

ARTICLE XXVI

ADMINISTRATION AND ENFORCEMENT

SECTION 2600 - PURPOSE OF THIS ARTICLE

It is the purpose of this Article to prescribe the legal devices and procedures for administering and enforcing this Ordinance and to define the duties, powers, limitations and scope of jurisdiction for the various persons and groups which are concerned with the administration and enforcement of this Ordinance.

SECTION 2601 - DUTIES, POWERS, AND LIMITATION OF POWERS OF THE ZONING ADMINISTRATOR IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE

2601.01 Duties of the Zoning Administrator:

- A. Coordinate all matters relating to this Ordinance with, as appropriate, other County officials.
- B. Provide information to the public on matters relating to zoning.
- C. Provide application forms to the public on matters relating to zoning.
- D. Maintain, or be responsible for, the maintenance of the Official Zoning Map.
- E. Review all building permit applications and plot diagrams as they relate to this Ordinance.
- F. Receive and take appropriate action on all applications for dimensional variances, conditional use permits (special exceptions), and zoning amendments (rezoning).
- G. Receive and take appropriate action on *all site plans* submitted in accordance with Sections 2607 through 2610 of this Ordinance and the forwarding copies of site plans and associated materials to the proper individuals or bodies.
- H. Check construction (or use conversion) performed under zoning-related permits to determine if the work (or use conversion) meets the requirements of this Ordinance before issuing a *certificate of occupancy*. An example of a use conversion would be a change from an allowed land use (with only minor construction) in the same building to one that is not allowed in that district.
- I. Clear with other local, Madison County, state, or Federal agencies where such clearance is necessary in connection with zoning matters.

- J. Appear before the Planning/Zoning Commission and the Board of Supervisors to furnish information helpful to those bodies in carrying out their assigned functions.
- K. Make periodic checks for violations or investigate written complaints of violations of this Ordinance and notify IN WRITING the person(s) responsible for violations of the Ordinance, indicating the nature of the violation and ordering the action necessary to correct it. Notice to such violators shall be by registered or certified mail.
- L. Report uncorrected violations to the Board of Supervisors and recommend action to prevent or halt violations of this Ordinance.
- M. Advertise public hearings as required by this Ordinance. (Note: The Zoning Administrator may simply notify the County Clerk that advertisement of a public hearing is needed, and the County Clerk may actually transmit the required notice to the appropriate newspaper or newspapers).
- N. Keep records pertaining to zoning matters.
- O. Attend Planning/Zoning Commission meetings as needed but especially when site plans are to be reviewed.
- P. Provide administrative interpretation as provided in Subsection 2601.02.

2601.02 Administrative Interpretation by the Zoning Administrator: In the event there is a question as to the general intent or specific meaning of any provision of the Zoning Ordinance text, or of the boundaries or district designations or other matters relating to the Official Zoning Map, the Zoning Administrator shall have the power to make such administrative decisions and interpretation. Such decisions or interpretations shall be made in writing by the Zoning Administrator.

- A. Limitation of Powers: Said administrative interpretation shall in no manner be construed to include, or used in any way which would permit, the granting of a conditional use permit (special exception), dimensional variance, or zoning amendment (either an amendment to the zoning text or a district re-classification -- that is, the rezoning of any land), the provisions for which use are given elsewhere in this Ordinance.
- B. Appeals from the Administrative Interpretation by the Zoning Administrator: Appeals from said administrative interpretation shall be made as provided in Subsection 2613.01 of this Ordinance.
- C. Administrative Interpretation by the Zoning Administrator shall not be used in matters which the Zoning Administrator has personal financial interest or personal gain is involved.

SECTION 2602 - DUTIES AND RULES OF CONDUCT OF THE MADISON COUNTY ANNING COMMISSION

The Madison County Planning Commission shall have the duties and responsibilities of a local Planning/Zoning Commission pursuant to Section 17-1-11 of the **Mississippi Code of 1972**, Annotated, As Amended.

2602.01 Duties of the Planning Commission: The Commission's duties with regard to this Ordinance shall include, but not be limited to:

A. The Planning Commission shall hold *all public hearings* on all matters relating to this Ordinance which require such hearings (except appeals to the Board of Supervisors), including:

-applications for dimensional variances;

-applications for special exceptions (conditional use permits);

-applications for amendments to the Official Zoning Map (i.e., applications for rezoning);

-proposed amendments to the text of this Ordinance.

B. The Planning Commission shall review all *site plans* (i.e., plans for the development of a SINGLE lot, as opposed to a subdivision plat involving the development of two or more lots) where such plans are required under Section 2607 of this Ordinance.

C. The Commission shall review all *development plans* (i.e., a drawing or set of drawings depicting the ultimate layout of a large tract of land, usually involving varying lot sizes and/or different proposed land uses).

