council

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Readopted

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BROOKHAVEN ZONING
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PREAMBLE. PURPOSE AND TITLE

Section 1. Title: This ordinance shall be known and referred to as the Zoning Ordinance of Brookhaven, Mississippi.

Section 2. Purpose: This ordinance has been made in accordance with a comprehensive plan duly adopted by the Mayor and Board of Aldermen, after the adoption of which and as to which a public hearing in relation thereto was duly held after notice of the time and place thereof had been duly published in a paper of general circulation in the City of Brookhaven, Lincoln County, Mississippi, at least fifteen (15) days prior thereto, and at which parties in interest and citizens had an opportunity to be heard, and which ordinance has been designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. These regulations have been made with reasonable consideration, among other things to the character of the district, and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City of Brookhaven.

ARTICLE 1
ZONING DISTRICTS AND OFFICIAL ZONING MAP

100.01 - The City of Brookhaven is hereby divided into zones, or districts, as shown by the Official Zoning Map of the City of Brookhaven, Mississippi which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

100.02 - The Official Zoning Map of the City of Brookhaven, Mississippi, shall be identified by the signature of the Mayor, attested by the City Clerk, and shall bear the seal of the municipality under the following words: "This is to certify that this is the Official Zoning Map of the City of Brookhaven, Mississippi referred to in Article I, 100.01 of the official Zoning Ordinance of the City of Brookhaven, Mississippi, adopted on the 7th day of January, 1992."

100.03 - If, in accordance with the provisions of this ordinance and Mississippi State Statutes, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the governing authorities of the municipality together with an entry on the Official Zoning Map substantially as follows: "By official action of the governing authorities of the municipality, this map was amended as authorized by Order as listed below, (amendment, date, brief description of nature of change), " which entry shall be signed by the Mayor or City Clerk. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

100.04 - No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth herein. Any unauthorized change of whatever kind by any person or persons shall be a misdemeanor and punishable by fine or imprisonment, or both, and not exceeding the maximum amount or time, or both, permitted by law.

100.05 - Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning map which shall be located in the office of the City Clerk (or such other place in the City Hall as may be designated from time to time by the governing authorities) shall be the final authority as to the current zoning status of land, buildings, and other structures in the County.

100.06 - In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the governing authorities of the municipality may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the Original Zoning Regulations, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the municipal seal under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Official Zoning Regulations of the City of Brookhaven, Mississippi, as of the __ day of ____, 20__."

100.07 - Whenever any street, alley, or other public way is vacated by official action of the Board of Aldermen of the City of Brookhaven, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

ARTICLE II
DISTRICT REGULATIONS

200. Required Conformance

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

200.02 - No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

200.03 - No building or other structure shall hereafter be erected or altered to exceed the height; to accommodate or house a greater number of families, to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.

200.04 - No part of a yard, other open space, off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, off- street parking, or loading space similarly required for any other building.

200.05 - No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, except as provided under subsections 401 and 902 in this ordinance. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

200.06 - Classification of Newly Annexed Property: All annexations of land to the City of Brookhaven shall be zoned or rezoned in accordance with Article XI Amendments Procedure, and will conform with the Comprehensive Plan.

200.07 - Court Ordered Rezoning: In the event rezoning is required pursuant to a court order specifically establishing the zoning classification to be applicable to the property which is the subject matter of the suit, the procedural requirements of the Zoning Ordinance shall not apply. A certified copy of the finally court order shall be filed with the City Clerk after all available time for appeal has expired. The City Clerk shall have the zoning change entered on the Official Zoning Map and cause the zoning change and certified copy of the court order to be entered in the minutes of the City Council.

ARTICLE III
NONCONFORMING LOTS AND NONCONFORMING USES
OF LAND AND STRUCTURES

300. General Requirements

300.01 - Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, uses of land structures and characteristics of use which were lawful before this ordinance was passed or were amended after its adoption but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that nonconformities shall not be enlarged, expanded, or extended, or used as grounds for adding other structures or for uses prohibited elsewhere in the same district.

300.02 - Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not, after passage of this ordinance, be extended or enlarged by attachment on a building or premises or additional signs intended to be seen from off premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

300.03 - To avoid undue hardship, nothing in this ordinance shall require a change in the plans, construction, or designated use of any building on which actual construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include placing of construction materials in permanent position and the fastening of them in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried out diligently.

301. Nonconforming Lots of Record

301.01 - All existing lots of record, which at the time of adoption or amendment of this ordinance become nonconforming lots in regard to lot area or width and which are under single ownership and not of continuous frontage with other lots under the same ownership, may be used for any permitted use in the district in which they are located, notwithstanding limitations imposed by other provisions of this ordinance. Variance of yard requirements shall be obtained only through action of the Board of Adjustment and shall not allow any use of the property other than for permitted uses within the district.

301.02 - If two or more vacant lots with continuous frontage in single-ownership (including joint, common, and corporate ownership) are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and

no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance.

302. Nonconforming Uses of Land (or Land with Minor Structures Only)

302.01 - Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance and where such uses involves no individual structure with a replacement cost exceeding \$5,000, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

302.01-01 - No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

302.01-02 - No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at effective date of adoption or amendment of this ordinance.

302.01-03 - If any such nonconforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

302.01-04 - No additional structure not conforming to the requirement of this ordinance shall be erected in connection with such nonconforming use of land.

303. Nonconforming Structures

303.01 - Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions.

303.01-01 - No such conforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

303.01-02 - If such nonconforming structure or nonconforming portion of structure is destroyed by any means to an extent of more than 75 percent of its replacement cost at time of deconstruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

303.01-03 - If such structure is moved for any distance for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

304. Nonconforming Uses of Structures or of Structures and Premises in Combination

304.01 - If lawful use involving individual structures or structures and premises in combination with a replacement cost of \$5,000 or more exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

304.01-01 - No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located, unless otherwise provided by the provisions of subsection 304.

304.01-02 - A structure or structure and premises in combination devoted to a single family residential use which is located in a commercial district may be enlarged, extended, or altered provided other provisions of this ordinance are not violated.

304.01-03 - Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of this ordinance, but no such use shall be extended to occupy any land outside such building, except as allowed in subsection 304.01-02.

304.01-04 - If no structural alterations are made, any nonconforming use of a structure or of a structure and premises may, as a special exception, be changed to another nonconforming use, provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this ordinance.

304.01-05 - Any structure or structure and premises in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

304.01-06 - When a nonconforming use of a structure or of a structure and premises in combination is discontinued or abandoned for 6 consecutive months or for 18 months during any 3 year period (except when government action impeded access to the premises), the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

304.01-07 - Should a nonconforming use of structure or of structure and premises in combination be destroyed by means other than an act of nature or fire to an extent of more than 75 percent of the replacement cost at the time of destruction, the structure shall not be reconstructed except in conformity with the provisions of this ordinance.

305. Repairs and Maintenance

305.01 - On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10 percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, provided that the cubic content existing when it became nonconforming shall not be increased.

305.02 - If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

305.03 - Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by an official charged with protecting the public safety, provided that such improvements shall not exceed 25 percent of the current market value of the structure.

306. Uses Other than Nonconforming Uses Under Special Exception Provisions

306.01- Any use which is permitted as a special exception in a district under the terms of this ordinance (other than a change through the Mayor and Board of Aldermen's action from a nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use.

ARTICLE IV
DISTRICTS

400. Zoning Districts

400.01 - In order to regulate and restrict the location of trades and industries and the location of buildings erected, reconstructed, altered or enlarged for specified uses, to regulate and limit the height and bulk of buildings hereafter erected, reconstructed, altered or enlarged; to regulate and determine the area of yards and other open spaces and to regulate and limit the density of population, the City of Brookhaven is hereby divided into districts of which there shall be ten (10) as follows:

- A-1 General Agricultural District
- R-1 Single-Family Residential District
- R-2 Two-Family Residential Distract
- R-3 Multi-Family Residential District
- C-1 Neighborhood Commercial District
- C-2 Community Commercial District
- C-3 Highway Commercial District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- F-1 Flood Plain District

The order of classification shall be as enumerated above with the F-1 Flood Plain District being the most restrictive and the I-2 Heavy Industrial District being the least restrictive classification.

The districts aforesaid and the boundaries of such districts are shown upon the map designated as the "Official Zoning Map" and said maps and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.

Except as hereinafter provided:

400.02 - No building shall be erected, reconstructed, altered or enlarged nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located.

400.03 - No building shall be erected, reconstructed, altered or enlarged to exceed the height or bulk limit herein established for the district in which such building is located.

400.04 - No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Ordinance, nor shall the density of population be increased in any manner except in conformity with the area of regulations herein established.

400.04-01 - No building permit shall be issued by the City for the construction or placing of, and no person shall construct or place, any dwelling, structure or edifice, designed or usable as a dwelling place, on any lot, tract or parcel of land unless the lot, tract or parcel of land upon which each such structure is to be located, or is located, has been defined, delineated, or described by a map or plat filed for record in the Deed Records of the County; provided, that this Ordinance shall not prohibit the issuance of a building permit for the construction or placing of any single structure, designed or usable as a dwelling, located on any tract of land set apart,

delineated or defined by a metes and bounds description and recorded in the Deed Records of the county, and shown on a plat, giving an accurate location of such tract relative to any existing recorded addition or subdivision, when the only structure (with its permitted appurtenances) is located or, to be located thereon, faces or fronts upon a legally established public thoroughfare.

400.04-02 - No building permit shall be issued by the City for the erection or placing of any dwelling on a lot the width or street frontage of which has been decreased from the width or street frontage as originally platted or as re-platted and recorded in the Deed Records of the County, nor shall a building permit be issued for the erection or placing of any dwelling on the rear yard of any corner lot situated in Districts R-1, R-2, or R-3.

400.04-03 - No building permit shall be issued by the City for a single-wide mobile home except when being placed or located in an approved and permitted mobile home park.

400.04-04 - A building permit may be issued by the City or its agent for the construction or placing of a dwelling on a lot or tract of land composed of portions of two or more lots as same appear upon the map thereof as recorded in the Deed Records of the County, only when such lot or tract has a street frontage of not less than the street frontage of any lot in the same block.

400.05 - No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be considered as providing a yard or open space for any other buildings; provided further that no yard or open space on an adjoining property shall be considered as providing a yard or open space on a lot whereon a building is to be erected.

400.06 - Every building hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one (1) building on one (1) lot, except as permitted by the Zoning Board of Adjustment.

401. Rules for Interpretation of District Boundaries

401.01 - Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.

401.02 - Boundaries indicated as approximately following the center lines of streets, highways, railroads or alleys shall be construed to follow such center lines;

401.03 - Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

401.04 - Boundaries indicated as approximately following city limits shall be construed as following such city limits;

401.05 - Where the boundary of a district line follows a railroad right-of-way, such boundary shall be deemed to be located on the right-of-way line to which it is closest, which shall completely include or exclude the railroad easement unless otherwise designated;

401.06 - Boundaries indicated as following shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

401.07 - Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

401.08 - Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 2 above, the Board of Adjustment shall interpret the district boundaries;

401.09 - Where a district boundary line divides a lot which was in single ownership at the time of passage of the Ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 100 feet beyond the district line into the remaining portion of the lot.

ARTICLE V
SPECIFIC DISTRICT REGULATIONS

500. A-1 - General Agricultural District

500.01 - This District shall provide an area devoted primarily to agricultural and horticultural uses. It is the purpose of this district to encourage and protect such uses from urbanization until such is warranted and the appropriate district classification is made.

500.02 - The following uses of property, buildings or structures are permitted in the A-1 district.

500.02-01 - Cultivation of field and truck crops, orchards and vineyards.

500.02-02 - Pasturing and grazing. (Not including stockyards or feed lots.)

500.02-03 - Dairies, poultry, small animals and livestock.

500.02-04 - Greenhouses, nurseries, and landscape gardening.

500.02-05 - Barns, silos, sheds, warehouses and cooling houses for storage, grading, packing and processing of farm produce other than commercial slaughtering or processing of animals.

500.02-06 - Single family detached dwelling, and customary accessory uses.

500.03 - All uses not permitted by right or as a special exception are prohibited.

500.04 - The following uses may be permitted as special exceptions after public notice and hearing and approval by the Zoning Board of Adjustment.

500.04-01 - Public and semipublic uses. (Including cemetery, utilities, park and playground, library, country club, golf course.)

500.04-02 - Mining and resource extraction.

500.04-03 - Church, on a minimum 3 acre lot.

500.04-04 - Circus, carnival, fair, temporary use only.

500.04-05 - Radio and television transmission tower

500.04-06 - Riding academy and stable

500.05 - Each single family dwelling in the A-1 district, together with its accessory buildings, hereafter erected, shall be located on a lot having an area of not less than one acre which shall have access to a dedicated public street or highway.

500.06 - However, nothing in this ordinance shall prevent the construction of a single-family dwelling on any tract of one acre or less which was a lot of record on the date of passage of this ordinance. Said tract must have a minimum of 50 feet of frontage on a dedicated public street.

500.07 - The following are height and setback regulations for the A-1 district.

500.07-01 - The front building setback line shall be a minimum of 40 feet from the front property line. The side building setback line shall be a minimum of 20 feet from the side property line. The rear building setback line shall be a minimum of 25 feet from the rear property line.

500.07-02 - Any building in which livestock is kept shall be located not less than 100 feet from front, side and rear property lines.

500.07-03 - No building shall exceed 35 feet in height.

501. R-1 Residential District

501.01 - This is the most restrictive residential district. The principal use of land is for single-family dwellings and with special permission related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These area are intended to be defined and protected from the encroachment of uses not performing a function appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationships of each element.

501.02 - The following uses are permitted in the R-1 district.

501.02-01 - Dwelling, single-family, excluding manufactured homes.

501.02-02 - Accessory building located on same lot. (Subject to subsection 611-01)

501.03 - All uses not permitted by right or as a special exception are prohibited in the R-1 district.

501.04 - The following uses may be permitted as a special exception after public notice and hearing and approval by the Zoning Board of Adjustment.

