

Smithville Zoning Ordinance

ZONING ORDINANCE

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Article I General Provisions

Section 1.1 Title

The Ordinance shall be known as the “Zoning Ordinance of the Town of Smithville, Mississippi,” and may be so cited, and further referenced elsewhere as “the Ordinance” or “this Ordinance” shall imply the same wording and meaning as the full title.

Section 1.2 Authority and Purpose

1.2.1. Authority. This ordinance, and all subsequent amendments, is adopted pursuant to the authority granted by Section 17-1-11, Mississippi Code of 1972, annotated, as amended Code of Mississippi.

1.2.2 Purpose. In accordance with the Comprehensive Plan of Smithville, Mississippi, this ordinance is adopted for the following purposes:

- A. To lessen congestion in the streets.
- B. To secure safety from fire, panic, and other dangers.
- C. To promote health and general welfare.
- D. To provide adequate light and air.
- E. To prevent overcrowding of land.
- F. To avoid undue concentration of land.
- G. To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- H. To encourage economically sound, orderly, and compatible land development practices in accordance with the Comprehensive Plan and other local policies and objectives.

Section 1.3 Application of Regulations

The provisions of this ordinance shall be applicable to land and appurtenances thereto located within the incorporated limits of the Town of Smithville, MS.

1.3.1. Use. No building or land shall be used or occupied and no building or part thereof shall be erected, constructed, moved, or altered except in conformity with the regulations for the district in which it is or is to be located.

1.3.2. Structures. No structure shall be erected, constructed or altered so as to exceed the height limit or dimensional standards specified in the regulations herein for the district in which it is located except in instances where a dimensional variance has been granted or when said property meets the criteria for exceptions found herein.

1.3.3. Lots. No lot shall be reduced in size below the minimum requirement for lot width or depth, front, side, or rear yard, inner or outer courts, lot area per family or other

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requirements of this ordinance. This section shall not apply when a portion of a lot is acquired for public use.

1.3.4. Subdivision of Land. No building shall be constructed on any lot which does not conform to the provisions of this Ordinance.

Section 1.4 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the official zoning map, the following rules shall apply.

1.4.1. Property Lines. Unless otherwise indicated, the district boundaries shall be construed to follow property lines, land lot lines, center lines of public rights-of-way, shorelines of bodies of water, or civil boundaries.

1.4.2. Centerlines. Where district boundaries are approximately parallel to the centerlines of rights-of-way or shorelines of bodies of water, district boundaries shall be construed as being parallel to these lines at the distance indicated on the official zoning map. If no distance is given, the dimensions shall be determined by the use of the scale shown on the official zoning map.

1.4.3. Abandonment of rights-of-ways. Where a public right-of-way is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to the vacated or abandoned right-of-way.

1.4.4. Final Determinations. The final determination for a district boundary shall be made according to the legal description contained in the adopted ordinance. If the description is incomplete, the Board of Aldermen shall determine the legislative intent and may, if necessary, adopt an amending ordinance to correct the district boundary.

Section 1.5 Official Zoning Districts and Map

1.5.1. Establishment of Districts. Zoning Districts have been established in order to maintain the character of existing neighborhoods, establish the suitability of certain areas for particular uses, conserve the value of buildings and encourage the most appropriate use of land throughout the municipality.

1.5.2. Uniformity within Districts. The regulations and provisions established by this Ordinance for each district shall apply uniformly within each district of the same name and shall apply uniformly to each class or type of building, structure, use, or land therein except as otherwise provided.

1.5.3. Map Part of Zoning Ordinance. The aforesaid zoning districts are identified and delineated on a map entitled "Official Zoning Map: Town of Smithville, Mississippi," and said map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

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1.5.4. Map Certified. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Town Clerk, and shall bear the seal of the Town under the following words:

“This is to certify that this is the Official Zoning Map of the Town of Smithville, Mississippi, as adopted by the Mayor and Board of Aldermen on...”

1.5.5. Location of Official Zoning Map. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be prepared or printed, the Official Zoning Map bearing the certificate specified above, be located in the Town Hall of the Town of Smithville, and shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in the Town of Smithville.

1.5.6. Rezoning by Court Order. 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 this Ordinance for rezoning property shall not apply. A certified copy of the final court order shall be filed with the Board of Aldermen after all available time for appeal has expired. The Zoning Administrator shall have the zoning change to be entered on the official zoning map and place the certified copy of the court order in the immediate area of the official zoning map, and cause the zoning change to be entered in the minutes of the governing authority.

Section 1.6 Newly Annexed Land

Property annexed in the Town shall be zoned according to the following requirements.

1.6.1. Existing Zoning. Property annexed into the Town that is zoned by Monroe County (or another governmental entity) shall be classified as the most similar district at the time of annexation.

1.6.2. Unclassified Land. Where no zoning designation exists, and until such property is otherwise zoned by the Board of Aldermen, it shall be classified as A – Agricultural Residential.

1.6.3. Determination of Zoning District. A public hearing shall be held within three-hundred and sixty-five (365) days of annexation for the purpose of establishing the most appropriate zoning classification

Section 1.7 Conflict with Other Laws

Whenever the requirements of this ordinance conflict with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the most restrictive, or that imposing higher standards, shall govern.

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Section 1.8 Severability and Validity

Each phrase, sentence, paragraph, section or other provision of this ordinance is severable from all other such phrases, sentences, paragraphs, sections and provisions. Should any phrase, sentence, paragraph, section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this ordinance.

Article II Zoning Districts and Dimensional Standards

Section 2.1 Establishment of Districts

The following zoning districts are established for the purpose of promoting the health, safety, morals and general welfare, and for the additional in accordance with the Comprehensive Plan.

- A Agricultural Residential District
- R1 Single-Family Residential District
- R2 Residential Growth District
- R3 Multi-Family Residential District
- C Commercial District
- I Industrial District

Section 2.2 General Dimensional Standards

2.2.1. General Requirements for Set-backs (yards)

- A. Required Yard Cannot Be Used By Another Building.** No part of a yard or open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required in this ordinance for another building.
- B. Minimum Lot Frontage.** No dwelling or non-residential structure shall be erected on a lot that does not abut a public street or private drive for at least twenty (20) feet maintained from the point of frontage with a public street or private drive to the required minimum lot width at the applicable building setback line.

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- C. Yard Requirements on Corner Lots.** The side yard of the lot closest to the corner shall be the same as the size of the required front yard.
- D. Front Yard Requirements along Major Roads.** When the street (classified as a Major Road on the Major Road Plan) upon which a lot fronts has an existing right-of-way less than that designated on the Major Road Plan, consultation shall be made with the Town Engineer to determine the building setback line, so as to take into consideration the proposed right-of-way of the street (Major Road).

2.2.2. Determination of Front Yard Setbacks for non-typical Lots.

In determining a required front yard on an irregularly shaped lot (i.e., pie-shaped) within the vehicle turn-around of a cul-de-sac, or similar design, the building setback line shall be established at that point where the applicable minimum lot width is achieved, the minimum horizontal distance of which shall not be less than that prescribed for the applicable zone district.

2.2.3. Exceptions to Yard Requirements

The following exceptions may be made to any applicable yard requirements: Open fire escapes, fireproof outside stairways, and balconies opening upon fire towers may project into a rear yard a maximum of three and one-half (3 ½) feet when so placed as to not obstruct light and ventilation as determined by the Zoning Administrator.

2.2.4. Exceptions to Height Requirements

All buildings shall conform to the height regulations herein; except that the following exceptions may be made to any applicable height requirements: chimneys, church steeples, cooling towers, elevator bulkheads, radio, television and microwave towers, antennas, fire towers, monuments, water tanks, silos, and necessary mechanical appurtenances.

Section 2.3 Site Accessibility and Number of Buildings per Lot

2.3.1. General. Every structure shall be on a lot adjacent to a public street, or access to an approved private drive, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection and off-street parking.

2.3.2. Residential Districts. Only one principal building and its customary accessory buildings shall be erected on any lot in any residential zone district.

2.3.3. Non-Residential Districts. Multiple principal buildings shall be permitted on lots within all nonresidential zone districts and Planned Unit Developments when specifically approved as part of the Site Plan.

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Section 2.4 Uses Permitted in All Districts

The following uses and/or structures shall be permitted in all Zoning Districts:

- A.** Accessory Uses as described in Article II of this Ordinance
- B.** Forested Land
- C.** Open Space
- D.** Public Utilities & Facilities (except those listed as Conditional Uses)
- E.** Public Parks
- F.** Temporary Uses as described in Article III of this Ordinance

Section 2.5 Conditional Uses in All Districts

The following uses and/or structures shall be a Conditional Use in all Zoning Districts:

- A.** Assisted Living Facility
- B.** Cemetery
- C.** Community Centers, Public
- D.** Funeral Home
- E.** Home Occupation as described in Article III of this Ordinance
- F.** Independent Living Facility
- G.** Marina, Private or Public
- H.** Municipal, County or Federal Building
- I.** Nursing Home Facility
- J.** Outdoor Entertainment Facility
- K.** Private Lodge or Club
- L.** Public Schools
- M.** Water Tower
- N.** Telecommunications Towers
- O.** Any other use not specified in this ordinance, upon review and final approval of the Board of Aldermen.

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2.5.1. Dimensional Standards for Conditional Uses permitted in all Districts

The dimensional requirements of this section shall be the minimum required for all Conditional Uses specified in Section 2.4, regardless of Zoning District. In the case of conflict, the dimensions specified in this section shall take precedent.

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area
Private Lodges, Clubs	25,000 sf	120 ft	35 ft/2 ½ stories	40 ft	30 ft	30 ft	15%
Recreational Facilities, Outdoor Golf Driving Range	3 Acres	200 ft	35 ft/2 ½ stories	41 ft	30 ft	30 ft	15%
Assisted Living, Independent Living, Nursing Home	20,000 sf	200 ft	35 ft/2 ½ stories	35 ft	30 ft	30 ft	30%
Funeral Home	20,000 sf	100 ft	35 ft/2 ½ stories	35 ft	20 ft	25 ft	40%
Marina	3 Acres	200 ft	20 ft	25-foot vegetated buffer area around perimeter			30%
Other Facilities	As appropriate to conform to adjoining and surrounding setbacks**						

" + Minimum Side Setbacks apply to the yard of each Side of the structure. Corner lots shall be required to have the same Minimum setback as the front yard on the Corner side.

**Each use shall be evaluated to the appropriate dimensional standard. Buildings and facilities shall be planned in such a way as to conform to adjacent development whenever possible.

Accessory structures shall be placed behind the front building line, shall not exceed 20 ft in height and shall be a minimum of 5 feet from side and rear property lines.

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Section 2.6

A	Agricultural Residential District
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2.6.1. Purpose. This district is established to provide a compatible mixture of agricultural, forestry, conservation and very low-density residential uses. Protection of the environment, preservation of prime farm land, and the continuation of rural lifestyles are goals this district seeks to attain. This district may also be used as a “holding zone” for future development in accordance with the comprehensive plan, when future conditions allow for efficient expansion of development.

2.6.2. Permitted Uses.

- A. Dwelling, Single-family detached
- B. Church or Place of Worship

2.6.3. Conditional Uses.

- A. Accessory Dwelling Unit (Guest House)
- B. Agricultural Activity
- C. Bed and Breakfast Inn
- D. Manufactured Home

2.6.4. Dimensional Standards

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area	Max Units Per AC
SF Dwelling	10,000 sf	75 ft	35 ft/2 stories	25 ft	10 ft	25 ft	25%	4
Church	20,000 sf	100 ft	45 ft/2 ½ Stories	35 ft	25 ft	25 ft	75%	NA

"+" Minimum Side Setbacks apply to the yard of each side of the structure. Corner lots shall be required to have the same minimum setback as the front yard on the corner side.

Accessory structures shall be placed behind the front building line, shall not exceed 20 ft in height and shall be a minimum of 5 feet from side and rear property lines.

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Section 2.7

R1 Single-Family Residential District

2.7.1. Purpose. This district is established to preserve stable and attractive existing residential neighborhoods and promote infill development consisting of single-family detached homes on moderate sized parcels of land in harmony with existing development.