SECTION 2603 - DUTIES OF THE BOARD OF SUPERVISORS IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE

The Board of Supervisors of the Madison County shall have the final authority with regard to all matters involving this Zoning Ordinance. The duties of the Board of Supervisors shall include, but not necessarily be limited to:

A. Hear appeals on decisions of the Planning Commission.

B. Appointing the members of the Planning Commission.

No Supervisor shall participate in the hearing of the singular item nor vote on any matter before the Board of Supervisors in which he has a personal financial interest.

SECTION 2604 - DIMENSIONAL VARIANCES

Where the strict application of this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional hardship upon the owner of such property, the Planning Commission shall conduct a public hearing on applications for dimensional variances, and is empowered to grant approval of such dimensional variances from the strict application so as to relieve such difficulties or hardships. Examples of such difficulties or hardships include exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of this Ordinance; or by reason of the location of trees, natural drainage course, lakes, or other desirable or attractive features, which condition is not generally prevalent in the neighborhood.

2604.01 Requirements for Granting Variances: Any person desiring a dimensional variance from the terms of this Ordinance shall submit a written application (on a form furnished by the Zoning Administrator) demonstrating compliance with ALL of the following. *The applicant shall complete the application and provide eight copies to the Zoning Administrator. Applications shall be submitted by the 1st day of the month preceding the next regular meeting of the Planning Commission at which the application is to be reviewed, or it will not be placed on the Planning Commission agenda for that meeting.*

A variance shall not be granted unless the applicant demonstrates:

- A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district.
- B. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- C. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same zoning district.

2604.02 Existence of Non-Conforming Uses Not Grounds for Variance: The existence of non-conforming uses of neighboring lands, structures, or buildings in the same zoning district shall not be considered grounds for granting a variance. Furthermore, the existence of permitted or non-conforming use of lands, structures, or buildings in other districts shall not be considered grounds for issuance of a variance.

2604.03 When a Site Plan Shall Be Required: If the Zoning Administrator feels that more information is needed than is included on the plot diagram submitted with an application for a building permit, then a site plan shall be submitted with an application for a dimensional variance.

2604.04 Public Hearing Required: A public hearing shall be held in accordance with Section 2611 of this Ordinance for all proposed dimensional variances.

2604.05 Public Hearing Before Board of Supervisors Unnecessary Unless Requested by Aggrieved Party: Following a public hearing held before the Planning Commission on a proposed dimensional variance, it shall NOT be necessary to hold another hearing on the proposed variance. The Board of Supervisors may act upon the recommendation of the Planning/Zoning Commission. Any party aggrieved by the recommendation of the Planning Commission shall be entitled to a public hearing before the Board of Supervisors, with due notice thereof as provided under Section 2611 of this Ordinance. An aggrieved party may be anyone who takes exception with the recommendation made by a majority of a quorum of the Commission. **SUCH A HEARING SHALL BE PROVIDED ONLY IF THE AGGRIEVED PARTY FILES A WRITTEN REQUEST WITH THE ZONING ADMINISTRATOR *WITHIN FIFTEEN (15) DAYS OF THE VOTE OF THE COMMISSION ON THE RECOMMENDATION AS PROVIDED UNDER SECTION 2613.02.***

2604.06 Required Findings: No variance shall be issued until the Planning Commission has made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance constitutes the minimum allowable deviation from the dimensional regulations of this Ordinance in order to make possible the responsible use of the land, building or structures. Furthermore, no variance shall be granted until the Planning/Zoning Commission has made a finding that the granting of the dimensional variance will be in harmony with the general purpose and intent of this Ordinance, and that the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

2604.07 Conditions and Safeguards May Be Prescribed with Dimensional Variance: In granting any dimensional variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 2614 of this Ordinance.

If such conditions and safeguards are imposed by the Planning Commission or Board of Supervisors in granting a variance, the applicant shall be required to *sign an agreement* whereby he/she accepts those conditions and safeguards (which shall be specified in the agreement). This instrument shall be in a form recordable in public land records.

2604.08 Granting of a "Use Variance" Prohibited: Under no circumstances shall the Planning Commission or the Board of Supervisors issue a variance to allow a use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

SECTION 2605 - SPECIAL EXCEPTIONS (CONDITIONAL USE PERMITS)

The Planning Commission is empowered to hear and decide whether or not proposed special exceptions (conditional uses) authorized under this Ordinance should be granted.

2605.01 Requirements for Granting a Special Exception (or Conditional Use Permit): Any person desiring a special exception shall submit a written application (on a form furnished by the Zoning Administrator) indicating the Section in the Ordinance under which the conditional use is sought and stating the grounds on which it is requested. ***The applicant shall complete the application and provide eight (8) copies to the Zoning Administrator. Applications shall be submitted by the 1st day of the month preceding the next regular meeting of the Planning Commission at which the application is to be reviewed, or it will not be placed on the Planning Commission agenda for that meeting.***

The Planning Commission shall not grant a special exception unless satisfactory provision and arrangement has been made concerning ALL of the following:

- A. Ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- B. Off-street parking and loading areas.
- C. Refuse and service areas.
- D. Utilities, with reference to locations, availability, and compatibility.
- E. Screening and buffering with reference to type, dimensions, and character.
- F. Required yards and other open space.
- G. ***General compatibility with adjacent properties*** and other property in the district.
- H. Any other provisions deemed applicable by the Planning/Zoning Commission or the Board of Supervisors.