501.04-01 - Home occupations. (See Definition 1301.53 Home Occupation)

501.04-02 - Church (on a minimum three (3) acre lot.)

501.04-03 - Park and playground

501.04-04 - Golf course, not including commercial miniature courses or driving range.

501.04-05 - Art gallery or museum (public).

501.04-06 - Telephone exchange, but not to include administrative office, shop, or garage.

501.04-07 - School, public or private, offering general educational courses.

501.04-08 - College or university, not to include business or commercial college.

501.04-09 - Library (public).

501.04-10 - Public use, including utilities.

501.04-11 - Cemeteries (public/private)

501.04-12 - Sign or bulletin board, unlighted, not to exceed twelve (12) square feet in area pertaining to the lease hire or sale of property, buildings or structures, which bulletin board or sign shall be removed as soon as the property, buildings or structures, which bulletin board or sign shall be removed as soon as the property, building or structure has been leased, hired or sold.

501.04-13 –Internet sales businesses operated from a home

501.05 - The following are setback, area and height regulations for the R-1 district.

501.05-01 - The front building setback line shall be a minimum of 35 feet from the front property line. The side building setback line shall be a minimum of ten feet from the side property. The rear building setback line shall be a minimum of 25 feet from the rear property line.

501.05-02 - The lot width shall be a minimum of 80 feet at the front building setback line.

501.05-03 - The lot area shall be a minimum of 10,000 square feet.

501.05-04 - No building shall exceed 35 feet in height.

501.05-05 - Main and accessory buildings or structures shall not exceed 35 percent of the total lot area.

501.06 - See Article XII for regulations pertaining to off-street parking and loading.

502. R-2 Residential District

502.01 - This residential district is intended to provide for medium population density. The principal use of land may range from single-family to two-family dwelling units, with the intent of this district being basically the same as that of the R-1 Residential District except that two-family dwelling units in a single structure are allowed.

502.02 - The following uses are permitted in the R-2 district.

502.02-01 - Any use permitted in the R-1 Residential District but subject to the requirements thereof.

502.02-02 - Two-family dwelling, including manufactured housing as defined herein.

502.02-03 - Zero lot line dwellings.

502.03 - All uses not permitted by right or as a special exception are prohibited in the R-2 District.

502.04 - The following uses may be permitted as a special exception after public notice and hearing and approval by the Zoning Board of Adjustment.

502.04-01 - Any use permitted as a special exception in an R-1 Residential District but subject to the requirements thereof.

502.05 - The following are setback, area and height regulations for the R-2 district.

502.05-01 - The front building setback line shall be a minimum of 25 feet from the front property line. The side yard on interior lots of fifty (50) feet or less in width, there shall be a side yard on each side of the building of not less than five (5) feet in width. For lots of more than fifty (50) feet, either of their side yards may be five (5) feet, and the sum of the side yards shall be twenty (20) per cent of the lot width, but need not exceed twenty (20) feet in total side yard width. (See Appendix C) On corner lots the side yard regulation shall be the same as for interior lots except in the case of reversed frontage where the corner lot rears on the side of the lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty percent of the front yard required on the lot abutting the rear of the corner lot or separated only by an alley. No accessory buildings on a said corner lot shall project beyond the front yard line of the lots in the rear, nor shall a building be erected, reconstructed, altered, or enlarged, closer than five (5) feet to the line of the abutting lot to the rear. The rear building setback line shall be a minimum of 25 feet from the rear property line.

502.05-02 - Zero lot line- in zero lot line lots there shall be no minimum on one side and 10 feet on the opposite side. However, in no case shall a zero lot line dwelling be built closer than 10 feet to the lot line of a lot which is zoned as R-1, Residential. On corner lot, same as "R-1".

502.05-03 - The lot width shall be a minimum of 70 feet at the front building setback line. For zero lot line the minimum lot width shall be forty (40) feet.

502.05-04 - The minimum lot area shall be 8,000 square feet (4000 square feet/family) and 5000 square feet for single-family dwelling units.

502.05-05 - No building shall exceed 35 feet in height.

502.05-06 - Main and accessory buildings or structures shall not exceed 45 percent of the total lot area.

502.06 - See Article XII for requirements pertaining to off-street parking and loading.

503. R-3 Multi-Family Residential District

503.01 - This residential district is intended to provide for medium and high population density. The principal use of land may range from two-family dwelling units to multi-family and garden apartment uses. Certain uses which are more compatible with intensive residential uses than with commercial uses are permitted.

503.02 - The following uses are permitted in the R-3 district.

503.02-01 - Any use permitted in the R-2 residential district, but subject to the requirements thereof.

503.02-02 - Multiple- family dwelling

503.02-03 - Town houses.

503.02-04 - Modular homes/ manufactured housing.

503.02-05 - Private nursery, day school, kindergarten and child care centers.

503.03 - The following uses may be permitted as a special exception after public notice and hearing and approval by the Zoning Board of Adjustment

503.03-01 - Any use permitted as a special exception in the R-2 Residential District but subject to the requirements thereof.

503.03-02 - Offices, professional, and service.

503.03-03 - Studios for professional work or teaching of any form of fine arts, photography, music, drama, dance, but not including commercial gymnasiums.

503.03-04 - Barber shops, beauty salons, and other personal service establishments only when located within a multi-family apartment structure where the primary purpose of the apartment is for residential occupancy.

503.03-05 - Rooming and boarding house/ bed and breakfast.

503.03-06 - Mobile home parks (subject to provisions contained in Section 503.06)

503.03-07 - Private clubs, fraternities, sororities and lodges, excluding those the chief activity of which is a service customarily carried on as a business.

503.03-08 - Medical and dental facility.

503.03-09 - Nursing home.

503.04 - The following are setback, area and height regulations for the R-3 district.

503.04-01 - The front building setback line shall be a minimum of 25 feet from the front property line. The side building setback line for single and two-family dwellings shall be a minimum of 7.5 feet. The side building setback line for multi-family dwellings shall be a minimum of ten feet with an additional four feet required for each side yard for each story above the first story. The rear building setback line shall be a minimum of 25 feet from the rear property line.

503.04-02 - The lot width at the front building setback line shall be a minimum of 100 feet, Single-family dwellings shall be 65 feet, and two-family dwellings shall be a minimum of 70 feet. Townhouses shall have a minimum width of twenty-four (24) feet.

503.04-03 - The minimum lot area shall be 5000 square feet for single-family dwellings, 8000 square feet for two-family dwellings, plus 2000 square feet for each additional family unit up to three. Four or more dwelling units shall require additional lot area in accordance with the following schedule:

<u>Dwelling Units</u>	<u>Square Feet</u>
4 to 20	1,000/unit
20 or more	500/unit

503.04-04 - No building shall exceed 45 feet in height.

503.04-05 - Main and accessory buildings or structures shall not exceed 60 percent of the lot area.

503.05 - See Article XII for requirements pertaining to off-street parking and loading.

503.06 - Special provisions for Mobile Home Parks.

503.06-01 - Mobile home parks shall not exceed a density of eight (8) mobile home units per gross acre within the mobile home park.

503.06-02 - Mobile home parks shall be surrounded by buffer area at least 15 feet in depth on the sides and rear and 50 feet in depth along the front, measured from the street right-of-way line, provided that no side or rear buffer areas are required between adjacent mobile home parks. The interior 20 feet of a 50-foot front buffer may be used for interior street, road, or driveway.

503.06-03 - Buffer areas shall otherwise be unoccupied except for landscaping, utility facilities, signs or entrance ornamentation.

503.06-04 - A minimum of five (5) percent of the gross land area of the mobile home park shall be required for recreation area.

503.06-05 - All mobile home lots shall abut upon an all-weather driveway of not less than twenty (20) feet in width, which shall have unobstructed access to a public street.

503.06-06 - All streets, roadways and driveways within the park shall meet the minimum construction standards recommended by the city engineer. They shall be appropriately lighted at night.

503.06-07 - No mobile home park shall contain less than three (3) acres.

503.06-08 - No mobile home shall be moved into the city limits without first securing a permit as provided in Chapter 18 of the Brookhaven Code of Ordinances.

503.06-09 - No mobile home park shall be allowed without a valid permit from the Mississippi State Board of Health and written approval of the sewerage system by the Mississippi Air and Water Pollution Control Commission.

503.06-10 - Mobile homes located within a mobile home park shall comply with the Mississippi Insurance Department's "Rules and Regulations of the Mobile Home Division of the State Fire Marshal's Office," Section IX, "Minimum Standards for Blocking, Anchors, and Tie Downs."

503.06-11 - See Article XII for regulations pertaining to off-street parking and loading.

504. C-1 Neighborhood Commercial District

504.01 - General Description - The purpose of this commercial district is to provide retail stores and personal services for the convenience of the people in adjacent residential areas.

504.02 - Uses Permitted - The following uses of property, buildings, or structures, for specified stores, shops or businesses shall be retail/service establishments exclusively, selling merchandise and conducted wholly within an enclosed building. Each store, shop, or business shall not exceed two thousand four hundred (2400) square feet of floor area. It is further provided that all waste material shall be kept within a sight obscuring enclosure. No drive-in or curbside service shall be permitted.

504.02-01 – Any uses permitted in the R-2 two family residential district.

504.02-02 – Auto parking areas for passenger cars only.

504.02-03 – Baker shop, employing not more than five persons, custom selling all production at retail on the premises or as retail custom order for delivery.

504.02-04 – Barber and Beauty shops (subject to applicable health codes).

504.02-05 – Book or stationary stores, or newsstands.

504.02-06 – Candy, ice cream store including manufacture, if all production is sold at retail on the premises or as retail custom orders for delivery.

504.02-07 – Coin operated laundry and dry cleaning pick up stations.

504.02-08 – Convenience store, butcher shop/meat market, drug store, film processing, grocery store, gasoline (no auto repair or service).

504.02-09 – Liquor/package store.

504.02-10 – Offices (limited to 4000 square feet).

504.02-10.01 – Medical or paramedical practice or clinics for human care.

504.02-10.02 – Legal, engineering, real estate, insurance.

504.02-10.03 – Professional offices and studios including executive, administrative writing, clerical, stenographic, graphic arts, and interior design.

504.02-10.04 – Branch banks and financial institutions.

504.02-11 – Specialty shop for the conduct of a retail business as limited herein:

504.02-11.01 – Florist, fabric, apparel, jewelry.

504.02-11.02 – Custom dressmaking, millinery, tailoring, shoe repairing, repairing of household utility articles or similar trade.

504.02-11.03 – Pet store.

504.02-11.04 – Restaurants (not drive-in).

504.02-11.05 – Auto parts (no service).

504.02-11.06 – Gift and card shop/variety store.

504.02-11.07 – Photographers studio.

504.02-11.08 – Shop for the repair of electrical and radio equipment and other similar commodities.

504.02-11.09 – Hobby, antique, photo and frame shop.

504.02-11.10 – Music and sporting goods.

504.02-12 – Other light retail and service establishment which may be determined by the Board of Adjustment to be similar to the above listed principal permitted uses and which are in harmony with the purpose of this zone, but not including those uses which are not mentioned in this zone but are specifically enumerated in another zone.

504.02-13 – Accessory buildings and uses customarily incident to any of the above uses including air conditioners ice and refrigerating plants purely incidental to the main activity

permitted on the premises. No accessory use shall be construed to permit the keeping of the articles or materials in the open or outside the building.

504.02-14 – Signs and billboards on the ground are prohibited. Each sign shall not exceed 24 square feet and shall be flat against the wall of the building, with all parts of the sign within 12 inches of the face of the building or on the roof within the height limit and shall not be illuminated so as to shine on nearby residential properties. Illumination shall be non-flashing and shall not contain a rotating, oscillating or revolving beam or beacon of light.

504.02-15 – All uses not permitted by right or as special exception are prohibited

504.03 – The following are setback, area, and height regulations for the C-1 district.

504.03-01 – The front building setback shall be a minimum of 35 feet from the front property line. No side yards are required except in instances where commercial use abuts a residential district, in which case a minimum side yard of 40 feet shall be provided, as measured from side lot line to the nearest building or structure on the side adjacent to the residential district. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the planning commission. No rear yard shall be required except in instances where a commercial use abuts a residential district, in which case a rear yard of not less than 35 feet shall be provided. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the planning commission.

504.03-02 – Lot width shall be a minimum of 50 feet at the front of the building setback line.

504.03-03 – Lot area is not regulated.

504.03-04 – No building shall exceed 35 feet in height.

504.03-05 - Main and accessory buildings or structures shall not exceed 75 percent of the lot area.

504.04 – The minimum district size is 2 acres, with a minimum depth of 200 feet.

504.05 – See Article XII for regulations pertaining to off-street parking and loading.

504.06 – The following is a special requirement for the C-1 district.

504.06-01 – Developers shall submit to the planning commission for each commercial use such information as may be required for the planning commission to determine that the proposed development is in conformance with the intent of this district in regard to ingress, egress, loading, parking, and traffic circulation.

505. C-2 Community Commercial District/ Central Business District

505.01 – General Description – This commercial district is intended for the conduct of personal and business services and retail business of the community. Traffic generated by these uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

505.02 – Uses Permitted – The following uses of property, buildings or structures:

505.02-01 – Any commercial use permitted in the C-1 Neighborhood Commercial District without limit to the square feet of floor area in shops, except as noted. All residential structures are excluded from the C-2 Community Commercial District.

505.02-02 – Antique shops.

505.02-03 – Auditoriums, theatres, moving picture shows, having a seating capacity for not more than one thousand five hundred (1500) people.

505.02-04 – Automobile, motorcycle, boat or trailer sales, or sales or rental areas, provided vehicles are in good operating condition. Minor service which does not cause a nuisance may be permitted.

505.02-05 – Bakeries, provided that the floor area does not exceed three thousand (3000) square feet.

505.02-06 – Banks/ savings and loans and other financial institutions.

505.02-07 – Dry or steam cleaning shop or plant.