2.7.2. Permitted Uses.

- A. Dwelling, Single-family detached
- B. Church or Place of Worship

2.7.3. Conditional Uses.

- A. Accessory Dwelling Unit (Guest House)
- B. Bed and Breakfast Inn
- C. Daycare Facilities

2.7.4. Dimensional Standards

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area	Max Units Per AC
SF Dwelling	7,500 sf	60 ft	35 ft/2 ½ stories	20 ft	10 ft	25 ft	25%	6
Church	20,000 sf	100 ft	45 ft/2 ½ Stories	35 ft	25 ft	25 ft	75%	NA

"+" Minimum Side Setbacks apply to the yard of each side of the structure. Corner lots shall be required to have the same minimum setback as the front yard on the corner side.

Accessory structures shall be placed behind the front building line, shall not exceed 20 ft in height and shall be a minimum of 5 feet from side and rear property lines.

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Section 2.8

R-2	Residential Growth District
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2.8.1. Purpose. This district is established to provide areas of diverse housing options in appropriate areas which will result in predictable stable neighborhood development combining traditional single-family homes with duplex and manufactured housing development in harmony with one another.

2.8.2. Permitted Uses.

- A. Dwelling, Single-family detached
- B. Dwelling, Two-family (Duplex)
- C. Church or Place of Worship

2.8.3. Conditional Uses.

- A. Accessory Dwelling Unit (Guest House)
- B. Bed and Breakfast Inn
- C. Daycare Facilities
- D. Manufactured Home

2.8.4. Dimensional Standards

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area	Max Units Per AC
SF Dwelling	7,500 sf	60 ft	35 ft/2 ½ stories	20 ft	10 ft	25 ft	25%	6
Two-Family Duplex	10,000 sf	75 ft	35ft./2 ½ stories	25 ft	10 ft	25 ft	30%	8
Church	20,000 sf	100 ft	45 ft/2 ½ Stories	35 ft	25 ft	25 ft	75%	NA
Manuf. Home	20,000 sf	100 ft	35ft./2 ½ stories	20 ft	10 ft	25 ft	25%	2

+ Corner lots which shall be required to have the same minimum setback as the front yard on the corner side.

Accessory structures shall be placed behind the front building line, shall not exceed 1 story or 20 ft in height and shall be a minimum of 5 feet from side and rear property lines.

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Section 2.9

R-3 Multi-Family Residential District

2.9.1. Purpose. This district is established to provide areas where the highest density housing can be built such as low-rise multi-family units, assisted living or independent living communities. Parks, Open spaces and recreational facilities for residents of the community are required to compensate for the higher density of uses.

2.9.2. Permitted Uses.

- A. Apartment Buildings
- B. Multi-family Apartment Developments which may include: Offices for operation, leasing and maintenance purposes; Laundry room for residents; and Maintenance equipment storage shed(s).
- C. Recreation Facilities within the development for the use of residents including playgrounds, tennis courts, basketball courts, swimming pools, club houses and community centers.

2.9.3. Conditional Uses.

- A. Daycare Facilities

2.9.4. Dimensional Standards

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area	Max Units Per AC
Multi-Family	20,000 sf + 2,000 per unit	200 ft	45ft./2 stories	25 ft	25 ft	25 ft	40%	15

Accessory structures shall be placed behind or to the rear of principal buildings, shall not exceed 1 story or 20 ft in height and shall be a minimum of 15 feet from side and rear property lines.

2.9.5 Site Plan Required

Site plans, as described in Section 6.4., shall be submitted and approved prior to Building Permit issuance.

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Section 2.10

C	Commercial District
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2.10.1. Purpose. This district is intended to provide for retail and service businesses that serve the local community and the traveling public.

2.10.2. Permitted Uses.

- A. Automotive Repair Shop and/or Car Wash
- B. Automobile Sales
- C. Bank or Financial Institution
- D. Beauty/Barber Shop
- E. Convenience Store
- F. Drive-through Facilities
- G. Dry Cleaning Pick-up Station
- H. Health Club, Fitness Center
- I. Instructional Studio
- J. Laundromat
- K. Medical Clinic
- L. Nursery, Horticultural
- M. Pet Grooming Shop
- N. Professional/General Office
- O. Retail Store
- P. Restaurant, General or Fast-food
- Q. Service Station
- R. Veterinarian Clinic
- S. Vocational School

2.10.3. Conditional Uses.

- A. Body Piercing/Tattoo Business
- B. Check Cashing/Title Loan Business
- C. Church or Place of Worship
- D. Day Care Facility
- E. Farmers Market, Public
- F. Manufactured building used for non-residential purposes
- G. Mixed-Use Development or Building
- H. Pay-Day Loan Business
- I. Produce Stand
- J. Recreational Areas and Facilities, Outdoor
- K. Self-Service Storage Facility

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2.10.4. Dimensional Standards

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area
Commercial Use	None	20 ft.	45 ft.	0/25ft+	0/25 ft.*	0/25 ft. *	75%
+ Business uses with building adjacent to public sidewalks have no minimum front setback requirement. *When located adjacent to residential use a 25 Fr. Setback shall be required.							
Service Station & Convenience Store	15,000 sf.	100 ft	25 ft.	20/30 ft.**	15/25 ft. ***	15/25 ft. ***	75%
** 20 ft. for pumps; 30 ft. for building unless pumps are located in rear. *** When located adjacent to residential use setback shall be 25 ft. setback.							
Church	20,000 sf,	100 ft.	45 ft./2 ½ stories	35 ft.	25 ft.	25 ft.	75%

2.10.5 Screening of Refuse and Service Areas

All mechanical or operating equipment, dumpster areas, loading and un-loading areas shall be enclosed by a wall or fence of solid appearance not less than six feet in height, or the height of the dumpster, whichever is greater.

2.10.5.1 Pre-existing Conditions: Any refuse or storage areas required to be screened by this ordinance and located within the municipal limits at the time of adoption of this ordinance shall be required to comply with screening requirements within nine (9) months from the effective date of this ordinance. The property owner where such conditions exist shall be responsible for the necessary improvements, and shall be in violation of this ordinance should the required screening fail to be provided within the time given.

2.10.6 Landscaped Buffers between Certain Uses

Any developed commercial use abutting a residential use shall be provided with screening /buffering between the commercial and residential properties. For the purposes of this section, residential uses separated from commercial uses by a public street shall not be considered abutting. Acceptable screening/buffering shall include a solid wall or privacy fence or tight evergreen hedge not less than six feet (6') in height at maturity.

2.10.6 Exterior Design

The exterior design of all commercial buildings shall be as described in Section 4.1.

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Section 2.11

I	Industrial District
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2.11.1. Purpose. This district is intended to provide a suitable protected environment for manufacturing, research and wholesale establishments which are clean, quiet and free of hazardous or objectionable emissions, and generate little industrial traffic.

2.11.2. Permitted Uses.

- A. General Office
- B. Light Industrial Uses
- C. Wholesale Establishments

2.11.3. Conditional Uses.

- A. Automotive Repair Shops
- B. Heavy Industrial Uses
- C. Junk Yards
- D. Self-Service Storage Facility
- E. Recycling and/or Salvage Operations
- F. Wrecker Services
- G. Adult Entertainment

2.11.4. Dimensional Standards

Use	Min Lot Size	Min Lot Width	Max Height	Min Front Yard	Min Side+	Min Rear	% Imp Area
Industrial	20,00 sf.	100 ft.	45 ft.	40 ft.	15/25 ft. *	15/25 ft. *	75%
Other	None	20 ft.	45 ft.	25 ft.	15/25 ft. *	15/25 ft. *	75%
• When located Adjacent to residential uses, a 25 ft. setback shall be maintained on both the side and rear of property. Accessory structures shall be placed behind or to the rear of principal buildings, shall not exceed 20 ft. in height and shall be a minimum of 15 ft. from side and rear property lines.							

2.11.5 Screening and Buffering Requirements

All junkyards, recycling and/or salvage operations, vehicle salvage yards, wrecker services where junk or wrecked vehicles are stored, and similar operations shall be screened as required in Section 3.9. Automotive repair shops shall comply with the requirements of section 3.4.

2.11.6 Exterior Design

The exterior design of all commercial buildings shall be as described in Section 4.1.

Article III Specific Requirements for Certain Uses

Section 3.1 Applicability

The following special conditions for certain uses shall apply to all districts where the use is permitted “by right” or by “Conditional Use”. In the case of a conflict between the generally applicable standard for the zoning district and the specific standard for the use listed in this section, the more restrictive standards shall apply.

Requirements for the following uses are described in this Article.

- A. Accessory Uses and Buildings
- B. Accessory Dwelling Units
- C. Automobile Service Stations, Repair Shops and Convenience Stores
- D. Child Care Facilities, Nurseries, and Kindergartens
- E. Home Occupations
- F. Self-Service Storage, Facilities
- G. Swimming Pools, Private
- H. Temporary Uses
- I. Junkyards, Recycling and/or Salvage Operations, Vehicle Storage
- J. Adult Entertainment
- K. Manufactured Homes and other Manufactured Buildings
- L. Parking Lots
- M. Marinas

Section 3.2 Accessory Uses and Buildings

3.2.1. Purpose. Certain types of structures and uses that provide needed or desired space or utility. Accessory buildings and uses are intended to be in harmony with the principal use and fit contextually within the neighborhood within which they are located.

3.2.2. General Requirements

- A. Shall adhere to the general requirements and all stipulated area, bulk and height regulations cited elsewhere in this Ordinance.
- B. Shall be subordinate in area, extent and purpose to such principal use.
- C. Shall be located in the side or rear yard areas if located within residential district.

Section 3.3 Accessory Dwelling Units (Guest Houses)

Guest houses or living quarters for family members, temporary guests, or domestic help are allowed as a Conditional Use for single-family detached dwellings that are zoned Agricultural or Residential. Such units are subject to approval by the governing

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authority, subject to the following minimal restrictions and any other restrictions placed at the time of approval.

3.3.1 General Size and Site Place Requirements

- A. The total square footage of such structures shall not exceed fifty (50) percent of heated and cooled square footage area of the principal dwelling or seven hundred and fifty (750) square feet, whichever is less.
- B. Such units shall be one-story and shall not exceed 25 feet in height.
- C. Setbacks shall be as follows:
 - 1. Front: Behind the front building line of the principal dwelling
 - 2. Side and Rear: Ten (10) feet

3.3.2 Building and Architectural Standards

- A. Guest houses shall be constructed on-site in accordance with adopted building standards.
- B. They shall have the same or similar architectural style and exterior materials as the principal dwelling and the same roof pitch and color as the principal dwelling.

3.3.3 Other Requirements

- A. All utilities shall be connected to and master metered from the principal residence.
- B. Restrictive covenant agreement must be filed with the Monroe County Chancery Clerk, which runs with the land that the accessory structure will never be made available for lease or rental.

Section 3.4 Automobile Service Station, Repair Shops and Convenience Stores with Gasoline Pumps

3.4.1 Site Requirements

- A. An automobile service Station or convenience store shall have a minimum front lot line on the primary right-of-way of 100 feet and a minimum area of 12,000 square feet.
- B. Service Station main buildings shall be set back a minimum of 30 feet from all right-of-way lines and all gasoline pump canopies shall be set back a minimum of 15 feet from all right-of-way lines.
- C. All gasoline pump islands shall be set back at least 20 feet from right-of-way line, or where a future widening line has been established, the setback line shall be measured for such line.
- D. All driving, parking, storage, and service areas shall be paved.

3.4.2 Other Requirements

- A. All vehicle repairs shall occur in an enclosed area.

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- B.** No junk or non-operable vehicles shall be stored on site except within enclosed buildings.
- C.** Up to five (5) operable vehicles may be stored overnight in an outdoor area.
- D.** All automobile service stations and repair shops are subject to special site enhanced screening conditions to appropriately screen adjacent property from parking, pump islands, or service bays. This site screening shall be specific to the context of the site and may involve landscape, walls, or other elements as required by the approved site plan.

Section 3.5 Child Care Facilities, Commercial (Nurseries and Kindergarten)

3.5.1 Site Requirements

- A.** No loading or unloading of children shall be permitted in the street.
- B.** A usable outdoor play area shall be provided and no portion of the fenced play area shall be located closer than 35 feet to any public street. Parking and loading areas may not be counted toward play spaces.