2605.02 Demonstration of Change in Character of Neighborhood and Public Need Not Required: Unlike applications for changes in the Official Zoning Map (that is, a rezoning-see Section 2606.03 B), it shall not be necessary for an applicant for a special exception to demonstrate that the character of the neighborhood has changed to such an extent to justify granting the special exception or that there is a public need for the exception.

2605.03 Site Plan Required: Every applicant for a special exception (conditional use permit) shall submit a site plan in accordance with Sections 2607 through 2610 of this Ordinance.

2605.04 Public Hearing Required: A public hearing shall be held in accordance with Section 2611 of this Ordinance for all proposed special exceptions.

2605.05 Public Hearing Before Board of Supervisors Unnecessary Unless Requested by Aggrieved Party: Following a public hearing held before the Planning Commission on a proposed special exception, it shall NOT be necessary to hold another hearing on the proposed special exception. The Board of Supervisors may act upon the recommendation of the Planning/Zoning Commission. Any party aggrieved by the recommendation of the Planning Commission shall be entitled to a public hearing before the Board of Supervisors, with due notice thereof as provided under Section 2611 of this Ordinance. An aggrieved party may be anyone who takes exception with the recommendation made by a majority of a quorum of the Commission. **SUCH A HEARING SHALL BE PROVIDED ONLY IF THE AGGRIEVED PARTY FILES A WRITTEN REQUEST WITH THE ZONING ADMINISTRATOR *WITHIN FIFTEEN (15) DAYS OF THE VOTE OF THE COMMISSION ON THE RECOMMENDATION AS PROVIDED UNDER SECTION 2613.02.***

SECTION 2606 - AMENDMENTS TO THE ZONING ORDINANCE TEXT OR THE OFFICIAL ZONING MAP (REZONING)

2606.01 Type of Amendments/Application Required: Amendments to this Ordinance include: (1) amendments to the text; and (2) amendments to the Official Zoning Map, which is legally a part of this Ordinance. Any person may initiate an amendment to this Ordinance by filing an application with the Zoning Administrator (on a form furnished by him/her). *The applicant shall complete the application and provide eight (8) copies to the Zoning Administrator. Applications shall be submitted by the 1st day of the month preceding the next regular meeting of the Planning Commission at which the application is to be reviewed, or it will not be placed on the Planning Commission agenda for that meeting. All applications for rezoning shall be accompanied by a legal property description in digital form.*

2606.02 Site Plan Required: If a specific use is identified by the applicant for a rezoning (i.e., a proposed amendment to the Official Zoning Map), then the application for rezoning shall be accompanied by a site plan prepared in accordance with Sections 2208 and 2209 of this Ordinance.

2606.03 Criteria for Rezoning: No amendment to the Official Zoning Map shall be approved unless the proposed rezoning meets one of the following criteria:

- A. That there was a mistake in the original zoning "Mistake" in this context shall refer to a clerical or administrative error, such as a mistake of draftsmanship on

the Official Zoning Map or incorrectly reflecting the Planning Commission's decision in the minutes. "Mistake" DOES NOT mean that the Planning/Zoning Commission or the Board of Supervisors made a mistake in judgment in their prior zoning, such as not realizing the full import of the zoning classification or mistakenly placing the property in one classification when the evidence indicated that another would have been more appropriate.

- B. That the character of the neighborhood has changed to such an extent as to justify reclassification, AND that there is a PUBLIC NEED for the rezoning.

2606.04 Proposed Rezoning Shall Be Consistent with Adopted Comprehensive Plan: Section 17-1-9 of the Mississippi Code of 1972, As Amended, requires that "*zoning regulations shall be made in accordance with a comprehensive plan*---." Accordingly, no amendment to the Official Zoning Map shall be approved by the Planning Commission unless the proposed rezoning is consistent with all four elements of the adopted Comprehensive Plan of the Madison County, including the Goals and Objectives, the Land Use Plan, the Transportation Plan, and the Community Facilities Plan.

2606.05 Public Hearing Required: In accordance with Section 17-1-17 of the **Mississippi Code of 1972**, As Amended, a public hearing shall be held on any proposed amendment to the text of this Ordinance or the Official Zoning Map following at least fifteen days notice of the hearing in "---an official paper or a paper of general circulation in such municipality ---specifying the time, place and date of said hearing." The hearing shall be held in accordance with Section 2611 of this Ordinance.