505.02-08 – Shop for the repair of plumbing, radio and electric equipment, shoes, furniture and similar personal or household commodities.

505.02-09 - Department store.

505.02-10 – Mortuary, funeral home.

505.02-11 – Retail stores, businesses or shops for custom work or the manufacture of articles to be sold at retail on the premises, excluding coal and wood yards, provided that in such manufacture the total mechanical power shall not exceed ten (10) horse power for the operation of any one machine provided that the space occupied by the manufacturing use permitted herein shall not exceed fifty (50) percent of the total floor area of the entire building or the equivalent of the ground floor area thereof, and provided further that such manufacturing use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

505.02-12 – Printing shop, including sale of office supplies and equipment.

505.02-13 – Newspaper publication.

505.02-14 – Sign painting shop.

505.02-15 – Blueprinting shop.

505.02-16 – Interior decorating shop.

505.02-17 – Catering establishments.

505.02-18 – Train stations, bus depots, and travel agencies.

505.02-19 – Theaters, auditoriums.

505.02-20 – Recreational or amusement classification when conducted wholly inside an enclosed building.

505.02-21 – Hardware or appliance stores.

505.02-22 – Variety stores including discount stores.

505.02-23 – Paint and hobby store, including sale of carpets, wall covering and similar household items.

505.02-24 – Hospital.

505.02-25 – Service stations.

505.02-26 – Hotels and/or motels.

505.02-27 – Automotive parts and equipment sales.

505.02-28 – Mail order stores.

505.02-29 – Stamp redemption centers.

505.02-30 – Indoor climate controlled storage

505.02-31 - All uses not permitted by right or as special exceptions are prohibited

505.03-01 – The following uses may be permitted as a special exception after public notice and hearing and approval by the Zoning Board of Adjustment.

505.03-01 – Other uses similar to the above stated uses as may be determined by the Planning Commission.

505.03-02 – Any uses which are enumerated in the I-1 and I-2 Industrial Districts are excluded from this district.

505.03-03 - Because of their unique service areas the yard requirements of Community Commercial and the Central Business District have major differences.

505.04 – The following are setback, area, and height regulations for the C-2 Community Commercial District.

505.04-01 – The front building setback shall be a minimum of 35 feet from the front property line. No side yards are required except in instances where commercial use abuts residential district, in which case a minimum side yard of 40 feet shall be provided, as measured from side lot line to the nearest building or structure on the side adjacent to the residential district. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission. No rear yard shall be required except in instances where a commercial use abuts a residential district, in which case a rear yard of not less than 35 feet shall be provide. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission.

505.04-02 – Lot width shall be a minimum of 50 feet at the front building setback line.

505.04-03 – Lot area is not regulated.

505.04-04 – No building shall exceed 35 feet in height.

505.04-05 – Main and accessory buildings or structures shall not exceed 75 percent of the lot area.

C-2 Central Business District (C.B.D. designation)

505.05 – The purpose of this designation is to provide for the preservation and perpetuation of high density office and commercial enterprises in the Central Business District.

505.06: Uses permitted:

505.06-01 – All office and commercial uses permitted in the regular C-2 Community Commercial District are permitted with the exception of the following uses which are not permitted: those uses stated in 504.02-01 – any uses permitted in the R-2 two family residential district; 504.02-09 – liquor/package store; 505.02-04 – automobile, motorcycle, boat or trailer sales or rental; 505.02-20 – recreational or amusement classifications when conducted wholly inside an enclosed building; and 505.02-24 – hospital. Also, billiard parlors/pool halls; tobacco/vaping stores; pawnshops; tattoo parlors; check cashing facilities; and outdoor advertising signs and billboards are not permitted.

505.06-02 – Residential occupancy above the 1st floor subject to approval of Fire Marshal and/or Fire Code.

505.06-03 – Residential occupancy on the 1st floor may be permitted by special exception after a hearing and approval of the Zoning Board of Adjustment and the Fire Marshal and/or Fire Code.

505.07 – There shall be no minimum setbacks, lot widths, or lot areas in the Central Business District.

505.08 – There shall be limited parking requirements for structures located in the CBD. (See Article XII)

505.09 – Building height shall be limited to 5 stories or 55 feet unless otherwise approved by the Zoning Board of Adjustment.

505.10 – All regulations of the City Fire Code shall be complied with in every case.

505.11 – Public seating occurring on or adjacent to sidewalks shall be uniform and in a manner acceptable to the Planning Commission.

506. C-3 General Commercial District (Highway Commercial District)

506.01 – The purpose of this district is to accommodate commercial uses which require large tracts of lands, utilize outdoor storage, and generally are less compatible than neighborhood commercial uses when located adjacent to residential uses. This district will normally contain a certain amount of neighborhood and highway commercial uses which are allowed by right. General and Highway commercial uses are those which provide services to the transient motorist, such as motels, restaurants, and service stations.

506.02 – The following uses are permitted in the C-3 district.

506.02-01 – Any uses allowed in the C-2 Central Business District.

506.02-02 – Feed and farm products stores.

506.02-03 – Wholesale fruit markets.

506.02-04 – Commercial nurseries and greenhouses.

506.02-05 – Building material yards.

506.02-06 – Veterinarians (with indoor kennels).

506.02-07 – Heavy equipment sales.

506.02-08 – Mobile home sales.

506.02-09 – Drive in theaters.

506.02-10 – Retail fish markets.

506.02-11 – Automotive repairs and body shop.

506.02-12 – Golf driving range and miniature golf areas.

506.02-13 – Bowling alleys.

506.02-14 – Mortuaries and funeral homes.

506.02-15 – Car washes.

506.02-16 – Mini storage facilities.

506.02-17 – Marble/Granite works.

506.03 – All uses not permitted by right or as special exceptions are prohibited.

506.04 – The following uses may be permitted in the C-3 district as special exceptions after public notice and hearing and approval by the Zoning Board of Adjustment.

506.04-01 – Any special exception allowed in the C-2 Central Business District excluding multi-family residential for the elderly.

506.04-02 – Other uses similar to those permitted by subsection 506.02.

506.04-03 - Tattoo Parlors shall be permitted only after submission of proof of professional licensure to the planning commission.

506.05 – The following are setback, area, and height regulations for the C-3 district.

506.05-01 – The front building setback shall be a minimum of 35 feet from the front property line. No side yards are required except in instances where commercial use abuts a residential district, in which case a minimum side yard of 40 feet shall be provided, as measured from side lot line to the nearest building or structure on the side adjacent to the residential district. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission. No rear yard shall be required except in instances where a commercial use abuts a residential district, in which case a rear yard of not less than 35 feet shall be provided. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission.

506.05-02 – Lot width shall be a minimum of 100 feet at the front building setback line.

506.05-03 – Lot area is not regulated.

506.05-04 – No building shall exceed 35 feet in height.

506.05-05 – Main and accessory buildings or structures shall not exceed 75 percent of the lot area.

506.06 – See Article XII for regulations pertaining to off-street parking and loading.

507. I-7 Light Industrial District

507.01 – This industrial district is intended primarily for production and assembly plants that are conducted so that noise, odor, dust, and glare are controlled and a minimum of noxious effects on adjacent areas are produced.

507.02 – The following uses are permitted in the I-1 district.

507.02-01 – Lumber yards.

507.02-02 – Upholstery manufacturing.

507.02-03 – Assembly plants.

507.02-04 – Bakeries, wholesale.

507.02-05 – Bookbinderies.

507.02-06 – Canneries.

507.02-07 – Cellophane products manufacturing.

507.02-08 – Ceramic products manufacturing.

507.02-09 – Carpet cleaning services.

507.02-10 – Cosmetic manufacturing.

507.02-11 – Confectionery manufacturing.

507.02-12 - Dairy products, processing and manufacturing.

507.02-13 – Electrical parts and appliances, assembly and manufacture.

507.02-14 – Engraving plants.

507.02-15 – Electroplating plants.

507.02-16 – Feed processing plants.

507.02-17 – Fiber products manufacturing.

507.02-18 – Food products manufacturing.

507.02-19 – Foundry casting light-weight nonferrous metal manufacturing.

507.02-20 – Furniture manufacturing.

507.02-21 – Glass products manufacturing.

507.02-22 – Grain elevators.

507.02-23 – Iron works, light and wrought.

507.02-24 – Jewelry manufacturing.

507.02-25 – Laboratories.

507.02-26 – Laundries.

507.02-27 – Leather products manufacturing.

507.02-28 – Millwork and cabinetmaking.

507.02-29 – Paint mixing and treatment.

507.02-30 – Parcel delivery services.

507.02-31 – Pharmaceuticals manufacturing.

507.02-32 – Plastic products manufacturing.

507.02-33 – Refrigerating plants.

507.02-34 – Sheet metal products (light) manufacturing.

507.02-35 – Sign painting and manufacturing.

507.02-36 – Television and radio broadcasting transmitters.

507.02-37 – Textile products manufacturing.

507.02-38 – Tire recapping and rebuilding.

507.02-39 – Tools and light machinery manufacturing.

507.02-40 – Toy manufacturing.

507.02-41 – Truck terminals, truck and trailer services.

507.02-42 - Warehouse and storage buildings.

507.02-43 – Water distillation.

507.02-44 – Well drilling services.

507.02-45 – Wholesale businesses.

507.02-46 – Wood products manufacturing.

507.02-47 –Open storage of building materials such as lumber, pipe, brick, concrete block, and other substances, such as coal, sand, and gravel, when enclosed by a solid fence at least six feet in height.

507.03 –The following uses are prohibited in the I-1 district.

507.03-01 – All uses not permitted by right or as special exceptions.

507.03-02 – Residential uses.

507.04 – The following uses may be permitted as special exceptions in the I-1 district after public notice and hearing and approval by the Zoning Board of Adjustment.

507.04-01 – Public uses and public utility.

507.04-02 – Other uses similar to those permitted by subsection 508.02.

507.05 – The following are setback, area, and height regulations for the I-1 district.

507.05-01 – The front building setback line shall be a minimum of 60 feet from the front property line. The side building setback line on each side of the lot shall be not less than 25 feet as measured from the side lot line to the nearest building or structure except in instances where this district use abuts a residential district, in which case a minimum side yard of 60 feet shall be provided on the side adjacent to the residential district. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission. The rear building setback line shall be not less than 25 feet except in instances where this district abuts a residential district, in which case a rear yard of not less than 50 feet as measured from the rear lot line to the nearest building or structure, shall be provided. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission.

507.05-02 – Lot width is not regulated.

507.05-03 – Lot area is not regulated.

507.05-04 – No building or structure shall exceed 35 feet in height, except upon approval by the planning commission.

507.05-05 – Lot coverage is not regulated.

507.06 – See Article XII for requirements pertaining to off-street parking and loading.

508. I-2 Heavy Industrial District

508.01 – The heavy industrial district is intended for use by those industries which normally require larger land areas, generate greater traffic volumes, and create other undesirable conditions which are incompatible with other urbanized types of land uses.

508.02 – The following uses are permitted in the I-2 district.

508.02-01- Any use permitted in the I-1 Light Industrial District, subject or subsection 507.03.

508.02-02 – Abrasives manufacturing.

508.02-03 – Accessory use.

508.02-04 – Acetylene gas manufacturing and/or storage.

508.02-05 – Ammonia, bleaching powder, and chlorine manufacturing.

508.02-06 – Asbestos products manufacturing

508.02-07 – Asphalt products manufacturing.

508.02-08 – Automobile and truck body manufacturing.

508.02-09 – Billboards.

508.02-10 – Boiler or tank works manufacturing.

508.02-11 - Caustic soda manufacturing.

508.02-12 – Celluloid manufacturing.

508.02-13 – Chemicals (heavy or industrial) manufacturing and/or processing.

508.02-14 – Cotton Compress.

508.02-15 – Cotton ginning and baling.

508.02-16 – Dyestuff manufacturing.

508.02-17 – Glass manufacturing.

508.02-18 – Grain drying or feed manufacturing from refuse, mash, or grain.

508.02-19 – Grain milling, storage, and elevators.

508.02-20 – Graphite manufacturing.

508.02-21 – Hair products manufacturing and processing.

508.02-22 – Hardware manufacturing.

508.02-23 – Insulation manufacturing and fabrication.

508.02-24 - Junk yard, for the salvage and assembly of scrap metals, paper, plastic, auto parts, salvage and auto wrecking yards when such operations are obscured from any street or from any adjacent property in another zone by a sturdy, sight obscuring fence in good repair, and under the condition that any burning operations be carried on in an enclosed structure provided with such super-heating devices designed to assure complete combustion as may be approved by the Building Inspector and Fire inspector.

508.02-25 – Linoleum manufacturing.

508.02-26 – Oils and fats (animals and vegetable) manufacturing.

508.02-27 – Paints, pigments, enamels, japans, lacquers, putties, varnishes, whiting, and wood filler manufacturing or fabricating.

508.02-28 – Paper, pulp, cellulose, and rayon manufacturing.

508.02-29 – Plastics manufacturing.

508.02.30 – Potash works.

508.02-31 – Rock crusher.

508.02-32 – Saw mill or planing mill.

508.02-33 – Sewage disposal plant.

508.02-34 – Soda and washing compound manufacturing.

508.02-35 – Stone cutting.

508.02-36 – Sugar and starch manufacturing.

508.02-37 – Syrup manufacturing.

508.02-38 – Tar distilling and manufacturing.

508.02-39 – Trailer manufacturing.

508.02-40 – Wood preserving by creosote or other impregnation treatment.

508.03 – The following uses are prohibited in the I-2 district

508.03-01 – All uses not permitted by right or special exceptions.

508.03-02 – Residential and commercial uses.

508.04 – The following may be permitted as special exceptions in the I-2 district after public hearing and notice and approval by the Zoning Board of Adjustment.

508.04-01 – Public Utility.

508.04-02 – Other uses similar to those permitted by subsection 508.02.

508.05 – The following are setback, area, and height regulations for the I-2 district.