Section 3.6 Home Occupations

3.6.1 General Regulations

A home occupation is a gainful occupation conducted in a dwelling unit, for which an annual privilege license must be issued and is subject to the following requirements:

- A.** No home occupation shall alter the appearance of the home or neighborhood either through structural changes or through ongoing activities and operations.
- B.** The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise vibration, electrical disturbance, radioactivity, electromagnetic interference or any other condition detrimental to the character of the surrounding area.
- C.** Written statements of the majority of owners of property within 300 feet in opposition to the home occupation shall be sufficient cause to determine that the use is of a character detrimental to the surrounding area.
- D.** No stock in trade or commodity shall be sold on the premises.
- E.** There shall be no employment of help other than members of the resident family.
- F.** No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- G.** No outdoor storage of equipment or materials which are uncharacteristic of a residential use shall be permitted.
- H.** The Zoning Administrator shall periodically examine all businesses operating under a home occupation permit to determine if they are maintained in compliance with regulations set forth herein. The Zoning Administrator is authorized to notify any business found to not be in compliance to cease operations and to immediately revoke said permits.

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3.6.2 Home Occupation Permitted

The following occupations, subject to the requirements of the above section, may be permitted as home occupations:

- A. Artist, sculptor, author
- B. Computer programming and word processing
- C. Cooking, preserving and preparation of food for catering service
- D. Dressmaker, seamstress, tailor, interior decorator
- E. Home office
- F. Teaching, including tutoring, musical or dance instruction, but limited to one pupil per teacher at any given time
- G. Telephone answering service
- H. Any other similar use which the Zoning Administrator determines is compatible.

3.6.3 Housing Occupations Permitted. The Zoning Administrator may elect to take any Home Occupation request to the Board of Aldermen for approval, at their discretion.

3.6.4 Prohibited Home Occupations

The following are not permitted as home occupations:

- A. Animal hospitals or animal rescue operations
- B. Child Care Facilities including kindergartens
- C. Nursing Homes
- D. Repair Shops requiring major repair to equipment and/or vehicles
- E. Coffee Shops, restaurants or any facility serving beverages or food to the public
- F. Boarding or Rooming House

Section 3.7 Self-Service Storage Units

3.7.1 Intent

The intent of the special conditions for Self-Service storage Units is to:

- A. Allow for personal storage services to be mixed with other compatible commercial uses.
- B. Ensure that personal storage facilities are appropriately located and used appropriately to minimize the impact on adjacent property.
- C. Set requirements for the design and scale of facilities to better assure this use fits in with surrounding uses.

3.7.2 General Requirements

- A. Maximum Size for each individual storage unit shall be six hundred (600) square feet.

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- B.** Outside storage of RVs, Boats and similar vehicles may be include as part of the site if such outdoor storage facilities are fenced and screened. Parking areas or driveways shall not be used for storage.

3.7.3 Site Requirements

- A.** Access to the site shall be from a street identified as a collector or major local street on the Transportation Plan.
- B.** Paved, off-street parking, access and driveways must be provided.
- C.** Any other site requirements determined through the Conditional Use procedure to minimize impacts on adjacent property.

3.7.4 Prohibited Uses

The following uses shall be prohibited in self-service storage facilities:

- A.** Auctions, wholesale and retail sales, miscellaneous or garage sales.
- B.** Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
- C.** The operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment, except for purposes of construction and repair of the self-service storage facility.
- D.** Transfer and storage business.
- E.** Any use that is noxious or offensive because of odors, dust, fumes, or vibrations.
- F.** The storage of hazardous materials.

Section 3.8 Temporary Uses

3.8.1 General Regulations

Certain temporary uses are permitted as in accordance with the following regulations:

- A.** The temporary use shall be for a specific period of time and at the end of such time, all activities shall cease.
- B.** The permission of the property owner shall be required signifying their permission to place the temporary use on the property in question.
- C.** Sites shall be free of all debris, whether generated by the temporary use or not.
- D.** Adequate off-street parking shall be provided if needed.
- E.** Uses and preparation shall meet any and all health standards as defined applicable and certified to by the State Board of Health.
- F.** Suitable safety precautions are taken in accordance with conditions approved by the Zoning Administrator to insure that human health and welfare are not jeopardized.

3.8.2 Temporary Uses Permitted

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- A. Fund Raising Events for Churches, Schools and Similar Uses:** Car washing, Fairs, Bake Sales, Rummage Sales, and similar events are permitted for certain non-profit establishments. Such events shall not exceed three (3) days in length.
- B. Contractor's Temporary Office and Equipment Sheds:** In any district, a contractor's temporary office and equipment sheds incidental to a construction project may be utilized. Such facilities shall not contain sleeping or cooking accommodations. Such facilities shall be removed upon completion of the project or one year whichever is applicable.
- C. Garage or Rummage Sales:** Garage sales may be conducted in residential districts provided no more than two (2) such events are scheduled within a 12-month period, and the period of the sale does not exceed three (3) days.
- D. Food Vendors:** Portable food vendors licensed by the Health Department and doing business from a portable vehicle designed for such use are allowed in Commercial Districts with permission by the property owner. Such facilities are subject to provision for adequate parking, ingress and egress and other safety considerations and are considered temporary and must be removed at the end of the business day.
- E. Seasonal Sale of Farm Produce Outdoors:** Farm produce and seafood which is in its harvested form, may be sold from vehicles which are mobile in Commercial Districts but shall be placed no earlier than 6:00 a.m. and shall be removed daily no later than 9:00 p.m. Such uses shall be limited to the preparation and sale of human food stuffs only.
- F. Portable Storage Container (POD)**
 - 1. The use of one (1) container shall be limited to no more than thirty (30) consecutive days in any year. In the event of a catastrophic loss of property due to fire, flood or other physical calamity occurring on the property in question, the permit may be extended for two (2) additional thirty (3) day periods.
 - 2. The container shall be placed on a hard surface such as a driveway on the lot it serves, and shall not be placed on a street right-of-way or in the rear of the property.

Section 3.9 Junkyards, Recycling and/or Salvage Operations, Vehicle Storage

All commercial and non-commercial storage of vehicles, junkyards, recycling and/or salvage operations and similar uses shall be screened from public view and from adjacent properties by a fence no greater than (8) feet in height. Such fencing may only be located in the side and rear setbacks. Such fences shall be solid wall construction (brick, stone, or stone-faced block), or post/plank construction (metal, wood, or vinyl), and provide 100% visibility restriction/opacity.

3.9.1 Pre-existing Conditions: Any junkyard, recycling and/or salvage operation, vehicle storage or similar use required to be screened by Section 3.9 of this Ordinance and located within the municipal limits at the time of the adoption of this ordinance shall

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be required to comply with screening requirements within nine (9) months from the effective date of this ordinance. The property owner where such conditions exist shall be responsible for the necessary improvements, and shall be in violation of this ordinance should the required screening fail to be provided within the time given.

Section 3.10 Adult Entertainment

Adult entertainment establishments shall comply with the following requirements:

- A. No adult arcade, adult book store, adult cabaret, adult motion picture theater, adult motel, adult video store, or any other adult entertainment establishment as defined by Article VIII of this ordinance shall be located within one thousand five hundred (1,500) feet of any other such use, or located within one thousand five hundred (1,500) feet of any residence or residentially zoned property, church, regular place of worship, school, park, child care facility or playground;
- B. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where adult entertainment business is conducted, to the nearest property line of the premises of a church, regular place of worship, school, or to the nearest boundary of an affected park, child care facility, playground, residence, residential district, or residential lot;
- C. For the purposes of this section, the distance between any two adult entertainment business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located;
- D. An adult entertainment business shall not be operated in the same building, structure, or portion thereof, containing another adult entertainment business.
- E. Notwithstanding any language or definition used herein, neither this section nor any other section of this ordinance shall permit any acts, displays or distribution of materials which violate the obscenity statutes or any other laws of the State of Mississippi.

Section 3.11 Manufactured Homes and other Manufactured Buildings

All manufactured buildings shall meet or exceed the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction. ~~**Manufactured housing and manufactured buildings constructed over five (5) years prior to permit application shall not be permitted within the incorporated limits.~~ Manufactured housing and manufactured buildings shall also comply with each of the following criteria. **** Amended by Ordinance 123, April 5, 2022 reads as follows... (Manufactured housing and manufactured buildings constructed prior to permit application shall not be permitted within the incorporated limits unless it is new construction.)**

- A. All structures shall be limited to single occupancy units;

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- B. The structure shall be a double-wide sized unit or larger;
- C. The pitch of the structure's roof shall have a minimum vertical rise of one(1) foot for each five (5) feet of horizontal run;
- D. The roof shall be finished with either asphalt or architectural shingles, or other roofing material as approved by the Building Official;
- E. The exterior siding shall consist of wood, hardboard, vinyl, non-reflective aluminum, or other material as approved by the Building Official;
- F. A continuous, permanent underpinning of treated wood, concrete, brick, stone, drivit®, stucco, split face block, masonry or masonry-like products shall be established, un-pierced except for required ventilation and access, around the perimeter of each manufactured building foundation system;
- G. The tongue, axles, transporting lights, and removable towing apparatus shall be removed prior to occupancy;
- H. The structure shall be attached to a permanent foundation as described in the most recent edition of the U. S. Department of Housing and Urban Development's *"Permanent Foundations Guide for Manufactured Housing"*, or prepared by an engineer licensed to operate in the State of Mississippi.
- I. The front entrance of the manufactured building shall face the street, excepting manufactured homes with attached garages or carports, and;
- J. All manufactured buildings shall be provided with an exterior stairway or ramp at all exit doors. In addition, all structures shall be equipped with a minimum five (5) feet wide by five (5) feet deep front porch or deck area adjoining the front door, which will be considered the main entrance/exit. All additional ramps and/or stairs shall have a minimum three (3) feet by three (3) feet landing adjoining the associated doorway. These porches, decks, stairways and/or ramps shall be designed and constructed in accordance with the Building Code.

Section 3.12 Parking Lot Lighting

Parking lots for businesses that are open after daylight hours shall provide lighting for the safety of the public. Luminaries that are "full cut off" designed and "fully shielded" are required.

Section 3.13 Marina Developments

- A. **Maximum Development Area:** Three (3) acres
- B. **Maximum density:** Twenty (20) recreational vehicles per acre
- C. **Periphery Boundary:** The campground perimeter shall be an unoccupied landscaped open space twenty-five (25) feet in width with no encroachments permitted, including parking lots, patios, or other structures. When campgrounds are adjacent to residential uses, a landscaped buffer ten (10) feet in width shall be installed on the perimeter of the development. Plants shall consist of trees and shrubs that will create a screen to shield the park from adjacent uses and sod. This area shall be unoccupied by structures.

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- D. Open Spaces and recreational area:** A minimum of five (5) percent of the gross development area shall be set aside and developed as common use areas for open or enclosed recreation facilities such as playgrounds, badminton, or tennis, parks, or similar facilities which shall be in addition to any land or marine facilities such as piers or marinas. No required buffer strip, street, storage area, recreational vehicle site or utility site shall be placed within the area set aside for recreational purposes.

Article IV Development Standards

This Article provides Site design and building standards required for all development whenever applicable. The standards are intended to contribute to the ability of development sites to integrate into the town's overall plan.

These standards should be applied in addition to any6 specific area or design standards contained in other sections for a particular zoning district. Development stands in this chapter include:

- A. Non-Residential Building Placement and Design
- B. Clear Sight Triangle

Section 4.1 Non-residential Building Placement and Design

4.1.1 Building Orientation and Entrance

The front façade containing the primary customer entrance of commercial buildings shall front and relate to the main commercial street, both functionally and visually, and not be oriented toward parking lots. The front façade should include a main entryway and pedestrian access to parking and sidewalks when such exist. Buildings located on corner lots of streets within commercial districts may face the corner or either street.