2606.06 Public Hearing Before Board of Supervisors Unnecessary Unless Requested by Aggrieved Party: Following a public hearing held before the Planning Commission on a proposed amendment to this Ordinance (either an amendment to the text or Official Zoning Map), it shall NOT be necessary to hold another hearing on the proposed amendment. The Board of Supervisors may act upon the recommendation of the Planning/Zoning Commission. Any party aggrieved by the recommendation of the Planning Commission SHALL be entitled to a public hearing before the Board of Supervisors, with due notice thereof as provided under Section 2611 of this Ordinance. An aggrieved party may be anyone who takes exception with the recommendation made by a majority of a quorum of the Commission. Such a hearing shall **be provided ONLY IF THE AGGRIEVED PARTY FILES A WRITTEN REQUEST WITH THE ZONING ADMINISTRATOR WITHIN FIFTEEN (15) DAYS OF THE VOTE OF THE COMMISSION ON THE RECOMMENDATION AS PROVIDED UNDER SECTION 2613.02.**

2606.07 Two-Thirds Vote of Board of Supervisors Necessary to Approve Rezoning Under Certain Circumstances: In case of a protest against a proposed rezoning signed by twenty percent (20%) or more of the property owners, either within the area of the proposed rezoning or those within 300 feet (excluding the rights-of-way of streets or highways) of the property proposed for rezoning, such amendment shall not become

effective except by the favorable vote of two-thirds of all members (members present at the meeting) of the Board of Supervisors.

2606.09 Res Judicata: Upon the submission of an application for a rezoning, and a determination by the Planning Commission that said application should be denied, the Planning Commission shall not accept a subsequent application to rezone the *same property* or any part thereof to the same classification until the expiration of one (1) year from the date of the decision of the Board denying said application. This is known as the *doctrine of res judicata*. However, if the application relates to the same property but seeks zoning to a different classification, the doctrine does not apply; and the Planning/Zoning Commission may consider such a proposed rezoning.

2606.10 Ordinance Amending Zoning Ordinance Text or Official Zoning Map Required: No amendment to the Official Zoning Map or the text of this Ordinance shall become effective until an Ordinance amending same has been passed by the Board of Supervisors. Any ordinance amending the Official Zoning Map shall contain findings of fact citing evidence demonstrating compliance with the criteria specified under Section 2606.03 of this Ordinance.

2606.11 Effective Date of Ordinances Amending the Text of this Zoning Ordinance or Official Zoning Map: The effective date of ordinances amending the text of this Zoning Ordinance or the Official Zoning Map shall be in accordance with Mississippi law.

SECTION 2607 - SITE PLAN REVIEW: PURPOSES AND WHEN REQUIRED

2607.01 Purposes: The purposes of site plan review are: to promote the health, safety and general welfare of the County; to insure that structures are built in accordance with the provisions of this Ordinance and the Standard Building Code; to conserve the value of existing buildings and structures; to prevent excessive dissimilarity and inappropriateness or poor quality of design in the exterior appearance of structures; to prohibit unsightly and unsuitable structures that would be out of harmony or incongruent with existing visual features within the district; and to prevent harm and damage to the County which will result from the absence of such review and manifest itself by:

- (i) lower property values;
- (ii) decreased economic growth; or
- (iii) diminished future opportunities for land use and development.

2607.02 When Site Plan Review Is Required: Site Plan Review shall be required for the following:

- A. All new, expanded, relocated or reconstructed *principal* (i.e., not accessory) buildings or structures in all zoning districts, *other than single-family detached*

*dwelling*s. The specific use of such principal buildings does not have to be identified on the site plan. New, expanded, relocated, or reconstructed *accessory buildings* or structures shall only require site plan review when such review is determined advisable by the Zoning Administrator.

- B. If the Zoning Administrator determines that more information is needed than is included on the plot diagram submitted with an application for a building permit, then a site plan shall be submitted with an application for a dimensional variance.
- C. ALL applications for conditional uses.
- D. ALL public/quasi-public utilities and facilities. In accordance with Section 402, such public/quasi-public utilities and facilities shall be allowed only as conditional uses in any district.
- E. If a specific use is identified by the applicant for a rezoning (i.e., a proposed amendment to the Official Zoning Map), then the application shall be accompanied by a site plan.
- F. ALL proposed floodway modifications.
- G. All proposed off-site parking (i.e., off-street parking proposed on a lot other than the one to which the parking is appurtenant) in any district.

SECTION 2608 - SITE PLAN REVIEW PROCEDURES

The Zoning Administrator shall act as the coordinator for the site plan review process. He shall advise all applicants for building permits if the proposed use requires the preparation and submission of a site plan and the official approval of that plan prior to the issuance of the permit. All applicants shall follow the procedures specified below:

2608.01 **Sketch Plan:** Prior to filing of an application for approval of a site plan, the applicant should meet and consult informally with the Zoning Administrator. This meeting will give the applicant an opportunity to secure guidance as to what will probably be required before incurring great expense in making a detailed site plan.