508.05-01 – The front building setback line shall be a minimum of 100 feet from the front property line. The side building setback line on each side of the lot shall be not less than 25 feet as measured from the side lot line to the nearest building or structure except in instances where this district use abuts a residential district, in which case a minimum side yard of 100 feet shall be provided on the side adjacent to the residential district. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission. The rear building setback line shall be not less than 50 feet except in instances where this district abuts a residential district, in which case a rear yard of not less than 100 feet, as measured from the rear lot line to the nearest building or structure, shall be provided. Such space shall be screened from the abutting residential district by a concealing fence not less than eight feet in height, in a manner acceptable to the Planning Commission.

508.05-02 – Lot width is not regulated.

508.05-03 – Lot area is not regulated.

508.05-04 – No building or structure shall exceed 35 feet in height, except upon approval by the planning commission.

508.05-05 – Lot coverage is not regulated.

508.06 – See Article XII for requirements pertaining to off-street parking and loading.

509. F-1 Floodplain District

509.01 – The Floodplain District is hereby created in order to permit certain nonintensive uses in areas which are subject to periodic flooding and to protect areas from other types of development except where adequate assurance is given that the development will be protected from flooding. The Floodplain District is the area designated by the Federal Emergency Management Agency (FEMA) as the 100- year flood is shown on the Flood Boundary and Floodway Map, dated February 2010, prepared by FEMA. All development occurring within the Floodplain District shall comply with the Brookhaven Floodplain Management Ordinance.

510. S-1 Special Use Planned Use Development District

510.01 – The purpose of Special use or Planned Unit Development District is to enable the establishment of zoning districts allowing and encouraging greater variety of design and flexibility in development, the requirements of this Ordinance may be modified by the Planning Commission provided that gross population and/or building density set forth for the zoning district in which the development shall be located.

The owners of any tract of land containing at least three (3) acres may submit a plan for the use and development of the entire tract for residential, compatible commercial, compatible industrial, and medical complex uses as a single and unified project. The basic control development intensity shall be one or more of the residential, commercial or industrial districts. The Planned Unit Development shall be a superimposed designation providing a broader latitude of design to achieve the above stated goals.

510.02 – Uses specified and/or permitted on review by the Planning Commission for the zoning district in which the development is located.

510.02-01 – Medical Complex District to include uses such as hospitals, public health centers, nurse training facilities, pathology laboratories, clinics and offices, and other closely related and compatible uses.

510.02-02 – Recreational District to include active and passive activities, such as neighborhood centers, parks and playgrounds, swimming pools, picnic areas, and other closely related and compatible uses.

510.02-03 – Educational Institutions District to include facilities such as grade schools, secondary schools, colleges, auditoriums, libraries, recreational facilities, and other closely related and compatible uses.

510.02-04 – Public District to include municipal functions and services such as city hall, county courthouse, fire department, police department, post office, public utilities, public parking complexes, and other closely related and compatible uses.

510.02-05 – Housing District to include such residential uses as single and two-family residences, garden apartments, town houses, and high-density developments.

510.02-06 – Industrial District to include any industrial use, provided no nuisance will result with regard to excessive: smoke, noise, odor, fire or explosion hazard, gasses, glare or heat, vibration, pollution or other factors detrimental to the health, safety and welfare of the area.

510.03 – Any use, service, or function directly related to the specific intent of the Special Use District will be permitted, provided (in the opinion of the planning commission) there are no existing services or functions conveniently located and adequate to serve the proposed development (for example, a bookstore, grill, post office, laundry, etc., relate to the Educational District.)

510.04 – In applying for a Special Use District or for an amendment to such a district, an overall development plan shall be submitted to the planning commission along with a report showing the need of such a district and its effect on adjacent and surrounding uses. The overall development plan shall include, but not be limited to, the following.

510.04-01 – Plans showing location and design of structures, delivery points, loading and storage areas, walls, fences, screen plantings, signs, lighting devices, and pedestrian walks.

510.04-02 – Plans illustrating adequate off-street parking according to standards established in this ordinance.

510.04-03 – Plans showing entrances and exits to the area and the traffic routing system so designed as to minimize nuisance effects due to the generation of traffic to and from the area.

510.04-04 – Any other information the planning commission may need to adequately consider the effect the proposed uses may have upon the cost of providing adequate services to the area.

510.05 – The commission may attach reasonable special conditions or amendments to the approval of such district to ensure that there will be no departure from the intent of this zoning ordinance.

510.06 – All proposed Special Use Districts shall follow the procedures for subdivision approval even though the ownership of land may not be divided. A preliminary and final plat, both approved by the planning commission, shall be required for every Special Use District. The planning commission may establish a schedule of reasonable fees to be charged for plat review. The district shall be developed according to the approval of the final plat. Building permits and certificates of occupancy shall be required for each building according to the existing codes and regulations.

510.07 – The following are general regulations for all Special Use Districts.

510.07-01 – Each district shall contain a minimum of three acres, except for an expansion of an existing Special Use District. If the existing Special Use District does not contain five acres, the additional acreage shall contain at least the amount needed to bring the total land area to five acres.

510.07-02 – Each district shall be compatible with adjacent land use. If not, adequate buffers and screening shall be required.

510.07-03 – Each district shall start construction within one year after approval of final plat. If initial construction (for example, footings or foundation) does not begin within one year, all land

shall revert to the original zoning. In any case, where there was no original zoning, all land will be rezoned to conform with adjacent uses.

510.07-04 – Each district shall conform to established regulations. Even though this district will have mixed uses, such separate use will meet the requirements of similar uses in other districts. For example, all commercial uses in this district will comply with the applicable commercial regulations as set forth in this zoning ordinance.

510.07-05 – Since a mixture of uses is permitted within a Special Use District, no building, structure, land or premises shall be used, and no building or structure shall be hereinafter erected, constructed, reconstructed, or altered until such use, erection, construction, reconstruction, or alteration has been specifically authorized by the Mayor and Board of Aldermen after study and recommendation by the planning commission.

510.07-06 – Each district shall be binding upon the applicant or applicants, their successors and assigns, and shall limit the development to all conditions and limitations established in such plans.

510.07-07 – Proposed expansions or revisions to any originally approved Special Use District shall be submitted to the planning commission. Upon receiving this request, the planning commission shall set forth the general procedures and regulations as previously set forth.

ARTICLE VI
ADDITIONAL DISTRICT PROVISIONS

600. Conditions of a More Restricted District

600.01 – Whenever the specific district regulations pertaining to one district permit the uses of a more restrictive district, such uses shall be subject to the conditions as set forth in the regulations of the more restrictive district unless otherwise specified.

601. Temporary Buildings

601.01 - Temporary buildings used in conjunction with construction work may be permitted in any district only during the period the construction work is in progress. Such temporary buildings shall be removed upon completion of the construction work

602. Regulation of Areas under Water

602.01 – All areas which are under water and not shown as included within any district shall be subject to all of the regulations of the district adjacent to the water area. If the water area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they intersect.

603. Required Conformance

603.01 – Zoning effects every building and use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

603.02 – No excavation, cut, or fill of earth or debris shall hereafter be undertaken unless a permit is issued by the administrative officials for such excavation, cut, or fill. (See also Municipal Code Sec. 28-16)

604. Access Control

604.01 – There shall be no more than 2 points of access to a public street on a lot of less than 400 feet but more than 100 feet in width. Lots in excess of 400 feet may have 2 points of access to a public street for each 400 feet of frontage. Lots less than 100 feet in width shall have no more than 1 point of access to a public street.

604.02 – No point of access shall be allowed within ten feet of the intersection of the right-of- way lines of intersecting streets.

604.03 – No curbs on city streets or right-of-way shall be cut or altered without written approval of the building inspector. A point of access shall not exceed 20 feet in width for one way and/or one lane ingress or egress. Two-way access points shall not exceed 35 feet in width.

605. Subdivision Coordination

605.01 – In all cases where the ownership of land is divided for the purpose of eventual development of lots, the provisions of subdivision regulations shall apply in addition to the provisions of this ordinance.

606. Vacation of Public Easements

606.01 – Whenever any street, alley, or other public easement is vacated, the district classifications of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

607. One Main Building per Lot

607.01 – Every single-family or two-family residential building or structure hereinafter erected shall be located on a lot of record, and in no case shall there be more than one main building on one lot.

607.02 – More than one main multifamily residential building, institutional building, public or semipublic commercial, or industrial building may be located upon a lot of tract, provided building setback requirements are not violated.

608. Approved Water Supply and Sewage Disposal

608.01 – Wherever water or sewer mains are accessible, buildings and mobile homes shall be connected to such mains. In every other case, individual water supply and sewage disposal must meet requirements set by the Mississippi State Board of Health and the Mississippi Air and Water Pollution Control Commission.

609. Exceptions to Space Requirements

609.01 – No lot shall contain any dwelling unless such lot abuts at least 35 feet on at least one street or such lot was subdivided previous to the enactment of this ordinance. However, not more than 2 lots may share a common and unobstructed easement of access at least 40 feet wide, and such frontage or said easement shall abut at least 40 feet on a dedicated street.

609.02 – The following requirements regarding measurements of depth shall apply to front yards.

609.02-01 – Depth shall be the shortest possible distance measured horizontally between any part of a main building and any part of the front lot line.

609.02-02 – When the street right-of-way line describes as a curve, an alternate method of measurement is herein provided and may be used at the option of the property owner or developer. The front yard may be measure at right angles to a chord extended between the points where the right-of-way line intersects the side lot line.

609.02-03 – The minimum depth of the front yard required for any newly constructed buildings shall be the average front yard depth of existing front yards located within 100 feet of either side of the lot and within the same block and zone.

609.02-04 – Where a lot is a corner lot fronting on two existing or proposed streets that intersect, the front yard may be designated by the owner without respect to the location of the front door.

609.03 – The following regulations regarding measurements of depth shall apply to rear yards.

609.03-01 – Where a lot is wedge-shaped or otherwise irregularly shaped in the rear yard, a rear yard of less than normal depth is permitted, provided the minimum depth is at least one-half the normally required rear yard depth, and the total area in the rear yard is not less than the total area in the rear yard of a rectangular-shaped lot having the minimum width required for the zone in question.

609.04 – The following regulation regarding the measurements shall apply to side yards.

609.04-01 – On corner lots in residential zones, the side yard fronting on an existing street or platted and recorded street that is unimproved shall have a depth not less than 50 percent of the required front yard depth.

609.05 – The following regulation regarding measurement shall apply to irregular yard lines.

609.05-01 – Where a wall of a building is not parallel with the lot line or where the lot line is irregular, the required depth or width of any such yard may be taken as the average depth or width, provided that the side yard shall not be narrower than 6 feet at any point and the front yard not less than 15 feet at any point.

610. Projections

610.01 – Cornices, coves, belt courses, ornamental features, and fire escapes may extend into the required yard area a minimum of 2 feet or 1/3 the required yard depth, whichever is less, if they are at least 7 feet above ground level at their lowest point.

610.02 – Covered porches, terraces, and enclosed vestibules or entryways not over 12 feet in width may extend 5 feet into a required front or rear yard, provided the nearest point of the projection is at least 10 feet from the front or rear lot line.

610.03 – Chimneys, open stairways, eaves, and gutters may extend two feet into the required side yard or one-third the required distance, whichever is less, providing that they do not occupy the aggregate more than one-third of the length of the building wall on which they are located.

611. Accessory Buildings

611.01 – No accessory structure is permitted in any required yard or within 5 feet of any building other than that to which it is accessory; provided, a permitted accessory structure building may be erected in a rear yard, but no nearer the rear lot line than 5 feet.

612. Planned Unit Development

612.01 – This element is covered under section 510 S-1 Special Use/Planned Unit Development District.

613. Visibility at Intersections in Residential Districts (See also Municipal Code Sec. 27-20)

613.01 – On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner to impede vision between a height of 2 ½ and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along street lines 50 feet from the point of the intersection of street lines.

614. Fences, Walls and Hedges

614.01 – Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard provided that no fence, wall or hedge along the sides or front edge of any required front yard shall be over 2 ½ feet in height. Further, in the case of reverse frontage lots (See Appendix B, page B-2), fence heights on the rear of lots adjacent to the street may not exceed 2 ½ feet for half the distance of the required front yard from the back corner along the street and from the back corner the same distance from the street along the rear property line.

615. Building Setback Lines

615.01 – Public, semipublic, and public utility uses shall maintain a front and rear building setback line of 40 feet and a side building setback line of 20 feet.

616. Signs (Replaced by Ordinance 169-2002)

ARTICLE VII
ADMINISTRATION AND ENFORCEMENT OF ZONING ORDINANCE

700. Administration and Enforcement

700.01 – The building inspector, as designated by the governing body of the City of Brookhaven, shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the board may direct.

700.02 – If the building inspector finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The building inspector shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal building or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

701. Zoning Permits

701.01 – No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building inspector.

701.02 – No zoning permit shall be issued by the building inspector except in conformity with the provisions of this ordinance, unless he received a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance, as provided by this ordinance.

702. Application for Zoning Permit

702.01 – All applications for zoning permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration.

702.02 – The application shall include such other information as lawfully may be required by the building inspector including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and to provide for the enforcement of this ordinance.

702.03 – One copy of the plans shall be returned to the applicant by the building inspector after he has marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the plans, similarly marked, shall be retained by the building inspector.

703. Certificates of Zoning Compliance for New, Altered, or Nonconforming Uses

703.01 – It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance has been issued by the building inspector stating that the proposed use of the building or land conforms to the requirements of this ordinance.

703.02 – No nonconforming structure or use shall be maintained, renewed, changed or extended until a certificate of zoning compliance has been issued by the building inspector. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this ordinance.

703.03 – Within 90 days after the effective date of adoption or amendment of this zoning ordinance, the building inspector shall issue to all nonconforming structures or uses a certificate of zoning compliance, which shall state specifically wherein the nonconforming uses differs from the provisions of this ordinance.

703.04 – No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this ordinance upon completion of work.