4.1.2 Type of Exterior Building Material

- A. **Permitted Exterior Building Materials:** All non-residential buildings shall have a façade of brick, stone, drivit®, stucco, split face block or similar designer block over a minimum of 50% of the side(s) of the building facing a street. The 50% requirement shall be calculated based on the entire area of said building side including windows, doors, and gable ends. Any offset building fronts which are close or closer to the rear of the building than the front shall not require improvements described above. Building materials with a cost equal to or greater than the materials listed above may be substituted provided said equal or greater costs is documented. Landscaping in front of the building, which provides screening equal or greater than the required masonry area, at maturity, may be substituted.
- B. **Exterior Building Material Not Permitted:** No building or portion of a principal building visible from a public street or right-of-way shall be exposed metal; ~~*vinyl siding~~; smooth-faced gray concrete block; painted or stained concrete block; tit-up concrete panels; field-painted or pre-finished standard corrugated metal siding; or any other material the ~~**Planning Commission~~ deems to be unacceptable. ~~*Stricken January 21,2020. **Amended January 21, 2020 to "Board of Aldermen".~~

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Section 4.2 Clear Sight Triangle

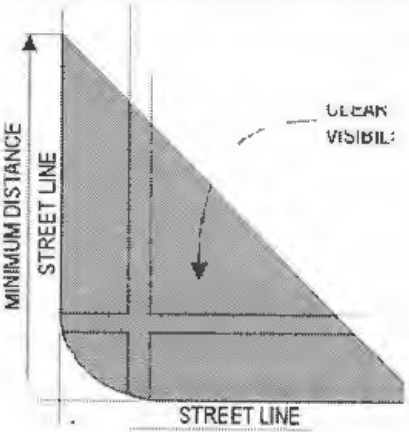
When any driveway intersects a public right-of-way or when the subject property abuts the intersection of two (2) or more public rights-of-way, no sign, fence, wall, hedge or other structure or planting shall be erected, placed or maintained that obstructs view at a level between three (3) feet and ten (10) feet above the street grade and within the sight visibility triangles as defined in A and B below. Unobstructed cross-visibility shall be provided within the clear visibility triangle. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the unobstructed cross-visibility area shall be allowed provided they do not create a traffic hazard. Minimum Clear Visibility Triangle Distances are shown in Table No. 10.

A. Corner Lots

On a lot at the corner of two (2) public streets or a public street and a private street, the sight visibility triangle shall be formed by the intersecting street lines and a straight line joining the street lines at points which are the following minimum distances from the point of intersection.

B. Driveways and other Access ways

For an access way other than a public or private street, the clear visibility triangle shall be formed by the intersecting lines of the accessway or driveway and the public or private street and a straight line joining those two (2) lines at points which are fifteen (15) feet distant from the point of intersection. This distance shall be on both sides of the subject property.

Table No. 1: Clear Sight Triangle Distance Requirements		
	Street Classification	Minimum Distance (Feet)
	Alley or Driveway	15
	Local Street	30
	Collector	60
	Arterial	120

Article V Non-Conforming Uses and Structures

Section 5.1 Purpose

This ordinance seeks to protect the public health, safety, and general welfare, and avoid any unreasonable invasion of established private property rights. To avoid undue hardship, non-conformities that came into existence lawfully should be allowed to exist subject to conditions in this Article; however, the conditions should seek to ultimately secure compliance with the comprehensive plan.

Section 5.2 Non-conforming Structures

Structures that were legally constructed prior to the adoption of this ordinance, but which could not be constructed under the terms of this ordinance are considered legal non-conforming structures. A legal non-conforming structure may continue to exist subject to the following:

- A. Alteration and expansions may follow the non-conforming setback only on the non-conforming side.
- B. The structure shall remain legal in all other regards except for the non-conformance that existed upon adoption of the ordinance that made the structure non-conforming.
- C. A non-conforming structure, which is not intentionally damaged, destroyed, or removed, may be restored within 365 consecutive days from the date of the event. If the structure is not re-constructed within this time limit all restorations and improvements shall be in compliance with applicable ordinances. The burden of proof of date of damage or destruction shall be on the person proposing the restoration.

Section 5.3 Non-conforming Uses

Use of land or structure that legally existed prior to the adoption of this ordinance, but which could not be initiated under the terms of this ordinance is considered a legal non-conforming use. A legal non-conforming use of land or structures may continue to exist subject to the following:

- A. **Restricted to Existing Lot and Buildings:** The use shall be restricted to the lot and building occupied by the use as of the effective date of the ordinance creating the non-conformance. A legal non-conforming use shall not be extended to any other building or lot or part of a lot.
- B. **Cessation of Use:** A lawful non-conforming use that ceases for any reason for a period of more than 180 consecutive days shall not be re-initiated unless it is in

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compliance with all ordinances. If a legal non-conforming use is replaced by a conforming use, the legal non-conforming use shall not be re-initiated.

- C. Change to Another non-conforming Use:** A change of a legal non-conforming use shall only be allowed if the change is to a conforming use or to a use that is considered less non-conforming, as determined by the Zoning Administrator of non-conformance or in intensity.

Section 5.4 Non-conforming Lots

- A. Substandard Lots of Record:** Where the owner or subsequent owner of a lot of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard requirements of this ordinance, an application may be submitted for a variance from the applicable provisions of this ordinance.
- B. Two or More Abutting Lots:** Where two (2) or more substandard lots of record with a continuous frontage are under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located.

Section 5.5 RESERVED

Section 5.6 Maintenance of Non-conformities

In the interest of public safety and health, routine maintenance of non-conforming situations shall continue as warranted by the property owner or otherwise required by law, provided that no maintenance involves continuance or expansion of the non-conformity contrary to this Article.

Section 5.7 Adjacent Land

The presence of a non-conforming use in a zoning district shall not be allowable as grounds for the granting of variances for other surrounding properties by the board of adjustment.

Section 5.8 Change, Re-establishment, Expansion, Alteration or Major Repair of Non-conformities

- A. Intent.** The intent of this section is to allow for the continuation of any nonconformity and the normal maintenance and repair thereof, but to require any change, re-establishment, expansion, alteration or major repair of a nonconformity to obtain a special exception approval to determine whether it will substantially injure the value, use, and enjoyment of neighboring properties.
- B. Procedure.** Unless this Section expressly provides otherwise, change, reestablishment, expansion, alteration or major repair of any nonconformity shall be deemed a “Conditional Use”, and shall occur only as approved by the Board of

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Aldermen in accordance with the procedures set forth in Article VII of this Ordinance.

C. Standards of Review. After holding a public hearing on the Conditional Use, the Board of Aldermen shall determine whether to approve the proposed change, reestablishment, expansion, alteration or major repair. The Board of Aldermen shall not approve the proposed change, reestablishment, expansion, alteration or major repair unless and until it finds, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case, that the proposed change, reestablishment, expansion, alteration or major repair meets the standards set forth in Article VII of this Ordinance as well as the following:

- a. That all access roads and entrance or exit drives to the nonconformity will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and control and access in the case of fire or other emergency;
- b. That all off-street parking, loading, refuse collection, and other service areas will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, economic, noise, glare, odor and other impacts on adjoining properties;
- c. That all water, wastewater treatment, schools, fire and police protection and other necessary public and private utilities and services will be adequate with respect to their location, availability and compatibility with adjoining properties.
- d. That all landscaping, screening, and fencing will be adequate, with respect to the effectiveness of their type, dimensions and character; will be adequate with respect to minimizing the economic, noise, glare, odor and other impacts of the nonconformity on adjoining properties and other properties in the neighborhood;
- e. That the type, size and intensity of the proposed special exception use, including such considerations as storage of items and arrangement, the size of the site and the location of the use upon it, and the hours of operation and number of people who are likely to utilize or be attached to the use, will be adequate with respect to minimizing the impact of the nonconformity upon adjoining properties, other properties in the neighborhood, and the purposes of the use district in which the property is located;
- f. Surface drainage will be adequate with respect to on-site erosion, siltation, pollution, flooding or other detrimental effects of the nonconformity.

D. Additional Consideration. In determining whether the proposed change, reestablishment, expansion, alteration or major repair will substantially injure the value, use and enjoyment of other properties, the Board of Aldermen shall also consider and balance;

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- a. The possible detriment or benefit to the owner of the nonconformity resulting from denying the approval, from approving the request;
 - b. The possible detriment or benefit to the owner of the nonconformity resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request;
 - c. The possible detriment or benefit to the general public resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request.
- E. Conditional Approval Permitted.** The Board of Aldermen may impose any conditions on approval of the request, as it deems necessary to mitigate any potential hazards or problems, or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of nearby property owners and the general public.
- F. Effect of Dial:** In acting upon applications for such special exceptions, the Board of Aldermen shall not order the discontinuation or termination of a nonconformity. If an applicant is denied, then the continuation, maintenance and repair of the nonconformity shall still be allowed in accordance with the terms of this section.

Article VI Administrative and Enforcement Procedures

Section 6.1 Application for Zoning and Development

Any particular development within the Town of Smithville may require one or more of the various permits and approvals in order to ensure that the development is consistent with the goals and purposes of the Ordinance and with the public health, safety, and general welfare. These include the following:

- A. Conditional Use approvals;
- B. Site plan approvals;
- C. Variance approvals.
- D. Rezoning of Land (Zoning Map Amendments)
- E. Text Amendments to Zoning Ordinance and/or Comprehensive Plan
- F. Appeal of Administrative Decision

6.1.1 Timely submittal required

All applications submitted under this ordinance shall be made on forms required by the Town of Smithville and in accordance with required deadlines. In addition to the minimum information specified on the application forms, applicants may be asked to submit additional information, data, or reports as necessary for the review bodies to make an informed decision on compliance of the application with this ordinance.

6.1.2 Withdrawal of Request

A written request to withdraw an application may be submitted to the Zoning Administrator prior to or at the Board of Aldermen meeting. Fees are non-refundable after public notices have been published. An application may be withdrawn verbally by the applicant if request is made prior to the opening of the Board of Aldermen public hearing.

6.1.3 Limitation on Re-submittal

No application for a rezoning, Conditional Use, or variance shall be considered within 365 days of denial.

6.1.4 Public Hearings and Public Notifications Required

Zoning or rezoning of land, Conditional Uses, Variances, and text amendments to the Zoning Ordinance and/or Comprehensive Plan require a public hearing before the Board of Aldermen in accordance with the requirements in this Ordinance.

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6.1.4.1 Required Notice for Public Hearings:

- A. Newspaper Advertisement:** Actions that require a public hearing shall be advertised in a local newspaper of general circulation with the first notice being published not less than fifteen days prior to the date fixed for the public hearing before the Board of Aldermen. Such notices shall include:
- a.** Parcel (tax) Identification Number (if applicable) or
 - b.** Address of the subject property (if applicable and available),
 - c.** The type of action requested,
 - d.** The Time, date and location of the public hearing(s),
 - e.** A contact for additional information, and
 - f.** A statement that interested parties may appear at the public hearing and shall have the opportunity to be heard.
- B. On-Site Notification of Public Hearing:** A sign shall be erected on the site under consideration at least fifteen (15) days prior to the Board of Aldermen hearing and shall remain on the property until final action is determined. The sign shall contain the following information:
- a.** Type of Action Requested
 - b.** The time, date and location of the public hearing(s)
 - c.** A contact for additional information

6.1.5 Coordination with other Approvals

It is the intention of this Ordinance to conduct the review and approval of Conditional Uses, Variances and Site Plans at the same time to the maximum extent possible. The review and processing of multiple applications shall be coordinated and consolidated as much as possible. However, the Board of Aldermen shall render a separate decision on each application, recognizing the applications as distinct and subject to different standards for approval.

6.1.6 Appeal of Review Decisions

Any review decision for a Conditional Use, Variance, or Site Plan may be appealed in the same manner of appealing any Board of Aldermen decision as prescribed by State Statute. Copies of any appeal, so filed with the applicable court, shall also be filed with the Zoning Administrator and shall serve as a Stay of Execution until the appeal has been resolved.

6.1.6.1 Action by Board of Aldermen

Upon receiving the application materials from the Mayor, the Board of Aldermen shall hold a hearing on the appeal.

- A.** Either at the hearing or a subsequent meeting, the Board of Aldermen shall adopt a motion reversing, affirming, or modifying the contested action.