2608.02 **Submission of Site Plan:** *Eight (8) copies of each site plan shall be prepared and submitted to the Zoning Administrator.*

Site plans shall be submitted by the 15th day of the month preceding the next regular meeting of the Planning Commission at which the plan is to be reviewed, or it will not be placed on the Planning Commission agenda for that meeting.

The Zoning Administrator shall notify the applicant of any deficiencies or omissions in

the site plan. The site plan shall not be processed until all required data is provided as prescribed in Section 2609 of this Ordinance.

2608.03 Applicant Must Be Represented at Planning Commission and Board of Supervisors Meetings: Applicants (or their designated representative) for site plan approval shall be present at meetings of the Planning Commission and Board of Supervisors when their proposed site plan is to be reviewed, or no action will be taken by those bodies.

The Planning Commission shall review the site plan and data at its/ their next regular meeting following submission of same to the Zoning Administrator. THE ZONING ADMINISTRATOR (OR HIS DESIGNATED REPRESENTATIVE) SHALL BE PRESENT AT THE PLANNING COMMISSION AND/OR THE BOARD OF SUPERVISOR MEETINGS.

The purpose of this review is to ascertain whether or not the applicant's proposed building or structure conforms with this Ordinance and other applicable laws, will maintain harmony and continuity with similar existing uses within the district and considering other like structures *within 500 feet of the proposed structure* as measured from each lot line of the proposed structure excluding streets, alleys, and other public rights-of-way.

After reviewing all information relative to the site plan, the Planning Commission may approve or disapprove the site plan or before approval, may request the applicant to modify, alter, adjust or otherwise amend the plan. If the Planning Commission determines that the proposed structure is excessively dissimilar and makes a specific finding that the structure as proposed would provoke one or more of the harmful effects as set forth in 2207.01, and that such finding is not based upon personal preferences as to taste or architectural style or design, then the application for a building permit shall be denied. If the site plan is recommended by the Planning Commission for approval, such recommendation for approval shall be contingent upon final review and approval by the Board of Supervisors.

In any case, the Planning Commission shall make a written statement of its findings (in the form of Minutes) and said statement shall be forwarded to the Zoning Administrator in time for copies of the statement to be available for distribution to the Board of Supervisors at the next meeting of that body following the Planning Commission meeting.

2608.05 Approval of Site Plan by Board of Supervisors: The Zoning Administrator shall forward the recommendation of the Planning Commission to the Board of Supervisors. The Board of Supervisors shall consider whether or not the applicant's proposed building or structure will conform with the provisions of this Ordinance and other applicable laws, and *whether or not it will maintain harmony and continuity with similar existing uses within the district and considering other like structures within 500 feet of the proposed structure as measured from each lot line of the proposed*

structure (excluding streets, alleys, and other public rights-of-way). If the Board of Supervisors determine that such structure would cause or provoke one or more of the harmful effects as set forth in 2607.01, and that such finding is not based upon personal preferences to taste or architectural style or design, then the application for a building permit shall be denied.

If the Board of Supervisors approves the site plan, such action by the Board of Supervisors shall constitute final approval and authority for the developer to proceed with the proposed development subject to the issuance of a building permit. Following such approval by the Board of Supervisors, the Zoning Administrator shall stamp copies of the site plan "APPROVED," sign them, and return one copy to the applicant. One copy shall be retained by the Zoning Administrator in his files.

2608.06 Site Plan Becomes Zoning Requirements for Proposed Use: The approved site plan shall become the zoning requirements for the property involved. All construction, except for minor adjustments provided under Section 2208.07 below, shall be consistent with the approved site plan.

2608.07 Minor Adjustments to the Approved Site Plan: After the final site plan has been approved, minor adjustments to the plan which comply with the spirit of the Zoning Ordinance and the intent of the Board of Supervisors in approving the site plan may be authorized by the Zoning Administrator as provided under Sub-section 2601.02.

2608.08 As-Built Plans: In the case where exact lot lines cannot be drawn until after construction, (e.g., townhouse subdivisions) the builder shall submit "as-built plans" of the development following construction.

SECTION 2609 - SPECIFICATIONS FOR ALL REQUIRED SITE PLANS AND ELEVATIONS

2609.01 Site Plan Specifications: The following data shall be supplied by the applicant in connection with required site plans:

1. Lot lines (property lines).
2. The zoning of adjacent lots.
3. The names of owners of adjacent lots.
4. Rights-of-way of existing and proposed streets, including streets shown on the adopted Thoroughfares Plan.
5. ACCESS WAYS, curb cuts, driveways and parking (including number of parking spaces to be provided) and loading areas.