703.05 – A temporary certificate of zoning compliance may be issued by the building inspector for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards that will protect the safety of the occupants and the public.

703.06 – The building inspector shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

704. Expiration of Zoning Permit

704.01 – If the work described in any zoning permit has not begun within 90 days or been completed within 1 year from the date of issuance thereof, said permit shall expire. It shall be cancelled by the building inspector and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit has been obtained.

705. Required Conformance

705.01 – Zoning permits or certificates of zoning compliance issued on the basis of plans and applications approved by the building inspector authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by this ordinance.

ARTICLE VIII
ESTABLISHMENT AND PROCEDURE OF BOARD OF ADJUSTMENT

800. Establishment of Board

800.01 – A Board of Adjustment is hereby established, which shall consist of six members to be appointed by the governing body, each for a term of four years. Members of the first Board of Adjustment appointed after the passage of this ordinance, however, shall be appointed for the following terms of office: one member for one year, two members for two years, and two members for three years.

800.02 – Members of the Board of Adjustment may be removed from office by the governing body for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the governing body for the unexpired term of the number effected.

801. Proceedings of the Board of Adjustment

801.01 – The Board of Adjustment shall adopt rules necessary to conduct its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

801.02 – The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board.

802. Hearings, Appeals, Notices

802.01 – Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by any decision of the building inspector.

802.02 – Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the board, by filing with the building inspector and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the board all papers constituting the record upon which the action appealed was taken.

802.03 – The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

803. Stay of Proceedings

803.01 – An appeal stays all proceedings in furtherance of the action appealed from, unless the building inspector certifies to the Board of Adjustment after the notice of appeal is filed with him that by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of

Adjustment or by a court of record on application, on notice to the building inspector from whom the appeal is taken, and on due cause shown.

ARTICLE IX
POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

900. Administrative Review

900.01 – The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this ordinance.

901. Special Exception

901.01 – The Board of Adjustment shall hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; decide such questions as are involved in determining whether special exceptions should be granted; grant special exceptions with such conditions and safeguards as are appropriate under this ordinance, or deny special exceptions when not in harmony with the purpose and intent of this ordinance. A special exception shall not be granted by the Board of Adjustment unless and until:

901.01-01 – A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested.

901.01-02 – A public hearing is held. Any party may appear in person or by agent or attorney. The Board of Adjustment may waive the requirement for a public hearing for public and public utility uses.

901.01-03 – Notice is given at least 15 days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which special exception is sought, at the city hall, and in one other public place at least 15 days prior to the public hearing.

901.01-04 – The Board of Adjustment finds that it is empowered under the section of this ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

901.02 – Before any special exception is issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable.

901.02-01 – Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

901.02-02 – Off- street parking and loading areas where required, with particular attention to the items in 901.02-01 and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district.

901.02-03 – Refuse and service areas, with particular reference to the items in 901.02-02.

901.02-04 – Utilities, with reference to locations, availability, and compatibility.

901.02-05 – Screening and buffering, with reference to type, dimensions, and character.

901.02-06 – Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.

901.02-07 – Required yards and other open space.

901.02-08 – General compatibility with adjacent properties and other property in the district, so as not to be detrimental to uses allowed by right in the district.

902. Variances

902.01- The Board of Adjustment may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance is authorized only for height and size of structure or size of yards and open spaces.

902.02 – A written application for a variance shall be submitted demonstrating:

902.02-01 – That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

902.02-02 – That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

902.02-03 – That the special conditions and circumstances do not result from the actions of the applicant.

902.02-04 – That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

902.03 – Notice of public hearing shall be given as in section 901.01-03.

902.04 – A public hearing shall be held. Any party may appear in person, by agent, or by attorney.

902.05 – The Board of Adjustment shall make findings that the requirements of subsection 902.02 have been met by applicant for a variance.

902.06 – The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

902.07 – The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

902.08 – No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

902.09 – In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XIV of this ordinance.

902.10 – Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district.

903. Powers of Building Inspector on Appeals of Board of Adjustment

903.01 – In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the building inspector from whom the appeal is taken.

903.02 – The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of the building inspector to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

ARTICLE X
APPEALS

1000. Intent (See also 800. and 900.)

1000.01 – It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the building inspector and considered by the City Engineer and that such questions shall be presented to the Board of Adjustment only from appeal to the decision of the building inspector. Any person or persons, or any taxpayer, board, or bureau of the City of Brookhaven aggrieved by any decision of the Board of Adjustment may appeal such decision to the governing body. Any person aggrieved by a decision of the governing body may appeal as provided by applicable state law.

1001. Duties of the Governing Body

1001.01 – It is further the intent of this ordinance that the governing body in connection with this ordinance shall hear and decide questions of enforcement that may arise, only on appeal from the decision of the Board of Adjustment. In addition, the governing body shall establish a schedule of fees and charges for the implementation of this ordinance.

ARTICLE XI
AMENDMENTS

1100. Intent

1100.01 – The governing body may from time to time on its own motion, on petition from a property owner, or on recommendation of the planning commission amend the regulations and districts herein established. All amendments shall be screened by the City Engineer and then forwarded to the planning commission for its review, comments, and recommendations to the governing body.

1101. Public Hearing (See MCA 17-1-17(1972) as amended)

1101.01 – No change in regulations, restrictions, or district boundaries shall become effective except after a public hearing as provided by state law or, in the absence thereof, as provided by municipal ordinance or order of municipal governing authority.

1102. Protest (See MCA 17-1-17 (1972) as amended)

1103. Fee

1103.01 – A fee of \$250.00 shall be paid by the applicant for each zoning petition, special exception, or variance for amendment to the zoning regulation to cover the cost of legal publication and processing.

ARTICLE XII
OFF-STREET PARKING AND LOADING REQUIREMENTS
(Replaced by Ordinance 182-2005)

ARTICLE XIII
DEFINITIONS AND CONSTRUCTION

1300. Interpretation

1300.01 – Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. For the purpose of interpreting this ordinance, certain words or terms used herein shall be defined or construed as set forth in this article.

1300.01-01 – Words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural include the singular.

1300.01-02 – “Map” refers to the official zoning map of the City of Brookhaven.

1300.01-03 – The word “person” includes a firm, partnership, trust, company, association, organization, individual, co-partnership, or corporation.

1300.01-04 – The word “lot” includes the words “plot” or “parcel”.

1300.01-05 – The word “building” includes the word “structure”.

1300.01-06 – The word “shall” is always mandatory; the word “may” is permissive.

1300.01-07 – The word “used” or “occupied” as applied to any land or buildings shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.

1301. Definitions

1301.01 – Abandoned Vehicle: Abandoned motor vehicle is defined as one that is in a state of disrepair and/or incapable of being moved under its own power, regardless of whether or not it has a current license.

1301.02 – Accessory Building or Use: A subordinate building on the same lot or portion of the main building, the use of which is clearly incidental to the main use of the property, including satellite receiving dishes. (See Building, Accessory)

1301.03 – Agricultural: The raising or growing of crops, fowl, livestock, but not swine, in any A-1 zone providing such use does not constitute a nuisance or health hazard.

1301.04 – Alley: A minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

1301.05 – Apartment house or Multiple-Family Dwelling: Any single detached dwelling unit designed for and occupied by three or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels and flats, but not including auto or trailer courts or camps, hotels, motels or resort-type hotels.

1301.06 – Automobile- Junk Area or Graveyard: An open area other than a street, alley, or place, used for the storing, dismantling or wrecking of used automobiles or their parts.

1301.07 – Basement: A story below the first story hereinafter defined. (See story.)

1301.08 - Billiard Parlor/Pool Hall - any place, premises or building where a billiard table or tables or a pool table or tables are used, maintained, kept, or exhibited for the purpose of profit, or any place where any billiard table or pool table is kept, used maintained or exhibited where a charge is made for playing billiards or for playing pool.

1301.09 – Block: A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the City Engineer shall determine the outline of the block.

1301.10 – Board: The Brookhaven Zoning Board of Adjustment.

1301.11 – Boarding House or Lodging House: A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for four (4) or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

1301.12 – Buffer Area: An area which acts as a separation area between two or more non-compatible districts.

1301.13 – Buildable Area: That portion of a lot remaining after required yards have been provided.

1301.14 – Buildable Width: Width of the building site left after the required yards have been provided.

1301.15 – Building: Any structure intended for shelter, housing or enclosure or persons, animals, or chattel.

1301.16 – Building, Accessory: (See Accessory Building)

1301.17 – Building, Alteration of: Any change or rearrangement in the supporting members (such as bearing walls, beams, columns or girders) of a building, and addition to a building or movement of a building from one location to another.

1301.18 – Building, Front Line of: A line intersecting the foremost portion of a building and parallel and/or concentric to the street line.

1301.19 – Building Height: The vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the roof surface.

1301.20 – Building Line or Setback Line: The distance required by this Ordinance to be maintained between a given lot line, easement or right-of-way line and any structure- front rear or side as specified.

1301.21 – Building Main: A building in which is conducted the principal use of the lot on which it is situated.

1301.22 – Building Official: A person designated by the Mayor and Board of Aldermen who is responsible for issuing building permits, certificates of occupancy and inspections pursuant thereto and administration of the Zoning Ordinance.

1301.23 – Building Site: A single parcel of land occupied or intended to be occupied by a building or structure and appropriate accessory buildings or uses.

1301.24 – Cemetery: A tract of land, private or public, divided into plots for interment of the human dead and in compliance with applicable state statutes.

1301.25 – Certificate of Occupancy: A permit issued by the Building Official indicating that the use of land in question is in conformity with this ordinance or that there has been a legal variance therefrom, as provided by the Ordinance.

1301.26 - Check cashing facility: a person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check cashing facility" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "check cashing facility" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or money orders for minimum flat fee not exceeding ten dollars as a service that is incidental to its main purpose or business.

1301.27 – Child Care Center: A private establishment enrolling four or more children where tuition, fees, or other forms of compensation for the care of the children is charged. The term "Child Care Center" indicates day care nurseries, day care centers and any other facility that falls within the scope of the definition set forth herein, regardless of auspices. Exempted from this definition is any facility operating as a kindergarten, nursery school or Head Start in conjunction with an elementary and/or secondary school system, whether it be public, private or parochial, whose primary purpose is a structured school readiness program. Space requirements shall be stipulated by the Mississippi State Board of Health and International Building Code.

1301.28 – Concealing Fence: A fence, wall, live shrubbery or other material approved by the Planning Commission which visually prevents, on a perpetually maintained basis, an area so enclosed, from being viewed from without by a maximum of 20% visibility. Any fence, wall or other material, except live shrubbery, shall be painted or colored a uniformly solid color, pastel in nature, or otherwise aesthetically pleasing, which contains no advertising sign or symbol. Any live shrubbery used shall be a hardy species to the area and permanently maintained in a manner which will not create a nuisance. Any lack of maintenance of such concealing fence shall be deemed a violation of this ordinance and shall be prosecuted as prescribed herein. Any fence in the required front yard shall not be more than 30 inches in height. Concealing fences shall not be constructed of chain link, barbed wire, razor wire, glass shards or any other such material or object designed to cause bodily harm.

1301.29 – Conforming Use: Any lawful use of a building or lot which complies with the provisions of this Ordinance.

1301.30 – Coverage: The percentage of the lot area covered by the building area.

1301.31 – District: Any zoning district established by this ordinance.

1301.32 – Dwelling: Any building, or portion thereof, which is designed or used as living quarters for one or more families.

1301.33 – Dwelling, Single Family: A dwelling designed to be exclusively occupied by one family.

1301.34 – Dwelling, Two Family: A dwelling designed for occupancy by two families living independently of each other in the same structure.

1301.35 – Dwelling, Multiple- Family: A dwelling designed for occupancy for three or more families living independently of each other.

1301.36 – Dwelling Unit: A room or group of rooms occupied or intended to be occupied as separate living quarters.

1301.37 – Dwelling – Zero Lot Line: A detached single-family dwelling unit which is constructed against the lot line on one side of a lot, provided, however, that there shall be no windows, doors or other openings of any kind on this side. This type of dwelling is also sometimes referred to as a court-garden house or patio house.

1301.38 – Easement: A grant by the property owner to the public, a corporation or persons, of the use of a strip of land for specific purposes.

1301.39 - Electronic Cigarette (e-cig) - See Electronic Nicotine Delivery System.

1301.40 - Electronic Nicotine Delivery Systems (Electronic Cigarette or Vaping System): any item that uses liquid containing nicotine that is heated into an aerosol that the user inhales, including, but not limited to, vaporizers, vape pens, hookah pens, electronic cigarettes (e-cigarettes), and electronic pipes (e-pipes).

1301.41 - Engineer- City Engineer: A person registered as a professional engineer in the State of Mississippi and so designated by the Mayor and Board of Aldermen.

1301.42 – Family: One or more persons related by blood or marriage, including adopted children, occupying premises and living as a single nonprofit housekeeping unit.

1301.43 – Farm: Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, or dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables, and dog kennels.

1301.44 – Fitness / Health Center: Not defined as a Recreational Classification as referenced in section 505.06.

1301.45 - Flammable Liquids: Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of 80 degrees Fahrenheit, is flammable.

1301.46 – Flood Plain: The relatively flat area or low lands adjoining the channel of a river, stream or watercourse or ocean, lake, or other body of standing water, which has been or may be covered by flood water.

1301.47 – Floodway: The width on either side of a stream, river or drainage course designated by the Mayor and Board of Aldermen of the City of Brookhaven as necessary to provide sufficient channel and capacity to drain storm waters flowing into it in a manner which will prevent the flood water levels to increase by more than one foot causing extensive flooding or inundation or property located adjacent to the area so designated.

1301.48 – Floor Area: The square feet of floor space within the outside line of walls and including the total of all space on all floors of a building used for dwelling purposes.

1301.49 – Frontage: All the property abutting on one (1) side of a street between two (2) intersecting streets, measured along the street line.

1301.50 – Garage Apartment: A dwelling unit erected above private garage.