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- B. In reversing, affirming, or modifying the contested action, the Board of Aldermen shall have all relevant powers.
- C. The Board of Aldermen shall not reverse or modify the contested action unless it finds err in the application or interpretation of the terms of this Ordinance or related policies adopted by the municipality.
- D. The Board of Aldermen shall not reverse or modify the contested action unless there is a majority vote of the members voting.

Section 6.2 General Review Process

6.2.1 Role of Applicant or Representative

Applicants or a representative of the applicant shall appear before the Board of Aldermen at the appropriate time and place as advertised to present compelling evidence for the action they are requesting. They are also required to submit information in a timely manner to allow processing of their application.

6.2.2 Role of Staff

Applications that require action by the Board of Aldermen shall proceed as follows:

- A. The completed application shall be reviewed by the Zoning Administrator and, when needed, the consulting engineering and building inspector to determine compliance with the requirements of Ordinances and Regulations.
- B. The Zoning Administrator shall notify the applicant of any deficiencies or additional information needed.
- C. Once the application is complete a written report on the merits of the application shall be prepared for the benefit of the Board of Aldermen.
- D. If required, the Zoning Administrator shall cause the publication of legal advertisements and required public notices.
- E. The Zoning Administrator shall cause the item to be placed on the agenda of the Board of Aldermen.

6.2.3 Role of the Board of Aldermen:

The Board of Aldermen shall render final decisions on Conditional Use approvals, Site Plan Approvals, Variances, Zoning of Land, Rezoning and Text Amendments. Appeals of administrative decisions made by the Zoning Administrator are also heard by the Board of Aldermen. Such decisions rendered by the Board of Aldermen shall meet the Standards of Review and be conducted in accordance with the procedures provided in this Article. The Board of Aldermen shall consider the recommendations of the Zoning Administrator, other staff, as well as, other factors deemed relevant by the Board of Aldermen. Public Hearings shall be conducted in such a manner as to allow both the applicant and members of the public adequate opportunity to address the Board.

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Section 6.3 Conditional Use Review

6.3.1 Purpose

- A.** The classification of “Conditional Uses” is established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and the municipality as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also call for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location.
- B.** Accordingly, any use designated in Article 2, of this Ordinance as a “Conditional Use” in an individual zoning district shall not be established without the approval of the Board of Aldermen in accordance with the procedures and requirements set forth in this section.

6.3.2 Process of Conditional Use Review

APPLICATION - Filed with Zoning Administrator

PUBLIC HEARING – before the Board of Aldermen

DECISION - by the Board of Aldermen

6.3.3 Conditional Use Standards of Review

A request for a Conditional Use may be submitted by the property owner at the time of rezoning of property or anytime thereafter. Approval of a Conditional Use shall depend upon satisfaction of all of the following criteria:

- A.** That the proposed use or development of the land will not materially endanger the public health or safety;
- B.** That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region;
- C.** That the proposed use or development of land will not substantially injure the value of adjoining or abutting property;
- D.** That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
- E.** That the proposed use or development of the land will generally conform with Comprehensive Plan and other official plans adopted by the municipality;

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- F.** That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities;
- G.** That the proposed use will not cause undue traffic congestion or create a traffic hazard.

6.3.4 Reasonable Conditions of Approval

In approving the “Conditional Use”, the Board of Aldermen may attach such conditions to the approval as it deems necessary to meet the standards set forth for the proposed Conditional Use in Section 6.3.3 above and elsewhere in this Ordinance, and to protect the public health, safety, and general welfare. All such conditions shall be stated in the motion approving the application.

6.3.4.1 Nature of conditions. Such conditions may be stricter than any requirement or limitation stated elsewhere in this Ordinance for the proposed use. Such conditions may include, but are not limited to the following: limitations on the size, density and location of structures; requirements for landscaping, signs, and outdoor lighting; the provision of adequate ingress and egress; dedication of rights-of way for streets or utilities; provision of recreational space and facilities; limitations on the duration of the approval and the time period within which the use will be developed; limitations on hours of operation; limitations on the transfer of such approval to a successor-in-interest or lessee of the property; and the mitigation of environmental impacts.

6.3.5 Effect and Limitation on Approvals

Any Conditional Use granted according to this section shall run with the land provided the following criteria are met:

- A.** The Conditional Use shall be acted upon within 365 days of approval by the Board of Aldermen.
- B.** There is uninterrupted application of any conditions placed on the property at the time of approval of the Conditional Use.

6.3.6 Protests

In the event that the Board of Aldermen receives a written petition protesting any granting of a conditional use of property signed by the owners of 205 or more of the adjoining properties of the property under consideration for a conditional use, such approval shall not become effective except by a unanimous decision of the members of the Board of Aldermen. Properties separated from the applicable property by a street or public right-of-way shall be considered adjoining for the purposes of this section.

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Section 6.4 Site Plan Review

6.4.1 Purpose

The purpose of Site Plan Review and approval is to determine that certain developments meet the minimum standards of the Zoning Ordinance and regulations that govern development and construction within the municipality, prior to construction.

6.4.2 Process for Site Plan Review

APPLICATION – Filed with the Zoning Administrator

REVIEW AND COMMENT – by the Board of Aldermen

DECISION – by the Board of Aldermen

6.4.3 Site Plans shall be required for the following:

- A.** New commercial and industrial buildings or additions to such buildings.
- B.** New multi-family (3+ units) apartment buildings or additions to such buildings.
- C.** New mixed-use buildings or additions to such buildings.
- D.** Conditional Use applications.
- E.** Variance applications.

6.4.4 Submittal Requirements

The following information shall be required for Site Plan Review. Submittal items may be waived at the discretion of the Zoning Administrator, when it is determined that the review of such items will be unnecessary for the Board of Aldermen to make a decision:

- A.** Property boundaries with dimensions and setback lines.
- B.** Location of proposed buildings and structures indicating sizes in square feet.
- C.** Data to show percentage of lot covered with existing and proposed buildings.
- D.** Topography and stormwater facilities
- E.** Building elevations indicating exterior materials.
- F.** The location, intensity, and height of exterior lights.
- G.** The locations of mechanical equipment
- H.** Outside storage and/or display.
- I.** Drive-up window locations
- J.** Curb-cut detail and location(s)
- K.** Parking, loading and maneuvering areas
- L.** Landscaping plan
- M.** Location, materials and elevation of any and all fences and/or walls.
- N.** Dumpster location and screening
- O.** Location, size, and type of all signage
- P.** Copy of Protective Covenants or deed restrictions

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- Q.** Copies of approval, or requests for approval from other necessary agencies such as, but not limited to the Department of Health, MDEQ, and the Army Corp of Engineers.

6.4.5 Site Plan Standards of Review

A request for a Site Plan Review may be submitted by the property owner or by an authorized agent, or contract purchaser specifically authorized in writing by the property owner prior to development. Approval of a Site Plan shall depend upon satisfaction of all of the following criteria:

- A.** That the Site Plan fully complies with all specific requirement of this and other related ordinances enacted by the municipality;
- B.** That the Site Plan includes provisions to adequately protect other property, or residential uses located on the same or adjacent properties, from the potential adverse effects of a non-residential use;
- C.** That the Site Plan is in harmony and unity with the development of nearby properties;
- D.** That the Site Plan provides safe conditions for pedestrians or motorists.

6.4.6 Effect and Limitation on Approvals

Site plan approval shall be valid for 365 days from the approval date. If the building permit has not been issued within this time, the site plan approval shall be null and void. The Board may consider a request for extension of this time up to 180 additional days for good cause. The site plan may be amended, but amendments shall be subject to the same procedures as a new site plan approval.

Section 6.5 Variance Review

6.5.1 Purpose

The “variance” process administered by the Board of Aldermen is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this ordinance. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this ordinance render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

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6.5.2 Process for Variance Review

APPLICATION – filed with the Zoning Administrator

PUBLIC HEARING – by the Board of Aldermen

DECISION – by the Board of Aldermen

6.5.3 Variance Standards of Review

In certain circumstances, a Variance from the dimensional requirements of this ordinance may be granted if the applicant can prove that because of physical constraints of the property involved, he is not able to build the same type of structure that other persons with the same zoning classification can build. Variances for uses permitted will not be considered in-as-much as “use variances” are not legal in the State of Mississippi. A request for a variance may be submitted by the property owner at the time of rezoning of property, Conditional Use approval or anytime thereafter.

A. What qualifies for consideration for a variance?

1. Dimensional requirements for setbacks, height and placement of buildings
2. Dimensional requirements for setbacks and placement of signs.
3. Off-street parking requirements not to exceed twenty (2) percent easement of requirements.
4. Landscaping requirements not to exceed twenty (2) percent easement of requirements.

B. Criteria for Consideration of a Variance: Variances shall not be granted unless all of the following criteria are met.

1. That special conditions and circumstances exist which are peculiar to this particular site (lot or parcel), structure or building involved and which are not applicable to other sites (lots or parcels) or structures or buildings in the same district.
2. That the 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 provisions of this ordinance.
3. That the special conditions and circumstances do not result from actions of the applicant.
4. That granting the variance requested will not confer upon the applicant any special privilege that is denied by this ordinance to other similar sites (lots or parcels) structures or buildings in the same district.

6.5.4 Effect and Limitation on Approvals

- A. A variance from required setbacks for principal building(s) and accessory buildings shall run with the land provided the building(s) originally approved remain on the land. In the event said building(s) are removed and new building(s) are to be constructed, the original building(s) shall be considered a legal non-

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conforming use. Construction of new building(s) that deviates from required setbacks shall require approval by the Board of Aldermen.

- B.** A variance for placement of buildings shall require issuance of a building permit within 365 days or it shall be null and void.

Section 6.6 Zoning Map Amendment (Rezoning)

6.6.1 Purpose

The Board of Aldermen may rezone property. The purpose is not to relieve particular hardships, not to confer special privileges or rights on any person, but only to make adjustments to the Official Map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the municipality.

6.6.2 Process for Zoning Map Amendments (Rezoning)

APPLICATION – with the Zoning Administrator

PUBLIC HEARING & REVIEW – by the Board of Aldermen

DECISION – by the Board of Aldermen

6.6.3 Review by the Board of Aldermen

A zoning map amendment to rezone property may be initiated by the Mayor, a majority of the Board of Aldermen, or the property owner. The Board of Aldermen shall review the application and determine approval or denial of the request, based upon the following criteria. The burden of proof shall be on the applicant to prove these criteria are satisfied.

- A.** The request conforms with the Comprehensive Plan;
- B.** The character of the surrounding area has changed to such an extent as to justify rezoning;
- C.** Public services can accommodate the uses allowable in the requested zoning district;
- D.** The allowable uses in the requested zoning district will not adversely affect the character of the area and result in a decrease of property values;
- E.** There is a public need for additional property to be zoned in accordance with the request.

6.6.4 Decision by the Board Aldermen

Upon completion of a public hearing, the Board of Aldermen shall take action upon the rezoning request. The Board of Aldermen may:

- A.** Adopt the proposed rezoning by ordinance;
- B.** Reject the proposed rezoning;

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- C.** Table action on the application pending receipt of additional information relevant to rendering a decision. Such additional information required shall be stated in the motion to table the decision.
- D.** Refer the proposed amendment to a committee of the Board of Aldermen for further consideration.

6.6.5 Effect and Limitation on Approvals

Any rezoning granted according to this section and which is not challenged on appeal shall run with the land until such time as the land is rezoned.

6.6.6 Protests

In the event the Board of Aldermen receives a written petition protesting any rezoning of property signed by the owners of 20% or more of the properties located within 160 ft. of the property under consideration for rezoning, such amendment shall not become effective except by unanimous decision of the members of the Board of Aldermen.

Section 6.7 Text Amendments to the Zoning Ordinance or Comprehensive Plan

6.7.1 Purpose

The Board of Aldermen may amend the text of the Zoning ordinance and/or Comprehensive Plan. The purpose is not to relieve particular hardships, not to confer special privileges or rights on any person, but only to make adjustments to the ordinance and/or plan that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the municipality.

6.7.2 Process for Text Amendments to the Zoning Ordinance and Comprehensive Plan

APPLICATION – with the Zoning Administrator

PUBLIC HEARING & REVIEW – by the Board of Aldermen

DECISION – by the Board of Aldermen

6.7.3 Review by Board of Aldermen

A text amendment to the Zoning Ordinance and/or Comprehensive Plan may be initiated by the Mayor, or a majority of the Board of Aldermen. The Board of Aldermen shall approve or deny the application, based upon the following criteria.