6. All existing and proposed easements.
7. On request by the Zoning Administrator, all existing and proposed water and sanitary sewer lines; also, the location of all existing and proposed fire hydrants.
8. On request by the Zoning Administrator, a drainage plan showing all existing and proposed storm drainage facilities. The drainage plan shall indicate adjacent off-site drainage courses and projected storm water flow rates from off-site and on-site sources.
9. On request by the Zoning Administrator, contours at vertical intervals of five (5) feet or less.
10. Floodplain zone designations according to maps prepared by the Federal Emergency Management Agency, Federal Insurance Administration, and any proposed floodway modifications.
11. Landscaped areas and planting screens.
12. Building lines and the location of all structures, existing and proposed.
13. Proposed uses of the land and buildings, if known.
14. Open space and recreation areas, when required.
15. Area (in square feet and/or acres) of parcel.
16. Proposed gross lot coverage in square feet (i.e., that portion of a lot occupied by buildings and structures).
17. Number and type of dwelling units (where proposed).
18. Location of sign structures and drawings, etc. in accordance with Section 2101 of this Ordinance.
19. A "development plan" (see Section 2609.04) when staging of development is proposed.
20. Any additional data necessary to allow for a thorough evaluation of the proposed use.

2609.02 Elevations and Associated Data Required: In addition to the data required above for site plans, the developer shall submit the following drawings (elevations) and associated data where site plans are required by this Ordinance:

1. Proposed elevations indicating the general design, style, and architecture of the building or structure.
2. Proposed materials and color schemes to be utilized in the construction of the exterior of buildings and structures.
3. Number of stories and total square feet, including a notation as to the square footage on each floor or level.
4. Proposed height in feet.

2609.03 Other Exhibits: Photographs, renderings, color slides, models and similar items may be presented by the applicant at his discretion.

2609.04 Staging of Development Requires Development Plan: Where a developer proposes to construct a particular land use requiring site plan review under this Ordinance by stages, (e.g., PUD's, large multi-family developments, large commercial developments, etc.), sufficient data shall be provided in a development plan (sometimes referred to as a sketch plat or master plan) to indicate such staging by numbers and types of buildings or structures proposed for each stage, the general area to be developed in each stage and related information. The general concept presented in the development Plan shall be adhered to as much as possible by developers. *Significant deviations from the development plan initially approved shall require approval by the Board of Supervisors.*

SECTION 2610 - CRITERIA FOR SITE PLAN REVIEW

Criteria for site plan review shall include, but not necessarily be limited to, consideration of the components specified below:

2610.01 Consistency with Adopted Land Use Plan and Zoning Ordinance: The proposed site plan shall be consistent with adopted Land Use Plan and Zoning Ordinance (including the Official Zoning Map).

2610.02 Vehicular Traffic Circulation and Parking: The following aspects of vehicular traffic circulation and parking shall be reviewed:

- Is the site plan consistent with the adopted Thoroughfares Plan?: Are the developer's plans for any new streets that will traverse the site consistent with proposed alignment and right-of-way/ surface width requirements indicated on the adopted Thoroughfares Plan? Do the developer's planned setbacks for buildings and structures consider the proposed widening of existing streets and highways reflected on the adopted Thoroughfares Plan? If the proposed development will abut an unpaved street, are the developer's plans for paving that street consistent with the right-of-way/ surface width specifications shown in the adopted Thoroughfares Plan?

- Street network capacity: Is the street system in the vicinity capable of carrying traffic generated by the proposed development, according to traffic projections developed by the County Engineer or consultant?
- Traffic engineering operation of adjacent streets: What traffic control devices are needed on adjacent streets?
- Compliance with Article XIX (Off-Street Parking, Loading, and Access Requirements)
- Are proposed freight delivery areas separated from customer access in commercial and industrial developments?

2610.03 Utilities: The following shall be evaluated with regard to utilities:

- Water and sewer system capacity and oversizing (future) needs
- On-site and off-site drainage requirements, including retention ponds
- Are underground utilities required on the site?
- Are garbage disposal facilities enclosed in accordance with Section 406.06 of this Ordinance?

2610.04 Open Space, Landscaping, and Screening Requirements:

- If the proposed development is residential and will abut the railroad tracks, is the *100-foot railroad setback* required under Section 401.06 indicated on the site plan?
- Perimeter Landscaping: Does the site plan indicate the required 10-foot landscape strip along any abutting arterial streets?
- Open Space/Recreational Facilities: Are open space/recreational facilities proposed for an apartment/condominium complex shown on the site plan?
- Preservation of Vegetation: Does the site plan propose the preservation of trees and other vegetation as much as possible?
- Is proper use made of floodplains on the site? For example, for open space or passive recreational areas.

2610.05 Fire Safety:

- Are fire hydrants shown on the site plan and properly located to ensure fire protection for all structures?

- Are there at least two points of access/egress for apartment or condominium complexes, office parks, shopping centers, industrial parks, etc. to provide access for fire equipment and to provide for evacuation when necessary?
- Are buildings spaced in accordance with this Ordinance to prevent spread of fires?