1301.51 – Garage, Mechanical: A facility used for the repair of automobiles, trucks and similar vehicular powered, hydraulic or control systems.

1301.52 – Garage, Private: An attached or detached accessory building for the storage of private passenger vehicles or recreational equipment with a capacity of not more than 3 single stalls per dwelling unit and where repair facilities are maintained.

1301.53: Garage, Storage: A building or portion thereof, other than a private garage, used exclusively for parking or storage of self-propelled vehicles, but with no other services provided except facilities for washing.

1301.54 – Gasoline, Service or Filling Station: Any area of land, including structures thereon, that is used for the retail sale of gasoline or oil fuels, and installation of other minor automobile accessories , and which may or may not include facilities for lubrication, washing or cleaning.

1301.55 – Governing Authority: The Mayor and Board of Aldermen of Brookhaven, Mississippi.

1301.56 – Group Housing Project: A group of one family, two family or multiple dwellings, arranged on land not subdivided into customary streets and lots.

1301.57 – Hobby: An accessory use carried on by the occupant of the premises in a shop, studio or other work room, purely for personal enjoyment, amusement or recreation; provided, that the articles produced or constructed in said shop, studio or work room are not sold either on or off the premises, and provided each use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes and traffic.

1301.58 – Home Occupation: A home occupation is a commercial enterprise conducted in a dwelling unit, WHICH DOES NOT INVOLVE (1) employment of help other than members of the resident family, (2) sales of products or services not produced or provided on the premises, (3) generation of pedestrian or vehicular traffic beyond that usual in and reasonable to the district in which the dwelling unit is located, (4) use of commercial vehicles for delivery of material to or from the premises, (5) outdoor storage of materials and/or supplies, (6) use of signs other than those permitted in the district of which the dwelling is a part, (7) use of any building or space outside the main dwelling unit building, (8) use of more than one room in the dwelling, (9) any visible or audible evidence on the outside of the dwelling unit of the conduct of a home occupation within or that the structure is used otherwise than exclusively for residential dwelling purposes (either by color, materials or construction, lighting, signs, sound or noises, or vibrations), or (10) use of utilities or community facilities beyond those reasonable and customary for property used exclusively for residential purposes. The operation of beauty culture schools, beauty parlors, or barber shops shall not be considered a home occupation.

1301.59 – Hotel or Motel: A building contained sleeping rooms occupied, intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation. A hotel or motel is a business use rather than a residential use.

1301.60 – Industry: A facility for the processing of products or raw materials.

1301.61 – Industry, Heavy: Those industries whose processing operations result in the outdoor storage or processing of materials or products; those which emit any atmospheric pollution, visible light flashes, or glare, odors, noise, or vibration which may be heard or felt off the premises; or those industries which constitute a fire or explosion hazard.

1301.62 – Industry, Light: Those industries whose processing operations are conducted wholly within a building; do not emit any atmospheric pollution, visible light flashes, glare, odors, noise, or vibration which may be heard or felt off the premises; and do not constitute a fire or explosion hazard.

1301.63 – Junk: The term “junk” is defined to mean and shall include scrap iron, scrap tin, scrap brass, scrap copper, plastics, paper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old cotton or used machinery, used tools, used appliances, used fixtures, used utensils, used boxes or crates, used pipe or pipe fittings, used automobile or airplane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition; subject to being dismantled for junk.

1301.64 – Kennel: An establishment in which more than six dogs or domesticated animals more than four months of age are housed, groomed, bred, boarded, or trained for remuneration or offered for sale.

1301.65 – Kindergarten: A school other than a public school for children or pre-public school age in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

1301.66 – Lot: A subdivision of a block or other parcel of land intended as a unit for the transfer of ownership or for building development or both, and which faces on a public right-of-way.

1301.67 – Lot, Area: The total area included within the front, side and rear lot line.

1301.68 – Lot, Corner: A lot located at the intersection of and abutting on two (2) or more streets.

1301.69 – Lot, Depth: The average horizontal distance between the front lot line and the rear lot line.

1301.70 – Lot, Double Frontage: A lot, other than a corner lot, which has frontage on more than one street.

1301.71 – Lot, Frontage: That dimension of a lot or portion of a lot abutting a street.

1301.72 – Lot, Interior: A lot other than a corner lot.

1301.73 – Lot Lines: The lines bounding a lot as defined herein.

1301.74– Lot, Width: Shall mean the average lot width taken by measuring the front lot line and the rear lot line, adding these dimensions together and dividing by 2.

1301.75 – Lot of Record: A lot, the plat of which has been recorded in the office of the Chancery Clerk of Lincoln County.

1301.76 – Lot, Reverse Frontage: A lot fronting on two (2) parallel streets but with access to only one when desirable to reduce the effect of heavy traffic along highways, arterial streets, etc.

1301.77 – Medical and Dental Facilities:

(a) Convalescent, Rest or Nursing Home: A health facility where persons are housed and furnished with medical and/or nursing care.

(b) Dental Office or Doctor's Office: A facility for the examination and treatment of patients.

(c) Hospital: An institution providing comprehensive health services.

(d) Public Health Center: A facility primarily utilized by a health unit for the provisions of public health services.

1301.78 – Manufactured Housing: Shall mean a factory constructed housing unit, designed and constructed with carriage and or hitch for placement upon a permanent foundation, to be connected to all utilities in a proper and approved manner for year-round occupancy. Such housing shall conform to the rules of the Mississippi State Fire Marshal for manufacturers and sellers of factory manufactured movable homes, the International Building Code, and the applicable City Ordinance.

1301.79 – Mobile homes: A dwelling, transportable in one or more sections, which is built on permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

1301.80 – Mobile Home Park: An area of land upon which ten or more non-transient mobile homes occupied for dwelling or sleeping purposes are located, either free of charge or for revenue purposes, or which is offered for such use. It includes any building, structure, vehicle, or enclosure used or intended

to be used as part of the facilities or equipment of such mobile home park. The term “mobile home park” shall include the terms “trailer park,” “trailer court,” and similar terms.

1301.81 – Mobile Home Lot, Stand or Pad: The area for locating a single mobile home unit and the exclusive use of its occupant.

1301.82 – Modular Homes: A modular home is a factory fabricated dwelling over 32 feet in length and at least 24 feet wide designed and constructed without carriage or hitch collar a stationary house construction for placement upon a permanent foundation, to be permanently connected to utilities, and to be used for year-round occupancy. It may consist of two or more components that can be separated when transported but designed to be joined into one integral unit. A modular home must meet the minimum construction standards for house construction as specified in the Standard Building Code, the Federal Housing Administration Minimum Property Standards, the minimum construction standards as may from time to time be fixed by the law of the State of Mississippi, and must have a roof with at least a 3/12 pitch.

1301.83 – Nonconforming Use, Building or Yard: A use, building or yard existing legally at the time of the passage of this Ordinance which does not by reason of design, use or dimensions conform to the regulations of the district in which it is situated. A use, building or yard established after the passage of this Ordinance which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming use.

1301.84 – Nursing Home: See Medical and Dental Facilities-Convalescent.

1301.85 – Outdoor Storage: A depository or place for storing goods related to the establishment on the same premises and not located within a building.

1301.86 – Parking Space: A space located on private or public property sufficient in size to store one (1) automobile.

1301.87 – Parking Area, Public: An open area other than a street, alley, or place, used for the temporary parking of more than four (4) self-propelled vehicles and available for public use whether free, for compensation or as an accommodation for clients or customers.

1301.88 – Parking Area, Semi-Public: An open area other than a street, alley, or place, used for the temporary parking of more than four (4) self-propelled vehicles as an accessory use to semi-public institutions, schools, churches, hospitals and non-commercial clubs.

1301.89 - Pawnshop: an establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

1301.90 – Planning Commission: Whenever the term “Planning Commission” shall be used in these regulations, the term shall mean the Planning Commission of Brookhaven, Mississippi.

1301.91 – Planned Unit Development (PUD): A land tract in which a multiplicity of land uses may be permitted including single-family residential, multi-family residential, public use and compatible commercial use, and in which land not used by residential or commercial structures and yards but

required by basic zoning of the site shall be reserved collectively in contiguous units accessible to all the building sites in the development as open space for the purpose of providing recreational facilities and pedestrian circulation.

1301.92 – Plat, Preliminary: A map of proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

1301.93 – Plat, Final: A map of land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearing and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

1301.94 – Premise: Means any lot or unplatted tract, or any combination of contiguous lots or unplatted tracts held single ownership.

1301.95 – Principal Permitted Use: That use of a zoning lot which is among the uses allowed as a matter of right under the zoning classification.

1301.96 – Public Uses: Any land use operated by or through a unit or level of government, either through lease or ownership; such as municipal administration, county buildings, state offices and federal uses such as post offices and other departmental offices.

1301.97 – Quarry: A lot or parcel of land or part thereof used for the purpose of extracting stone, sand, gravel, or soil for sale.

1301.98 – Recreational Classification: A facility containing among other things, swimming pool, gym, fitness machines, indoor soccer field, etc.

1301.99 – Recreational Vehicle: A vehicle supported by two or more wheels and propelled by its own motive power. Placement of a recreational vehicle is temporary and generally should not exceed seven days in any one location. It does not include mobile homes.

1301.100 – Rest Home: See Medical and Dental Facilities-Convalescent.

1301.101 – Right-of-Way: A grant by the property owner usually in the form of a dedication to the public, of a strip or strips of land to be used primarily for transportation passage over the land.

1301.102 – Screening: This term refers to landscaping and/or architectural barriers which block vision.

1301.103 – Sidewalk: The portions of a street or cross walkway, paved or otherwise surfaced, intended for pedestrian use only.

1301.104 – Signs:

(a) Billboard: An off-premise sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

(b) Business Sign (On premise sign): Signs advertising activities, products and accommodations conducted or sold on the property upon which the signs are located.

(c) Erect: Erect shall mean to construct, build, raise, assemble, place, attach, create, paint, draw, or in any other way bring into being or establish a sign. The term "erect" shall not mean a change in the advertising message or customary maintenance and repair on a sign.

(d) Free Standing Sign: A sign separate and apart from the main structure on the premise and stands on its own whether fixed directly to the ground or mounted on supports.

(e) Internally Illuminated Signs: Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source.

(f) Mobile Sign: A sign designed to be temporary in nature and capable of being transported to various locations and not exceeding thirty-two (32) square feet and eight (8) feet in height.

(g) Off Premise Sign: A sign which relates in its subject matter to products, accommodations, services or activities which are available or conducted at locations other than on the premises where the sign is located.

(h) Outdoor Advertising Sign: A sign, including the supporting sign structure, which directs the attention of the general public to a business, service, or activity not conducted, or a product not offered or sold upon the premises where the sign is located.

(i) Political Sign: Means any type of non-premise sign which refers only to the issues or candidates involved in a political election.

(j) Roof Sign: Any sign or outdoor advertising device attached to the roof of a building.

(k) Sign Area: The entire width within a single, continuous perimeter enclosing the outer dimensions of the actual message area. It does not include decorative trim, customary extensions or embellishments nor any structural elements not forming an integral part of the display.

(l) Sign: Any structure or device maintained outside of enclosed buildings for the purpose of advertising, displaying or informing, including posters, pictures, billboards, bulletin boards, banners, etc.

(m) Sign Support: Means any pole, post, strut, cable, or other structural fixture or framework necessary to hold and secure a sign, providing that said fixture or framework is not imprinted with any picture, symbol, or word using characters in excess of one inch in height, nor is internally or decoratively illuminated.

(n) Special Purpose Sign: Means any type of non-premise sign which refers only to the issues or candidates involved in the political election.

(o) Wall Sign: Means a sign painted or otherwise placed flat (within 12") of a building wall surface.

(p) Projecting Sign: A sign which is attached perpendicular or at an angle, to a building wall and extending outward more than 12" from the wall.

1301.105 – Space Satellite Receiving Systems: A structure which receives audio-visual wave frequencies from earth orbiting communications satellites. These satellite systems shall be considered as an accessory use.

1301.106 – Special Exception: A special exception is a use that would generally not be appropriate throughout a zoning district but which, if controlled as to number, area, location, or relation to existing and permitted land use in a zoning district, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

1301.107 – Stable, Private: An accessory building for the keeping of horses, or mules owned by the occupants of the premises and not kept for remuneration, hire or sale.

1301.108 - Stable, Public: A stable other than a riding or private stable.

1301.109 – Stable, Riding: A structure in which horses or mules used for pleasure riding or driving are housed, boarded or kept for hire; including a riding track.

1301.110 – Story: That part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four (4) feet above the curb level, or the average elevation of the finished grade along the front of the building where it is set back from the street.

1301.111 – Streets: The term street means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

1301.112 – Streets, Arterial and Highways: Streets and roadways which are used primarily for fast or heavy traffic and that form a part of the existing or projected Federal Aid Highway System, the State Highway System or the City Street System.

1301.113 – Street Line: Public right-of-way line of a street.

1301.114 – Streets, Collector: A Street which carries traffic from minor streets to major streets in residential and business areas and include the principal entrance streets of a residential development and streets for circulation within such a development.

1301.115 – Streets, Cul-De-Sac: A minor street with a turn-around and permanently closed to through traffic and used primarily for access to the abutting property.

1301.116 – Streets, Frontage or Service: A minor street auxiliary to and located on the side of a major street for service to abutting properties and adjacent areas for control of access and protection from through traffic.

1301.117 – Streets, Major: A Street which provides easy access to the various traffic generators within the City or County and to the arterial highway system.

1301.118 – Streets, Minor: A Street which is used primarily for access to the abutting properties.

1301.119 – Structure: Anything constructed or erected, which requires location on the ground, or attached to something having location on the ground; including but not limited to advertising signs, billboards and poster panels; but exclusive of customary fences or boundary or retaining walls, sidewalks and curbs.

1301.120 – Structural Alterations: Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

1301.121 – Subdivider: Any person, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land as herein defined.