- A.** If a text amendment to the Zoning Ordinance is under review, that the request conforms with the Comprehensive Plan;
- B.** The proposed amendment is consistent with the preservation of public health, safety and welfare;

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- C. The proposed amendment complies with State and Federal Law.

6.7.4 Decision by Board of Aldermen

Upon completion of a public hearing, the Board of Aldermen shall take action upon the text amendment at their next regularly scheduled meeting. The Board of Aldermen may:

- A. Adopt the proposed text amendment by ordinance;
- B. Reject the proposed text amendment;
- C. Refer the proposed amendment to a committee of the Board of Aldermen for further consideration.

Section 6.8 Appeals of Administrative Decisions

6.8.1 Purpose

Any order, requirement, permit, decision, determination, or refusal by the Zoning Administrator may be appealed to the Board of Aldermen. An appeal may be brought by any person, firm, corporation, office, department, board, bureau or commission aggrieved by the administrative decision. Such appeals shall be filed with the Mayor within 30 days of the date of the contested action and placed upon the Board of Aldermen agenda for the following regularly scheduled meeting. The purpose of this procedure is to ensure that any enforcement action taken by such an administrative officer pursuant to duties assigned by this Ordinance is consistent with the terms and purposes of this ordinance and any related policies adopted by the municipality.

6.8.2 Process for Administrative Appeals

APPLICATION – filed with the Mayor

REVIEW - by the Board of Aldermen

DECISION – by the Board of Aldermen

6.8.3 Action by Board of Aldermen

Upon receiving the application materials from the Mayor and documentation regarding the appealed decision for the Zoning Administrator, the Board of Aldermen shall hold a hearing on the appeal.

- A. Either at the hearing or a subsequent meeting, the Board of Aldermen shall adopt a motion reversing, affirming, or modifying the contested action.
- B. In reversing, affirming, or modifying the contested action, the Board of Aldermen shall have all relevant powers of the Zoning Administrator.
- C. The Board of Aldermen shall not reverse or modify the contested action unless it finds that the Zoning Administrator erred in the application or interpretation of the terms of this ordinance or related policies adopted by the municipality.

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- D.** The Board of Aldermen shall not reverse or modify the contested action unless there is a majority vote of the members voting.

Section 6.9 Review Bodies and Duties

6.9.1 Board of Aldermen

The Board of Aldermen shall exercise all final legislative authority over zoning matters as provided in this ordinance.

6.9.2 Zoning Administrator

The Zoning Administrator shall keep records of all permits, and certificates of occupancy issued, maps, plats and other documents with notations of all special conditions involved. He shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be public record. The Zoning Administrator is authorized and empowered on behalf and in the name of the governing body to administer and enforce the provisions of this ordinance.

- A.** Administer and enforce the regulations of this ordinance
- B.** Receive, review and prepare recommendations on applications
- C.** Provide information to the public and developers regarding the provisions of this ordinance
- D.** Inspect premises, and issue certificates of zoning compliance for uses and structures which are in conformance with the provisions of this ordinance.
- E.** Interpret the meaning of the ordinance in the course of enforcement
- F.** Propose zoning amendments as provided in this ordinance
- G.** Advise the Mayor and the Board of Aldermen on implementation of the Comprehensive Plan
- H.** Advise the Mayor and Board of Aldermen on provisions of the Zoning ordinance and interpretation thereof.

6.9.3 Building Official

The duties of the Building Official under this Ordinance shall be as follows:

- A.** Issuance of Building Permits
- B.** Issuance of Certificates of Occupancy
- C.** Any other duties assigned by the town

Section 6.10 Ordinance Enforcement

6.10.1 Enforcement Official and Notification

The ordinance shall be enforced by the Zoning Administrator or the person appointed by the Mayor and Board of Aldermen for administration and enforcement of same. Where and when violations of the provisions of this ordinance are found, the person or persons responsible shall be notified in writing, by mail, the violation and remedy needed to

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correct the illegal activity. Acceptable remedies include discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done. In accordance with 6.10.2, a penalty shall accrue for each day the illegal activity continues.

6.10.2 Amount of Penalty

In accordance with Section 17-1-27 of the Mississippi Code of 2172, as amended, “Any person ---who shall knowingly and willfully violate the terms, conditions or provisions of (this ordinance), for violation of which no other criminal penalty is prescribed, shall be guilty of a misdemeanor and upon conviction therefore shall be sentenced to pay a fine not to exceed one thousand dollars (\$1,000.00), 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.”

Section 6.11 Fees and Expenses

6.11.1 Schedule of Fees and Expenses

- A. Schedule of fees established:** The schedule of fees for the reviewing of applications for permits, amendments, and variances, and any other matters pertaining to this ordinance shall be as described in Appendix A of this ordinance. The fixed schedule may be amended from time to time as needed by the Board of Aldermen.
- B. Collection of fees:** The schedule of fees shall be available to the public in Smithville Town Hall. Until all applicable fees have been paid in full, no action will be taken on any application, appeal or other processing of land use matters.
- C. Other fees and license:** The list of applicable development and business license fees shall be available to the public in Smithville Town Hall.

Article VII Definitions

Section 7.1 Rules for Words and Phrases

For the purpose of this Ordinance, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word “building” includes the word “structure”; the word “shall” is mandatory/ the word “may” is permissive; the word “used” includes “designed” and “intended or arranged to be used or occupied”; the word “person” includes a firm, association, organization, partnership, trust, foundation, company or corporation, as well as an individual; the word “lot” includes “building lot” or parcel”.

Section 7.2 Interpretation of Definitions

For the purpose of this Ordinance certain words, phrases, and terms used herein shall be interpreted as stated in this Article. Any word, phrase, or term not defined herein shall be defined by the Zoning Administrator, the interpretation based on its common and ordinary usage.

Section 7.3 Definitions

Abutting: Being in actual contact; such as by touching along a property line or at a point. Properties that are separated by a right-of-way may be “adjoining, but not abutting:. Properties separated by an easement shall be considered “abutting”.

Accessory Dwelling Unit (Guest House): A dwelling unit which is subordinate in size to the principal dwelling which is occupied for relatives or guests upon approval of the Board of Aldermen as a Conditional Use in the A or R Zoning Districts.

Accessory Structure: Any detached structure or use which is subordinate or incidental to the main building or dominant use of the lot or premises, excluding driveways, sidewalks and fences.

Adjacent: Either abutting or on opposite sides of a thoroughfare or right-of-way.

Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, DVDs, slides or other visual representations that are characterized by an emphasis upon the depiction or description of “specified sexual activities: or “specified anatomical areas”.

Adult Bookstore: A commercial establishment that, as one of its business purposes, offers for sale or lease for any form of consideration, any one or more of the following: (a) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, DVDS, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”

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or (b) instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

Adult Cabaret: An establishment that regularly features live performances that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”, or films, motion pictures, video cassettes, DVDs, slides, or other visual representations in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Entertainment Establishment: Any adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult video store, or similar establishment which regularly features or depicts behavior which is characterized by the exposure of “specified anatomical areas”, or where any employee, operator, or owner exposes his/her “specified anatomical areas” for viewing by patrons.

Adult Motel: An establishment which includes the word “adult” in any name it uses or otherwise advertises the presentation of adult material offering public accommodations for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, DVDs, slides or other visual representations which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, DVDs, slides or other visual representations are shown and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of “specified sexual activities: or “specified anatomical areas”.

Adult Video Store: A commercial establishment that, as one of its business purposes, offers for sale, rental, or any form of consideration any one or more of the following: (a) photographs, films, motion pictures, video cassettes, DVDs or video reproductions, slides, or other visual representations which depiction or describe “specified sexual activities” or “specified anatomical areas”; and/or (b) instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”.

Agricultural Activity: The use of land for agricultural purposes, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating and/or harvesting, horticulture, floriculture, viticulture, aquiculture, as well as keeping of horses and cattle. For the purpose of this Ordinance does not include commercial poultry husbandry, extraction of minerals, commercial logging, the feeding of collected garbage or offal to swine or other animals or intensive livestock raising, such as commercial feed lots, large batteries of rabbit hutches, or poultry lots or coops.

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Antique Store: A retail business that primarily stocks and sells antique furniture and fine art. Second-hand stores, consignment stores, junk stores and similar businesses do not qualify as an antique store.

Apartment: A dwelling unit located in a multiple family structure or a mixed-use building for occupancy by one family only, either rented or leased to the occupants.

Architect: A professional architect licensed by the State of Mississippi.

As-Built Drawings: Engineer's drawings depicting the infrastructure within a subdivision or onsite.

Assisted Living Facility: A facility which offers non-convalescent nursing care to between five (5) and sixteen (16) individuals by providing a special combination of housing, personalized assistance and limited health care designed to respond to the needs of those requiring assistance with activities of daily living. Such facilities offer private rooms and may include communal dining halls, fitness centers, gift shops, barber/beauty salons, and medical examination rooms.

Automotive Repair Shop: A commercial business that specializes in servicing, repairing, and/or painting of vehicles.

Awning: A professionally manufactured and installed frame attached to a building wall, over which canvas, cloth, plastic or other fabric is stretched to provide shade or cover or to serve as an ornamental feature of the building.

Bank or Financial Business: A business chartered by the State authorized to accept deposits, clear checks, make loans, pay interest on savings and certificates of deposit, issue certified checks to customers and offer other financial services to its customers. Financial institutions shall include: Commercial banks, Savings and Loans, and Credit Unions but shall not include Check Cashing businesses or other types of businesses which only loan money on personal possessions or titles held by the lender.

Beauty or Barber Shop: A commercial establishment where licensed barbers and/or beauticians cut and style hair and sell hair products.

Bed and Breakfast Inn: A building or portion thereof, formerly a single-family dwelling unit, where an owner-operator resides and is paid for lodging in a limited number of guest bedrooms, for specific time periods, with meals provided only to registered guests.

Body Piercing Business: Any business which predominantly specializes in the piercing of body parts and the retail sale of body jewelry.

Building: Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, equipment, goods, or materials.

Building Height: The vertical distance measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the roof.

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Building, Portable: See Portable Building

Building, Structural Alteration of: See Structural Alteration of Building

Canopy for Gasoline Pumps: The structure covering the gasoline pumps at a convenience store, automobile gas station or anywhere fuel dispensing operations are conducted.

Car Wash, Automated: An establishment containing facilities for washing automobiles using a chain conveyor or other method of moving the cars along and which uses automatic or semi-automatic application of cleaner, brushers, rinse water and heat for drying.

Car Wash, Self-Service: A structure hosing coin operated equipment used by the customer to spray wash automobiles and light trucks.

Catering Service: A commercial establishment that prepares, delivers, and serves food for special events and off the premises, in accordance with Monroe County Office of the Mississippi State Department of Health.

Carport: A roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

Cemetery: Property used for the interring of the dead.

Certificate of Zoning Compliance: A letter signed by the Zoning Administrator or his designee, stating that a certain use is legal and build in accordance with this Ordinance.

Change of Use: An alteration or change from a previous use of land, buildings, or structures to another use of land, buildings or structures.

Check Cashing Business: Any person or entity engaged in the business of cashing checks for a fee, service charge or other consideration, including deferred deposit (postdated checks); but not including federal or state-chartered banks, savings and loan associations, credit unions, mortgage brokers, pawnbrokers or insurance companies.

Child Care Facility: A place which provides shelter and personal care for six (6) or more children who are not related to the operator, whether such place be organized or operated for profit or not. Types of Child Care Facilities include nursery day care, after school care of children, kindergartens, and nurseries.

Church or Place of Worship: A non-profit institution that people regularly attend to: participate in or hold religious services, meetings, and related activities. The term *church* shall not carry a secular connotation and shall include buildings in which the religious services of any denomination or recognized religion are held such as synagogues, temples or mosques.

Comprehensive Plan: In accordance with Section 17-1-1 of the Mississippi Code of 1972, Annotated, as Amended, “comprehensive plan” shall be defined as “a statement of public policy for the physical development of the entire municipality – adopted by resolution of the governing body.”