2610.06 Signs:

- Do the proposed signs comply with Article XXV of this Ordinance?

2610.07 Elevations:

- Will the proposed structures maintain harmony and continuity with similar existing uses within the district and considering other like structures within 500 feet of the proposed structure as measured from each lot line of the proposed structure (excluding streets, alleys and other public rights of way).
- Are the proposed structures incongruent or inharmonious in such a manner as to cause or provoke one or more of the following: lower property values; decreased economic growth; or diminished future opportunities for land use and development.

SECTION 2611 - PUBLIC HEARING NOTICES AND PROCEDURES

In accordance with the provisions previously established in this Ordinance, public hearings shall be conducted by the Planning Commission on the following matters:

- A. All dimensional variances.
- B. All conditional uses.
- C. All amendments to the text of the Zoning Ordinance or amendments to the Official Zoning Map (i.e., rezoning).

2611.01 Public Hearing Notice in a Newspaper Required: Whenever a public hearing is required by this Ordinance, notice of such hearing shall be given by publishing a notice to all interested persons one time at least fifteen days prior to the date fixed for said hearing, such notice to be published in an official paper or newspaper of general circulation in the Madison County, specifying the date, time and place for said hearing. *Such notices shall be published in accordance with the following format or a format determined by the Board of Supervisors:*

A. For Dimensional Variances:

NOTICE OF ZONING HEARING

NOTICE IS HEREBY GIVEN TO THOSE PARTIES IN INTEREST THAT THERE WILL BE A HEARING ON (Date), AT (Time), AT THE _____, MADISON COUNTY, MISSISSIPPI, FOR THE PURPOSE OF DETERMINING WHETHER OR NOT A DIMENSIONAL VARIANCE SHALL BE GRANTED TO THE OWNERS OF THE FOLLOWING DESCRIBED PROPERTY LOCATED IN THE MADISON COUNTY, MISSISSIPPI:

(Insert Property Description Here)

APPROVED:

President of the Board of Supervisors's Signature

ATTEST:

Chancery Clerk's Signature

DATE _____

B. Conditional Use Permits:

NOTICE OF ZONING HEARING

NOTICE IS HEREBY GIVEN TO THOSE PARTIES IN INTEREST THAT THERE WILL BE A HEARING ON (Date), at (Time), AT THE _____, MADISON COUNTY, MISSISSIPPI, FOR THE PURPOSE OF DETERMINING WHETHER OR NOT A CONDITIONAL USE SHALL BE ALLOWED ON THE FOLLOWING DESCRIBED PROPERTY LOCATED IN THE MADISON COUNTY, MISSISSIPPI:

(Insert Property Description Here)

APPROVED:

President of the Board of Supervisors's Signature

ATTEST:

Chancery Clerk's Signature

DATE: _____

C. For an Amendment to the Official Zoning Map (or a rezoning):

NOTICE OF ZONING HEARING

NOTICE IS HEREBY GIVEN TO THOSE PARTIES IN INTEREST THAT THERE WILL BE A HEARING ON (Date), AT (Time), AT THE _____, MADISON COUNTY, MISSISSIPPI, FOR THE PURPOSE OF DETERMINING WHETHER OR NOT THE ZONING OF THE FOLLOWING DESCRIBED PROPERTY LOCATED IN THE MADISON COUNTY, MISSISSIPPI, SHALL BE CHANGED FROM (Insert existing zoning classification) TO (Insert proposed zoning classification):

(Insert Property Description Here)

APPROVED:

President of the Board of Supervisors's Signature

ATTEST:

Chancery Clerk's Signature

DATE: _____

D. For an Amendment to the Text of the Zoning Ordinance:

NOTICE OF ZONING HEARING

NOTICE IS HEREBY GIVEN TO THOSE PARTIES IN INTEREST THAT THERE WILL BE A HEARING ON (Date), AT (Time), AT THE _____, MADISON COUNTY, MISSISSIPPI, FOR THE PURPOSE OF DETERMINING WHETHER OR NOT THE FOLLOWING AMENDMENTS SHALL BE MADE TO THE ZONING ORDINANCE OF THE Madison County, MISSISSIPPI:

(Insert Proposed Amendments to the Zoning Ordinance Here)

APPROVED:

President of the Board of Supervisors's Signature

ATTEST:

Chancery Clerk's Signature

DATE: _____

2611.02 Public Hearing Notice on Property Signs Required: Whenever any zoning action (i.e., a dimensional variance, conditional use or rezoning) is considered by the Planning Commission, signs bearing notices of a public hearing shall be erected on the property involved. These signs shall be erected *not less than fifteen days prior to the date of the public hearing*. When more than one parcel of land is involved in the proposed zoning action or the proposed use, enough signs shall be posted to adequately identify the area affected.