1301.122 – Subdivision: The division or re-division of land into two or more lots, tracts, sites or parcels of less than three (3) acres in area for the purpose of transfer or ownership or for development, or the dedication or vacation of a public or private right-of-way or easement.

1301.123 – Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either (1) before the improvement is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

1301.124 - Tattoo Parlor: any room or space where tattooing is performed for compensation. Tattooing means a placement of in human tissue of any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or any design, letter, scroll, figure, or symbol done by scarring upon or under the skin

1301.125 - Tobacco paraphernalia: cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines and any other items associated with the smoking or ingestion of tobacco products or the use of electronic nicotine delivery systems (commonly referred to as electronic cigarettes or vaping systems).

1301.126 - Tobacco products: any substance containing any tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco or any other preparation of tobacco, including Indian cigarettes called “bidis.”

1301.127 - Tobacco Store (Vaping Store): any retail store utilized primarily for the sale of tobacco products, tobacco paraphernalia, or electronic nicotine delivery systems and in which the sale of other products is incidental.

1301.128 – Trailer Park: An area containing one or more structures designed or intended to be used as temporary living facilities of one or more families, and intended primarily for automobile transients, or providing proper space and facilities for two or more auto trailers of mobile dwelling unit character.

1301.129 – Travel Trailer or Camper: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

1301.130 – Unobstructed Open Space: An area of land upon which no structure may be erected.

1301.131 – Utility: A commodity or service which is of public consequence and need, such as electricity, gas, sewer, water, transportation, or telephone or telegraph service.

1301.132 – Used Automobile Junk Area: An open area other than a street, alley or place, used for the dismantling or wrecking of used automobiles or the storage, sale, or dumping of dismantled or wrecked automobiles or their parts.

1301.133 - Vaping Store: See Tobacco Store.

1301.134 - Vaping System (Vaping) – See Electronic Nicotine Delivery System.

1301.135 – Variance: A variance is an adjustment of terms in this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height and size of structure or size of yards and open space. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

1301.136 – Yard: An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring to determine the width of a side yard or the depth of the rear yard, the least horizontal distance between the lot line and the main building shall be used. (See Appendix B).

1301.137 – Yard, Front: A yard across the full width of a lot extending from the front line of the main building to the front street line of the lot. (See Appendix B).

1301.138 – Yard, Rear: A yard extending across the rear of a lot measured between inner side yard lines and being the minimum distance between the rear lot line and the rear of the main building. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. (See Appendix B).

1301.139 – Yard, Side: A yard between the building and the side line of the lot unoccupied and unobstructed by any portion of a structure from the ground upward and extending from the front building line to the rear lot line. (See Appendix B).

1301.140 – Zero Lot Line: A lot where no side yard is required under special construction regulations. These shall include appropriate fire walls, restrictive openings, etc.

1301.141 – Zoning Administrator: See Building Official.

1301.142 – Zoning Map: The official zoning map or maps which are a part of the Zoning Ordinance and delineates the boundaries of the zoning districts.

ARTICLE XIV
CITY PLANNING COMMISSION RESPONSIBILITIES

1400. – A City Planning Commission for Brookhaven, MS shall be established in accordance with Chapter 22, Article II Planning Commission of the Brookhaven Code of Ordinances.

1401. Designation of City Planning Commission

The City Planning Commission has been designated by the Mayor and Board of Aldermen as the Advisory Committee to the City of Brookhaven in zoning matters and is vested with the rights and responsibilities as provided in Mississippi Code Annotated Section 17-1-17 (1972). The City Planning Commission shall adopt reasonable rules and regulations governing the conduct of its zoning affairs and in keeping with the provisions of the Ordinance.

1402. Responsibilities

The Brookhaven Planning Commission shall have the following responsibilities:

1402.01 – Prepare a comprehensive plan for the future development of the City of Brookhaven, including among other things recommendations relative to all aspects of location, size and arrangement of streets, parks, public grounds, railroads, transportation, platting of public and private property, grouping of public and private buildings and housing, appearance and beauty, and financial planning of said City or any portion thereof.

1402.02 – Make recommendations in connection with the execution and detailed interpretation of the Brookhaven Comprehensive Plan, and make such changes and adjustments in the Plan as may be deemed desirable from time to time.

1402.03 – Act upon any matter relating to zoning regulations and planned unit developments of said City which shall be referred to it by the City Council and assume such other related duties and responsibilities as may be required of it by ordinance or by order of the Governing Authority.

1402.04 – Make recommendations regarding the approval and disapproval of preliminary plats and final plats for land subdivision. Such plats shall be referred to the Brookhaven Planning Commission before the Governing Authority takes any action.

1402.05 – Recommend from time to time legislation which may be desirable to further the purposes of city planning.

1402.06 – Implement the statement of purpose, goals, objectives of the Comprehensive Plan and continuous planning process as it relates to the City's Comprehensive Plan and other City codes, ordinances and policies.

1403. Zoning Committee Established

The City Planning Commission as a whole shall service as a Zoning Committee for the City of Brookhaven and as such the City Planning Commission retains its duty and power to hold public hearings on all zoning matters.

1404. Committee Organization

The Zoning Committee shall be governed by the rules for the conduct of its zoning affairs as adopted by the City Planning Commission. Officers shall consist of a Chairman responsible for the conduct of all Zoning Committee meeting and hearings; a Vice Chairman, who shall act for the Chairman in his absence, and a Recording Secretary. A quorum of four members is necessary for the conduct of Committee business. The Committee may secure the services of a Court Reporter to assist a recording secretary in obtaining complete and accurate minutes of Committee proceedings, and/or may authorize use of a tape recorder. To preserve order during conduct of meetings and public hearings, the Zoning Administrator shall act in the capacity of Sergeant at Arms.

1405. Committee Meetings

The Zoning Committee shall meet at the call of the Chairman upon determination of need, as advised by the Zoning Administrator and at such other times as the Committee may require to discharge its duties and responsibilities in the conduct of public hearings and in upholding the provisions of this Ordinance, provided, however, that the Zoning Committee shall meet at least once each month, such meeting to be held on a regularly established schedule, time, and place open to the public.

1406. Proceedings of the Zoning Committee

The Zoning Committee shall keep minutes of its proceedings showing the numerical vote upon each question, or if any member is absent or fails to vote, indicating such fact; and shall keep records of its examinations and other actions, all of which shall be a matter of public record and be immediately filed in the office of the Zoning Administrator.

1407. City Planning Board Review

The proceedings on the Zoning Committee, acting on behalf of the City Planning Commission, including all findings and determinations, shall be in the form of a separate and documented record for each case heard. Upon completion of review, the City Planning Commission shall forward its recommendation, together with the complete case records, to the Mayor and Board of Aldermen for their consideration and official action. The Building Official's office shall maintain a file of data and materials on all zoning proceedings of the City Planning Commission and of the City Council along with all proceedings of the City Zoning Committee.

ARTICLE XV
MISCELLANEOUS

1500. Schedule of Fees, Charges, and Expenses (See 1001.01)

1500.01 – Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1500.02 – Until otherwise provide by the municipal governing authority the same schedule of fees as applies to applications for building permits under the municipal building code shall apply to applications for zoning permits hereunder. Only one fee shall be charged for simultaneous or combination applications for building and zoning permits. (See Municipal Code Section)

1501. Minimum Requirements

1501.01 – In their interpretation and application the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, morals or general welfare.

1501.02 – Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern.

1502. Complaints

1502.01 – Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the building inspector. He shall record properly such complain, immediately investigate, and take action thereon as provided by this ordinance. (See 700.02)

Adopted on the 4th day of December, 2018, to be effective on and after the 7th day of January, 2019.



Mayor, City of Brookhaven

(SEAL)

ATTESTED AND CERTIFIED TO:

BY 
City Clerk

APPENDIX A

TITLE 17
MISSISSIPPI CODE OF 1972

LOCAL GOVERNMENT; PROVISIONS
COMMON TO COUNTIES AND
MUNICIPALITIES

Chapter 1. Zoning, Planning and Subdivision Regulation

Sec.

- 17-1-1. Definitions
 - 17-1-3. General Powers
 - 17-1-5. Manner of exercise of power conferred
 - 17-1-7. Zones
 - 17-1-9. Purposes in view
 - 17-1-11. Official plan—local planning commission
 - 17-1-13. Utilization of services of planning commissions,
Engineering departments or advisory committee
 - 17-1-15. Procedure for establishing, amending, etc., of
Regulations, zone boundaries, etc. – notice and hearing
 - 17-1-17. Changes
 - 17-1-19. Remedies of local governing authorities
 - 17-1-21. When local regulations to govern
 - 17-1-23. Subdivision regulations.
 - 17-1-25. Acceptance for maintenance of Subdivision Street before subdivision complete
 - 17-1-27. Penalties for violations.
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17-1-1. Definitions

The following words, whenever used in this chapter, shall, unless a different meaning clearly appears from the context, have the followings meanings:

- a. "Municipality," any incorporated city or town within the state.
- b. "Governing authority" or "governing authorities," in the case of the county, and, in the case of municipalities, the council, board, commissioners, or other legislative body charged by law with governing the municipality
- c. "Comprehensive plan," a statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body, consisting of the following elements at a minimum:
 - (i) Goals and objectives for the long range (twenty (20) to twenty-five (25) years) Development of the county or municipality. Required goals and objectives shall address, at a minimum, residential, commercial and industrial development, parks, open space and recreation; street or road improvements; public schools and community facilities.
 - (ii) A land use plan which designates in map or policy form the proposed general distribution and extent of the uses of land for residences, commerce, industry, recreation and open space, public/quasi-public facilities and lands. Background information shall be provided concerning the specific meaning of land use categories depicted in the plan in terms of the following: residential densities; intensity of commercial uses; industrial and public/quasi-public uses; and any other information needed to adequately define the meaning of such land use codes. Projections of population and economic growth for the area encompassed by the plan may be the basis for quantitative recommendations for each land use category.
 - (iii) A transportation plan depicting in map form the proposed functional classification for all existing and proposed streets, roads and highways for the area encompassed by the land use plan and for the same time period as that covered by the land use plan. Functional classifications shall consist of arterial, collector and local streets, roads and highways, and these classifications shall be defined on the plan as to minimum right-of-way and surface width requirements; these requirements shall be based upon traffic projections. All other forms of transportation pertinent to the local jurisdiction shall be address as appropriate. The transportation plan shall be a basis for a capital improvements program.
 - (iv) A community facilities plan as a basis for a capital improvements program including, but not limited to, the following: housing; schools; parks and recreation; public buildings and facilities; and utilities and drainage.

17-1-3. General Powers

For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any county, the governing authority of any county, in its discretion, are empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required with reference to land used for agricultural purposes or for the erection, maintenance, repair or extension of farm buildings or farm structures outside the corporate limits of municipalities. The governing authority of each county and municipality may create playgrounds and public parks, and for these purposes, each of such governing authorities shall possess the power, where requisite, of eminent domain and the rights to apply public money thereto, and may issue bonds therefor as otherwise permitted by law.

17-1-5. Manner of exercise of powers conferred.

In the exercise and enforcement of the powers conferred by section 17-1-1 to 17-1-27, inclusive, each county and each municipality within the county may act independently one from the other, or, in the exercise of discretion, the governing authority of any county and the governing authority of any municipality located within the county may act jointly in order to attain uniformity and consistency in the zoning regulations for the areas to be affected.

17-1-1. Zones

For the purposes set forth in section 17-1-3, the governing authority of each municipality and county may divide the municipality or county into zones of such number, shape and area as may be deemed best suited to carry out the purposes of sections 17-1-1 to 17-1-27, inclusive. Within the zones created, the governing authority of each municipality and county may, subject to the restriction with respect to agricultural lands and farm buildings or structures as set out in section 17-1-3, regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All regulations shall be uniform for each class or kind of building throughout each zone, but regulations in one zone may differ from those in other zones.

17-1-9. Purposes in view.

Zoning regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings, and encouraging the most appropriate use of land throughout such municipality.

17-1-11. Official plan-local planning commission.

(1) (a) The governing authority of each municipality and county may provide for the preparation, adoption, amendment, extension and carrying out of the comprehensive plan, in whole or in part, for the purpose of bringing about coordinated physical development in accordance with present and future needs and may create, independently or jointly, a local planning commission, to serve without pay, except in counties having a population of more than 100,000 according to the federal census of 1950, the board of supervisors may pay each member of such planning commission as compensation for the services the sum of one thousand two hundred dollars (\$1,200.00) per year payable monthly at the end of each calendar month; and the governing authorities of any municipality which has a population in excess of twenty-nine thousand (29,000) according to the 1980 federal census and which is located in a county bordering on the Gulf of Mexico and the State of Alabama may pay to each member of a zoning or adjustment board as compensation for his services the sum of six hundred dollars (\$600.00) per year payable monthly at the end of each calendar month, with authority to prepare and propose (1) a comprehensive plan of physical development of the municipality or county, or part thereof; (2) a proposed zoning ordinance and map; (3) regulations governing subdivisions of land; (4) building or set back lines on streets, roads and highways; and (5) recommendations from time to time to the governing authorities of each municipality or county with regard to the enforcement of and amendments to the comprehensive plan, zoning ordinance, subdivision regulations and capital improvements program.

(b) The definition of "comprehensive plan" set forth in paragraph (c) of Section 17-1-1 shall not be construed to affect or to require the amendment of, any plan adopted by a county of municipality prior to July 1, 1988, which plan does not specifically conform to the minimum elements of a comprehensive plan required in such definition.

(2) The governing authority of each municipality and county may adopt, amend and enforce the comprehensive plan, zoning ordinance, subdivision regulations, and capital improvements program as recommended by the local planning commission, in whole or in part after a public hearing thereon as provided by section 17-1-15.

(3) In the performance of its duties, the local planning commission may cooperate with, contract with, or accept funds from federal, state, or local agencies or private individuals or corporations and may expend such funds and carry out such cooperative undertakings and contracts.

17-1-13. Utilization of services or planning commissions, engineering departments or advisory committee.