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Community Center, Public: A facility provided by the Town for the use of residents who may schedule or attend cultural, recreational or social activities. Community Centers may have patios, swimming pools, and other outdoor facilities. Senior Centers and Youth Centers are categorized as Community Centers.

Conditional Use: A land use specifically listed as a Conditional Use in a specific zoning district that would not be appropriate in all areas of a particular zoning district, but which, may be appropriate in certain areas and that will in the opinion of the Board of Aldermen promote the public health, safety, morals, or general welfare of the Town and not adversely affect adjacent properties. Conditional Uses may be approved with or without certain restrictions or conditions such as buffering, hours of operation or site restrictions. Approval of a Conditional Use does not change the zoning of the property involved and allows the use to continue as long as the specific use granted by the Conditional Use remains the same and conditions placed on the use continue. Conditional Uses are approved on a site-by-site basis and are not transferrable to another site or location.

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

Construction Plans: The details, drawings and specifications showing the specific location and design of public improvements to be installed in accordance with the requirements of the Town.

Convenience Store: A store of not more than 3,000 square feet of retail sales area, not counting storage, which deals in grocery items of a convenience nature. Such facilities may include gasoline pumps, car washes and minor automotive repair.

Consignment Store: A retail establishment which acquires used merchandise from the individuals and resells such merchandise to other individuals, engaging primarily in used household items and clothing. Does not include pawn shops, used car lots or antique stores.

Day Spa: A facility offering personalized beautification and relaxation treatment by professional licensed personnel and therapists or staff which is open ten (10) or less hours during the daytime. Examples of treatment which may be offered include: body packs and wraps, exfoliation, waxing, aromatherapy, cleansing facial, manicures, and pedicures.

Disabled Persons: Individuals suffering from a permanent condition resulting from a mental or physical impairment that leaves such persons unable to perform a "major life function". (From: Accommodating Disabilities; Business Management Guide, published by the Commerce Clearing House, Inc., 1992; this publication deals with the requirements of the Americans with Disabilities Act).

Driveway: A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

Drug Store: A retail establishment which sells pharmaceutical goods, cosmetics, magazines, limited household goods, and fills prescriptions.

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Dry Cleaning Pick-Up Station: A facility where retail customers drop off or pick up laundry or dry cleaning.

Dumpster: A container that is designed for temporary storage of trash or garbage and which has a housing mechanism that permits it to be raised and dumped into a garbage or sanitation truck.

Dwelling: Any building, or portion thereof, designed and used for human habitation. All dwellings are subject to the provisions of the Building Code adopted by the governing body.

Single-Family Attached: Two or more residential units structurally connected but on separate contiguous lots. Each unit is designed for single-family occupancy, having a front and rear entrance, front and rear yards, carports or garages.

Single-Family Detached: A residential building designed for occupancy by one family located on a single lot or an assembly of contiguous lots.

Two-Family (Duplex): A detached residential building designed to be occupied by two families living independently of each other and which contains separate entrances, yards and complete living quarters including kitchens and bath facilities for each family.

Multiple-Family: Any residential building or portion thereof which is occupied by three or more families living independently of each other. The term “multiple-family dwelling” shall be understood to include apartment houses or “complexes” and condominiums.

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

Educational Building, Church: An accessory building to a church constructed or used for indoor recreational and educational activities for parishioners and guests. Such activities may include basketball courts, cafeterias, classrooms and similar activities. This term shall be used interchangeably with “youth building” or similar terms.

Engineer: A professional engineer licensed by the State of Mississippi.

Façade: The exterior of a building extending the entire width and height of a building elevation.

Family: One person living alone, or two or more persons living together as a single, housekeeping unit, related by blood, marriage, or legal action; or a group of no more than five (5) persons living as a single housekeeping unit.

Fence: A vertical structure having no connection to a roof, typically used to enclose an area, mark a boundary, control access, provide a visual barrier, or form a decorative element in landscaping or architecture. This shall include wire mesh, steel mesh, chain link, louvers, stakes, wood, masonry, concrete, wrought iron, stone, split rails, boards, and similar construction materials.

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Farmers Market, Public: An area or structure set up and operated by the town or their designee that is used on periodic basis used by (1) or more operators of bona fide farms for the sale of agricultural products.

Food Vendors: A temporary commercial business contained in a mobile facility designed to prepare and serve food to customers on a walk-up basis. Such business must be approved by the Board of Health.

Forested Land: Areas predominately covered with trees and woody vegetation which may be deciduous wooded areas and/or wooded areas dominated by pine and other coniferous tree species.

Frontage: Property on one side of a street measured along the line of the street, or in the case of a corner lot or “through lot”, the property on each street measured along the lines of both streets.

Funeral Home: A building used for the preparation of deceased human bodies for burial and ceremonies connected therewith before burial or cremation.

Garage, Private: A fully enclosed portion of a main building or a fully enclosed detached building used primarily for the storage of privately owned automobiles.

General Office: A space, room, building or part of a building that houses administrative, clerical, executive or similar functions for a business, utility or similar use.

Grocery store: A retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises.

"Grandfathered" Uses, Structures and Lots: A term used to describe legal non-conforming uses, structures or lots subject to the requirements of Article VII of this Ordinance.

Health Club or Fitness Center: A commercial use designed and used for physical exercise and sports offering exercise rooms, locker rooms, sauna and whirlpool facilities, and weight training facilities.

Home Occupation: A legally permitted activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

Impervious Surface: A surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, thoroughfares, swimming pools, fountains, sidewalks, tennis courts, and any concrete or asphalt surface.

Improvements: Those physical additions and changes to the land that may be necessary to produce usable and desirable developments including but not limited to driveways, landscaping, thoroughfares and alleys, sidewalks, curbs, gutters, utilities, and stormwater management facilities.

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Independent living facility: Attached dwellings, restricted to occupancy by handicapped persons or persons sixty-two (62) years and older, which may provide common facilities and services, but which are not defined as an assisted living facility.

Industry, Heavy: Those industrial uses which are not fully enclosed and/or which generate substantial amounts of noise, vibration, odors or possess other objectionable characteristics. Industrial uses which require the discharge of by-products or processed waste water through the sewer system.

Industry, Limited (Light): Those industrial uses including manufacturing activities conducted wholly within completely enclosed buildings (except for the temporary storage within adequately screened or buffered areas of articles, materials, or other matter to be processed, assembled or otherwise changed) and other industrial-related activities which do not generate objectionable odors, smoke, fumes, vibration, or excessive noise.

Instructional Studio: Any facility where licensed teachers provide instructions to individuals or groups in dance such as ballet, line dancing, tap dancing; aerobics; swimming, martial arts, or other artistic or athletic activities but not to include health clubs or gymnasiums where sports skills are taught.

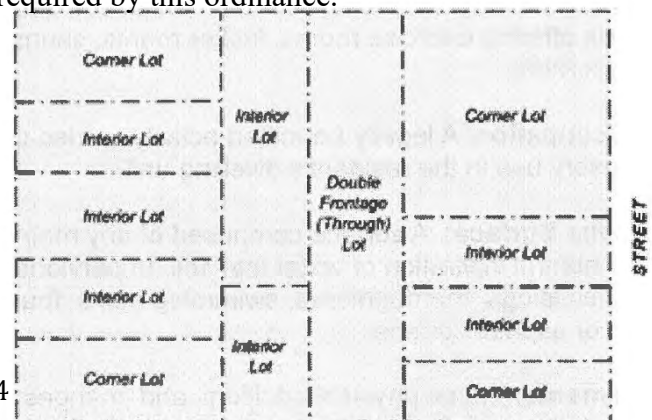
Junk Yard: A place where waste and discharged or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, house dismantling yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment.

Kennel: A facility other than a residence, where four or more dogs or cats, or a combination thereof, are boarded, whether by the owners of the animals or other persons, with or without compensation. A kennel shall be considered a commercial use.

Laundromat: A commercial business equipped with self-service clothes washing and drying machines for use by retail customers.

Lot: A parcel of land at least sufficient size to meet the minimum requirements for use, coverage, and area and to provide such yards and other open spaces as specified in the Zoning Ordinance of the Town of Smithville, Mississippi. A lot shall have frontage on an improved public (dedicated) or private street specifically approved by the Mayor and Board of Aldermen through the site plan or subdivision review process required by this ordinance.

Lot Types



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Lot Area: The total area of a lot included within the boundary lines of a lot.

Lot, Corner: A lot abutting upon two or more streets at their intersections.

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

Lot, Double Frontage: A lot which runs through a block from street to street (i.e., has frontage on more than one street); double frontage lots are also called "through lots".

Lot Frontage: The front of a lot shall be construed to be that dimension of a lot abutting on a street.

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

Lot Lines: The lines bounding a lot as such parcel of land is defined herein.

Lot Line, Front: The property line separating said lot from the street that is parallel to the front building line.

Lot Line, Rear: The property opposite and most distant from the front lot line. In the case of a pointed or irregular lot, it shall be an imaginary line parallel to and farthest from the front lot line.

Lot of Record: A lot which is a part of a subdivision, the map of which is recorded in the office of the Chancery Clerk of Monroe County, Mississippi, or a lot described by metes and bounds, the description of which has been recorded in said office.

Lot Width: The distance from side of lot to side of lot measured at the front minimum building setback line.

Manufactured Home: A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which when erected on site, is a minimum of eighteen feet (18') wide and seven hundred twenty (720) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and which includes plumbing, heating, air conditioning and electrical systems.

Marina: A boat basin, harbor, or dock with facilities for berthing and servicing boats which may include the provision of bait, ice, and fishing tackle and eating establishments.

Medical Clinic: A facility for diagnosis and treatment of medical, chiropractic, dental or psychological outpatients, provided that patients are not kept overnight, and which may be used by one or a group of medical or dental practitioners. These shall be regulated as a commercial use.

Mixed Use Development or Building: A real estate project with planned integration of some combination of retail, office, residential, hotel, recreation or other functions. Such developments maximize space usage, have amenities and architectural expression and tend to mitigate traffic and sprawl with pedestrian-oriented destinations.

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Mobile Home: A manufactured single family dwelling that does not conform to U.S. Department of Housing and Urban Development Code (HUD Code), containing a kitchen and toilet which is designed for transportation after fabrication on streets and highways on its own wheels or on a flatbed to a site where it is to be occupied as a dwelling and at which site it arrived complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, located on a permanent foundation, connection to utilities and the like.

Modular Home: A structure greater than 1,000 square feet, which is transportable in two or more sections; is not designed or equipped with a towing apparatus, chassis, or any other automotive-type frame; is designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; and certified by its manufacturers as being constructed in accordance with a nationally recognized building code; and designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974 nor does it include Cottage Homes.

Nonconformities: Any land, lot, building, structure or parts thereof existing prior to the enactment of this Ordinance, which subsequent to the enactment of this Ordinance or amendment thereto, does not conform with the use regulations and/or dimensional regulations of the district in which it is situated, and/or does not comply with any other requirements herein.

Nursing Home: Those health facilities where persons are housed and furnished with meals and continuing nursing services for a fee.

Nursery, Horticultural: Commercial uses in which flowers and plants are stored and/or cultivated for retail sale and related products are offered for retail sale.

Open Space: Land which is landscaped or left in a natural state intended for natural or scenic preservation and/or passive recreational uses. If located within a planned residential area such areas shall be maintained by a homeowners' or condominium association of all of the residents for recreation, protection of natural features, amenities or buffers; is freely accessible to all residents of the development; and protected by covenant and the provisions of this Ordinance to ensure that it remains in such use.

Outdoor Entertainment: Primarily open areas with facilities for golf driving ranges, baseball batting practice or similar uses.

Park, Public: Land owned by a public entity which is predominately open space and is used for active or passive recreational, scenic or leisure activity. Based on their location, a park may contain one or more of the following: walking trails, playgrounds, picnic facilities, community centers, senior citizen centers, tennis courts or basketball courts. Regional parks for use by the entire town may include lighted outdoor recreational facilities, softball and baseball fields, skateboard facilities and other facilities designed for team recreational use.

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Parking Space: A predetermined area of a specific width, length and size sufficient for the parking of an automobile. For the purposes of this Ordinance, the term "parking space" shall refer only to parking places not located on a public street.

Parsonage: A single-family dwelling for use and occupancy by the preacher, pastor or staff person designated by a church or place of worship. Such houses may be located on the church site.

Pay-Day Loan Business: A state-licensed, commercial establishment providing loans to individuals in exchange for personal checks as collateral.

Pet Grooming Shop: A commercial facility where domesticated dogs are dropped off and picked up daily between the hours of 7 a.m. and 6 p.m. for grooming. Such facilities shall not board animals overnight nor provide outdoor kennels or dog runs.

Permanent Foundation: For the purposes of manufactured housing, this term shall mean any foundation consisting of all of the following: (a) poured in place concrete footings placed below the frost line supporting the manufactured home carriage frame, (b) tie-downs anchored to the footings, (c) skirting comprised of masonry, or other material impervious to rot and infestation, as described by this ordinance, and (d) perimeter footings extending below the frost line to support masonry, wood, or similar skirting.

Planning/Zoning Commission: The duly appointed Planning/Zoning Commission of the Town of Smithville, Mississippi.

Portable Storage Container (POD): A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. The term shall not include yard waste containers. Unless allowed by a Conditional Use permit, no portable storage container shall have dimensions greater than sixteen (16) feet in length, eight (8) feet in width or eight and one-half (8 ½) feet in height.

Principal Structure or Use: The main building(s) or dominant use(s) of a lot.

Professional Office: Space or rooms, clinics, suites, or building used for the conduct of business services such as attorneys, accountants, real estate brokers, insurance agents, architects or engineers. Such uses shall not include funeral homes, massage parlors, body piercing or tattoo locations, or living quarters.

Property Line: The legal boundary line separating buildings or tracts in different ownership.

Public Buildings and Facilities: Any building, structure, system, use, or combination of uses, which is customarily and ordinarily, provided by governmental agencies.

Public Hearing: A meeting which is announced and advertised in accordance with State Statute and conducted by a commission or board of the Town or the Board of Aldermen, in which members of the public have an opportunity to give comments.

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Public Meeting: An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project or plan.

Public Utility: Any City approved water and/or sanitary sewer system, including collection and distribution lines, which is constructed to City standards, sizes, and specifications, conforms to the requirements of this Ordinance, and has been dedicated to and accepted by the City for operation and maintenance and the facilities. Also includes facilities associated with privately-owned utilities that are needed to provide services to private and public uses such as electrical, natural gas, telephone, fiber-optic cable. Does not include a utility substation or transportation facility, buildings which house or contain facilities for the operation of publicly owned or publicly licensed water, wastewater, waste disposal, gas or electricity services. Also does not include recycling and salvage operations.

Real Property: For the purposes of Manufactured Housing, this term shall mean any manufactured home which meets the requirements of MS Code of 1972, as amended, Section 27-53-15 and has been certified by the Monroe County Tax Assessors Office as Real Property, as opposed to Personal Property. Such certification shall remain for the duration the manufactured home is located within the incorporated limits of the Town of Smithville.

Recreational Vehicle (RV): A portable or mobile living unit used for temporary human occupancy away from the place or residence of the occupants. For the purposes of this Ordinance, such transient trailers shall be considered a VEHICLE AND NOT A STRUCTURE. The term "recreational vehicle" or "travel trailer" shall include, "motor homes" and "camping trailers."

Recreational Vehicle Park: A commercial operation where space and service accommodations for transient trailers are provided for a fee on an overnight or daily basis.

Restaurant, General: A commercial establishment where food and beverages are prepared, served and consumed primarily within the principal building, but not including "fast-food restaurants" as defined herein. Restaurants may offer some "carry-out" services where food and beverages are consumed off the premises.

Restaurant, Fast Food: A commercial establishment where food and beverages are prepared and dispensed at either a counter or drive-thru window. Fast food restaurants typically feature food such as hamburgers, hotdogs, sandwiches, trench fries or similar items that can be pre-cooked or prepared quickly for the convenience of the customer.

Retail Business: A commercial business where goods or merchandise is sold to customers for their own personal or household use and including the characteristics of attracting the general public to the place of business, inventorying, selling and receiving merchandise.

Self-Storage Facility:

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Self-storage facility, Limited access. A self-storage facility with limited access points from the exterior of the building to interior halls that provide the only access to individual storage units.

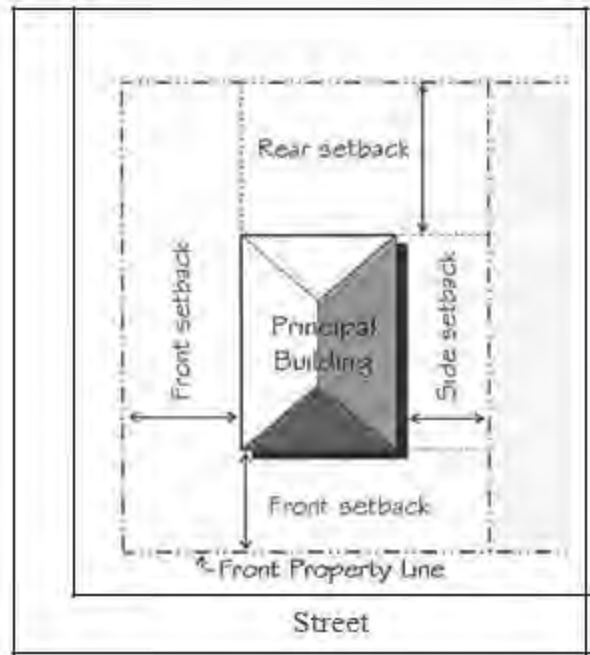
Self-storage facility, Multi-access. A self-storage facility with access points from the exterior of the building(s) to individual storage units.

Service Station: Any area of land, including the structures thereon, that is primarily used for the retail sale of gasoline, diesel fuel, oil or automobile accessories and incidental services. Service Stations may also include other facilities such as convenience store items, food, or fast-food.

School: A state accredited public or private elementary, intermediate, middle, junior high or senior high school but excluding trade or vocational schools and child care facilities.

Screening: The method by which mechanical equipment, refuse and loading areas and other outdoor areas or activities are shielded, concealed, or hidden by fences, walls, hedges or berms.

Setback: The required distance that a building must be located in relation to property lines. In measuring a lot for the purpose of determining the minimum front, side or rear setbacks, the shortest horizontal distance between the lot line and the nearest vertical structure shall be used. Also known as required "required yard."



Setback, Front: The required unoccupied and unobstructed space on the same lot with a main building, extending the full width of the lot, and situated between the front property line and the nearest main building.

Setback, Rear: The required unoccupied and unobstructed space on the same lot with a main building, situated between the rear property line and the nearest portion of the main building, and extending the full width of the lot.

Setback, Side: The required unoccupied and unobstructed space on the same lot with a main building, situated between the side property line and the nearest portion of the main building.

Shopping Center: A group, consisting of three (3) or more commercial establishments, planned, developed and managed as a unit, with off-street parking facilities provided on the property.

Sidewalk: A paved pedestrian walkway located within a public or private street right-of-way.

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Sight triangle, Clear: An area of unobstructed vision at a thoroughfare intersection or driveway defined by the minimum intersection sight distance as required by this Ordinance.

Site Plan: A drawing indicating the location of existing and proposed buildings or other structures, and, where required by this Ordinance, landscaping and planting screens and points of access/egress and driveways on a single lot. A "site plan" differs from a "subdivision plat" in that a subdivision plat reflects certain required information for two or more lots.

Site Plan Review: The process whereby plans for certain proposed developments and/or site plans are reviewed for conformance with this Ordinance and other applicable laws and codes, and either approved, disapproved or amended prior to final approval of the development.

Specified Anatomical Area: Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae, or human male genitals in a discernable turgid state even if completely or opaquely covered.

Specified Sexual Activity: Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; flagellation or torture in the context of a sexual relationship, masochism, erotic or sexually-oriented torture, beating or the infliction of physical pain; erotic touching, fondling or other such contact with an animal by a human being; human excretion, urination, menstruation, vaginal or anal irrigation as a part of or in connection with any activity intended to be viewed by patrons.

Spot Zoning: The improper zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses. While such spot zoning may not be illegal per se, it is generally regarded as an improper practice.

Stand-Alone Building: A structure which is not attached to another structure

Story: That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. For the purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average grade elevation, or when the basement is used for commercial activities

Street: Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel, whether designed as a road, avenue, highway, boulevard, drive, lane, place, or court and which affords the principal means of access to abutting property.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, and fences; but shall not include RVs, driveways, patios, parking lots, or utilities or utility lines.

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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 alterations of any structural part of the building commences.

Swimming Pool: Any pool or open tank having a depth of more than thirty (30) inches which is designed and built for swimming and bathing; however, this definition shall not include spas and hot tubs which are securely covered when not in use by a sturdy insulated top capable of restricting access by children.

Tattoo Parlor: A commercial use which engages in the business of marking or coloring of the skin by pricking in coloring matter or by producing scars, and which is conducted in exchange for financial or other valuable consideration. It does not include tattooing when applied by a licensed dermatologist on premises licensed as a dermatological office.

Telecommunications Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and similar towers.

Title Loan Business: A business that regularly makes either loans to individuals secured by the title to a vehicle or title pledge agreements with pledgors, unless the business or individual is exempt from the definition of "title pledge lender" under Mississippi Code Annotated Section 75- 67-403 (1972), or unless more than ninety (90) percent of the loans that the business makes which are secured by vehicle titles are made in the context of the purchase of the vehicle.

Town: The Town of Smithville, Mississippi.

Trailer: Archaic term sometimes applied to manufactured homes. (See manufactured home").

Trails: Recreation and transportation facilities design and built for use by pedestrians and bikes. For the purpose of this Ordinance shall refer specifically to existing or proposed facilities owned by the Town.

Undeveloped Lot: A vacant lot or parcel of land.

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any nonconforming use.

Used Car Sales Establishment: An establishment that sells previously owned motor vehicle(s).

Variance: A relaxation of the terms of the Zoning 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. However, financial hardship shall not be considered

ZONING ORDINANCE

justification for granting a variance. The criteria for issuance of a variance are found in Article VII of this Ordinance. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use not permitted 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 district.

Vehicle: Any device for carrying passengers, goods, or equipment, usually moving on wheels. This definition does not include manufactured homes, which are considered structures for the purposes of this Ordinance.

Veterinary Clinic: A facility where sick or injured animals are given medical or surgical care and, in the course of same, may be housed overnight, fed, and provided related services.

Vocational School: (Trade School and Business College): A privately owned instructional facility with limited curriculum which offers a course of study of two years (2) years of less and prepares adults for specific types of jobs such as secretarial, medical transcription, paralegal, computer programming, data entry, legal transcription, beauty or barber or other types of trades. Such schools must meet state requirements for a vocational facility.

Yard (or "Minimum Yard" or "Setback"): The required open space between any main building or portion thereof and the adjoining lot lines, WHICH SHALL REMAIN UNOCCUPIED AND UNOBSTRUCTED BY ANY PORTION OF A STRUCTURE, except as otherwise specifically provided herein.

Wholesale Establishment: Any establishment which exclusively sells goods in large quantities, as for resale by a retailer.

Zoning Administrator: The official or consultant charged by the Mayor and Board of Aldermen with the administration and enforcement of this Zoning Ordinance, or his duly authorized representative.

Zoning District: Any section or sections of the Town of Smithville for which regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are established by this Ordinance.

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Appendix A: Required Fees and Deadlines for Submittal

Table No. 12: Applications Required, Fees and Deadlines			
Application For:	Fee	Application Form	Deadline
Conditional Use	\$100	Conditional Use and Site Plan Application	22 days prior to Planning Commission Meeting
Site Plan Review	\$150*	Site Plan Application	22 days prior to Planning Commission Meeting
Variance	\$100	Variance Application	22 days prior to Planning Commission Meeting
Zoning Map Change (Rezoning)	\$150	Rezoning Application	22 days prior to Planning Commission Meeting
Appeal of Administrative Decision	\$25	Request for Appeal of Administrative Decision	Within 10 days after decision

* - Upon approval of the Site Plan, the site plan review fee shall be refunded to the property owner or developer as credit towards required building permits.