The governing authority of each county or municipality may, in order to more effectively carry out its requisite zoning and planning activities, utilize the services of any appropriate local or regional planning commission, and may consider, act upon or otherwise make use of the suggestions, proposals or recommendations of any such appropriate local or regional planning commission. Also, in carrying out its zoning and planning duties, the governing authority of each county and municipality may utilize the services of any appropriate municipal or county engineering department or the services of an advisory committee of citizens of such number as may be deemed appropriate to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. A preliminary report may be made, and public hearings thereon before submitting its final report, may be had.

17-1-15. Procedure for establishing, amending, etc., of regulations, zone boundaries, etc.-
Notice and hearings.

The governing authority of each municipality and county shall provide for the manner in which the comprehensive plan, zoning ordinance (including the official zoning map), subdivision regulations and capital improvements program shall be determined, established, and enforced, and from time to time, amended, supplemented and changed. However, no such plan, ordinance (including zoning boundaries), regulations, or program shall become effective until after a public hearing, in relation thereto, at which parties in interest, and citizens, shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in such municipality or county.

17-1-17. Changes.

Zoning regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified or repealed upon at least fifteen days' notice of a hearing on such amendment, supplement, change, modification or repeal, said notice to be given in an official paper or a paper of general circulation in such municipality or county specifying a time and place for said hearing. The governing authorities or any municipal agency or commission, which by ordinance has been theretofore so empowered, may provide in such notice that the same shall be held before the city engineer or before an advisory committee of citizen as hereinafter provided and if the hearing is held before the said engineer or advisory committee it shall not be necessary for the governing body to hold such hearing but may act upon the recommendation of the city engineer or advisory committee. Provided, however, that any party aggrieved with the recommendation of the city engineer or advisory committee shall be entitled to a public hearing before the governing body of the city, with due notice thereof after publication for the time and as provided in this section. The governing authorities of a municipality which had a population in excess of one hundred forty thousand (140,000) according to the 1960 census may enact an ordinance restricting such hearing to the record as made before the city engineer or advisory committee of citizens as hereinabove provided.

In case of a protest against such change signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending 160 feet there from, or of those directly opposite thereto, extending 160 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the legislative body of such municipality or county.

17-1-19. Remedies of local governing authorities.

In case any building or structures is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land, is used in violation of the zoning law or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of any county or municipality, in addition to other remedies, may institute any appropriate action or proceedings, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

17-1-21. When local regulations to govern.

Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building, or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposed other standards higher than are required by the regulations made under the authority of sections 17-1-1 to 17-1-27, inclusive, the provisions of such other statute, or local ordinance or regulations shall govern; otherwise the provisions of the regulations made under the authority of sections 17-1-1 to 17-1-27, inclusive, shall be controlling.

17-1-23. Subdivision regulation.

1. When new subdivisions are laid out, the governing authority of each municipality or county may, before allowing dedication, impose such terms as may be deemed necessary to make the provisions of sections 17-1-1 to 17-1-27, inclusive, effective, and such governing authorities may receive easements in the land affected whereby such sections may be made effective.

2. The board of supervisors of any county may order that no plat of a subdivision shall be recorded until it has been approved by the board of supervisors, and the board of supervisors shall have power to require the installation of utilities and laying out of streets in subdivisions or to accept performance bonds in lieu thereof.

3. The governing authorities of a municipality may provide that any person desiring to subdivide a tract of land within the corporate limits, shall submit a map and plat of such subdivision, and a correct abstract of title of the land platted, to said governing authorities, to be approved by them before the same shall be filed for record in the land records or the county; and where the municipality has adopted an ordinance so providing, no such map or plat of any such subdivision shall be recorded by the chancery clerk unless same has been approved by said governing authorities. In all cases where a map or plat of the subdivision is submitted to the governing authorities of a municipality, and it by them approved, all streets, roads, alleys and other public ways set forth and shown on said map or plat shall be thereby dedicated to the public use, and shall not be used otherwise unless and until said map or plat is vacated in the manner provided by law, notwithstanding that said streets, roads, alleys or other public ways have not been actually opened for the use of the public.

17-1-25. Acceptance for maintenance of Subdivision Street before subdivision completed.

The governing authorities of each municipality or county of the state, in their discretion, may accept in the name of such municipality or county, for maintenance, any road or roads or street or streets, as shall be completed to acceptable specifications established by such governing authorities of a municipality or county of each such subdivision or subdivisions as shall be located within the corporate limits of a municipality or the boundaries of a county.

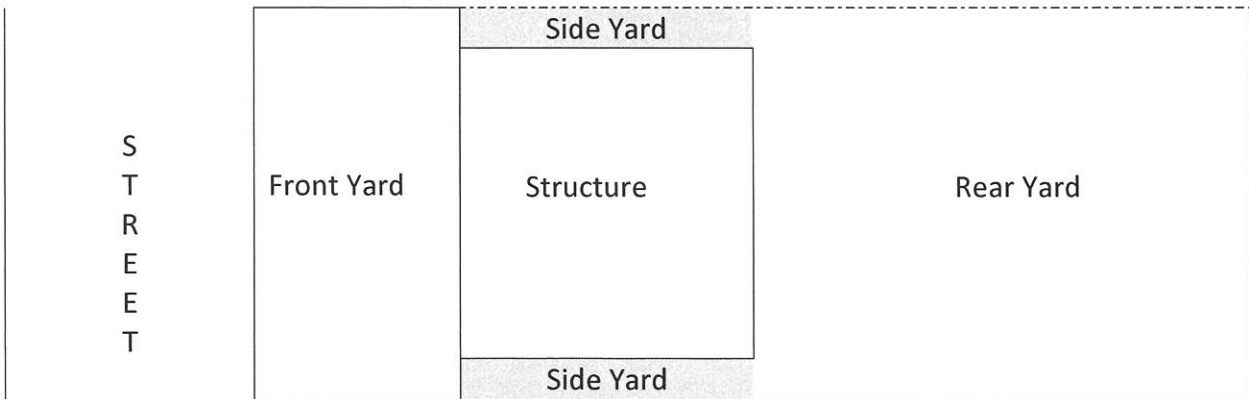
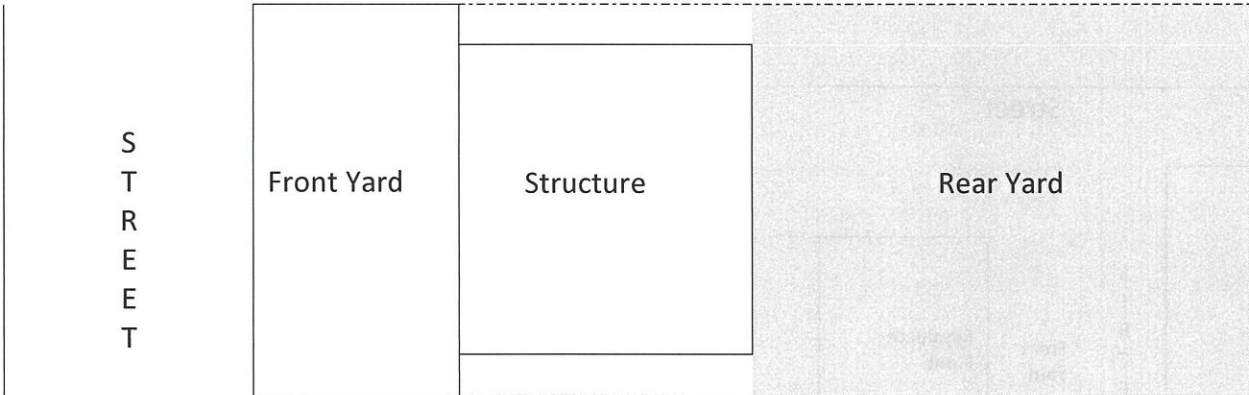
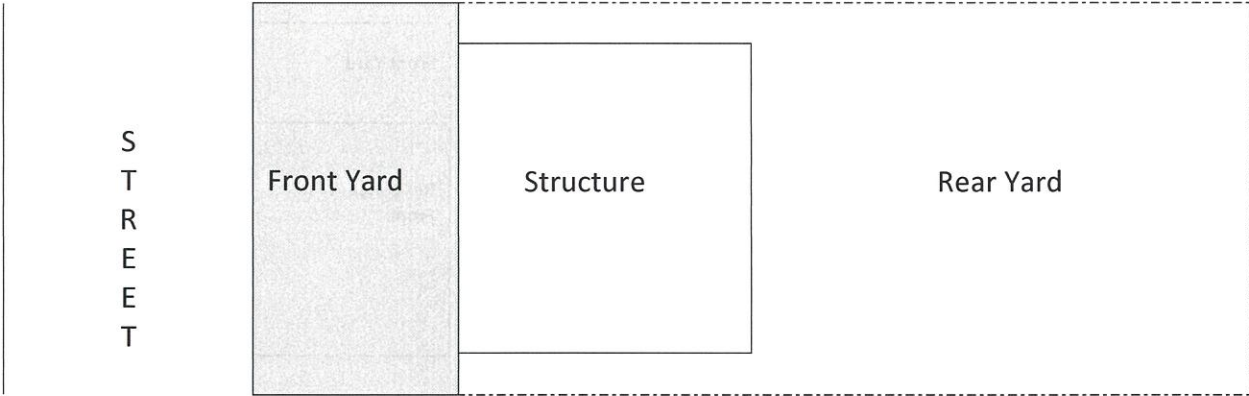
By acceptance of such street or road by such governing authorities, even though such subdivision shall not be completed as proposed or platted, such municipality or county shall not be bound to accept in part or in its entirety such subdivision when it shall be completed except as provided by regular procedures by ordinance or regulation of such municipality or county.

17-1-27. Penalties for violations.

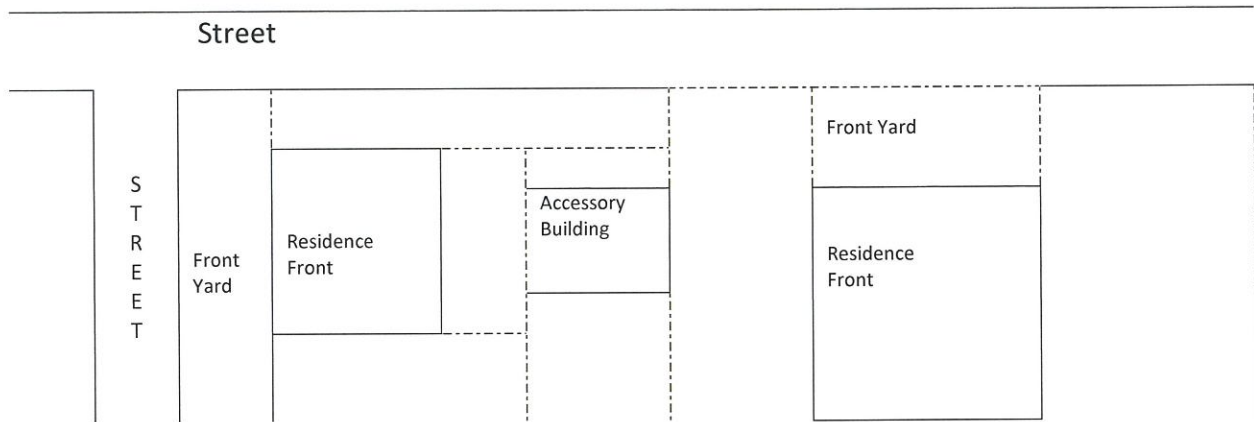
Any person, firm or corporation who shall knowingly and willfully violate the terms, conditions, or provisions of a zoning ordinance adopted under the authority of sections 17-1-1 to 17-1-25, inclusive, for violation of which no other criminal penalty is prescribed, shall be guilty of a misdemeanor and upon conviction therefor shall be sentenced to pay a fine of not to exceed one hundred dollars (\$100.00), and in case of continuing violations without reasonable effort on the part of the defendant to correct same, each day the violation continues thereafter shall be a separate offense.

This act shall take effect and be in force from and after July 1, 1988.

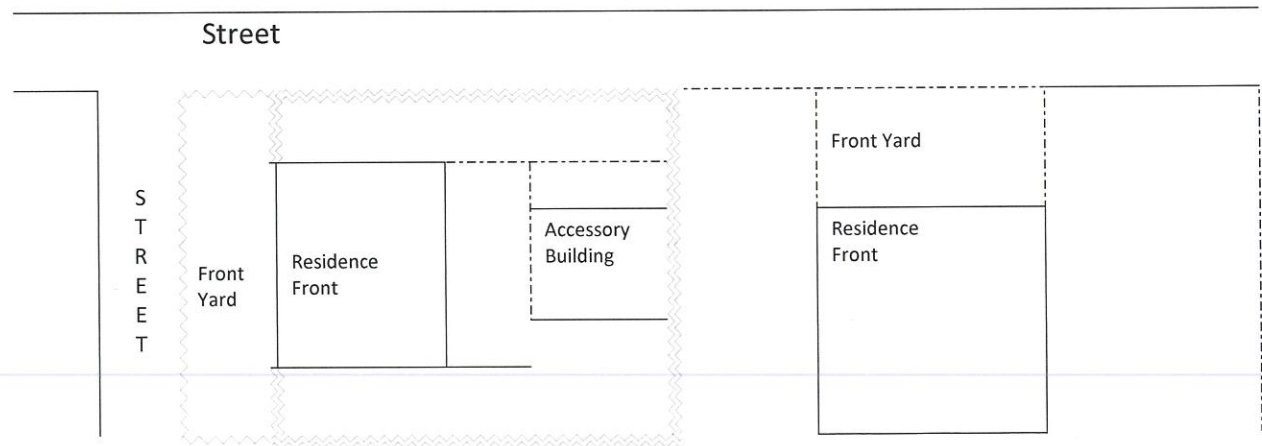
APPENDIX B
ILLUSTRATIONS OF YARDS



STRUCTURES



FENCES



Full height fence
allowed

Max height of fence
is 2 ½ feet