2611.03 Public Hearings Before the Planning Commission: Where public hearings are required by this Ordinance, the Planning Commission shall conduct a public hearing at which all interested persons shall be recognized and given an opportunity to speak. At the conclusion of the public hearing, the Commission shall, on its own motion, forward their recommendation to the Board of Supervisors. Only a majority vote of a quorum of the members of the Commission shall carry a motion to approve or deny an application for a variance, conditional use permit or amendment to the text of this Ordinance or the Official Zoning Map. *Only in case of a tie vote may an application be forwarded to the Board of Supervisors "without recommendation."*

2611.04 Changes to an Application for Variance, Conditional Use Permit, or Zoning Ordinance Amendment (Including Re-Zonings): Any change proposed by an applicant for a variance, conditional use permit, or amendment to this Ordinance (including re-zoning applications) at the time of the hearing, except for conditions recommended by the Commission for variances or conditional use permits, shall require a rehearing before the Commission with another public notice. However, if a lower zoning classification (for example, from C-1 General Commercial to C-1A Restricted Commercial), is agreed to by an applicant for a re-zoning, no additional hearing shall be required.

SECTION 2612 - FEES

2612.01 Schedule of Fees: The Board of Supervisors shall establish a schedule of fees for the issuance of building permits, change of use permits, the processing of all site plans required under Section 2607 through 2610, and the processing of applications for variances, conditional uses and zoning amendments. Said schedule of fees shall be posted in the office of the Zoning Administrator and the Chancery Clerk *or other designated County official* shall be responsible for their collection.

2612.02 Amendment of Alteration of Fee Schedule: The schedule of fees may be altered or amended only by the Board of Supervisors.

2612.03 Payment Required: No action or processing shall be taken on any application until all applicable fees, charges and expenses have been paid in full.

2612.04 Fees Not Refundable: No fees or other monies paid in conjunction with zoning-related matters shall be refunded.

SECTION 2613 - APPEALS

2613.01 Appeals from Administrative Interpretation of the Zoning Administrator: In accordance with Section 2601.02 of this Ordinance, any party aggrieved with the administrative interpretation of the Zoning Administrator shall have the right to appeal such interpretation. Such appeals may be made directly to the Planning Commission. If the appeal is made to the Planning Commission, the party aggrieved shall submit a written request to the Chancery Clerk one week preceding any regularly-scheduled meeting of the Planning Commission at which the aggrieved party desires to be heard.

All appeals shall be in writing and shall include a copy of the original application for a building permit, change of use permit, dimensional variance, special exception or re-zoning, together with a statement of the reason for the appeal.

2613.02 Appeals from Recommendation of the Planning Commission: Any party aggrieved with the recommendation of the Commission as adopted at any meeting of the Commission shall be entitled to a public hearing before the Board of Supervisors with due notice thereof and after publication for the time and as provided by law. An aggrieved party

may be anyone who takes exception with the recommendation made by a majority of a quorum of the Commission.

Such a hearing shall be provided ONLY IF THE AGGRIEVED PARTY FILES A WRITTEN REQUEST WITH THE ZONING ADMINISTRATOR *WITHIN FIFTEEN (15) DAYS OF THE VOTE OF THE COMMISSION ON THE RECOMMENDATION.*

The Board will set a hearing within 30 days of receipt of request.

2613.03 Fee Required for Appeals from Planning Commission Recommendations: Any applicant aggrieved with a recommendation from the Planning Commission regarding a variance, conditional use permit, or amendment to this Ordinance shall file an appeal fee with the Chancery Clerk, the rate for which shall be set as the same required for publication and public notice as required in the original application.

2613.04 Appeal Hearing by the Board of Supervisors: In the event an appeal is made to the Board of Supervisors by a party aggrieved by the recommendation of the Planning Commission, the Board of Supervisors shall order public notice to be given by publication of the appeal and posting of a sign. The appeal shall be heard as a public hearing and as a matter to be placed on the agenda of a regular or adjourned meeting of the Board of Supervisors. In no case shall the appeal be heard before proper notice shall be given. At the time of the Appeal Hearing, the Board shall hear the recommendation of the Commission, and then hear from the appellant and then the appellee and other interested parties. The Board of Supervisors shall then uphold or reject the appeal, and then accept or reject the recommendation of the Commission upon its own motions. If the appeal or recommendation of the Commission has several parts, the Board of Supervisors may uphold the appeal and accept the recommendation of the Commission on some, and deny and reject others. Any change in any part or parts of the petition which the Board of Supervisors may deem appropriate or necessary resulting from the appeal (except conditions applying to variances and special exceptions), shall be referred back to the Planning Commission for reconsideration, subject to public notice and hearing, as a separate and new petition petition. The filing fee may be waived at the discretion of the Board of Supervisors.

2613.05 Appeals to a Court of Law: An appeal from any action, decision, ruling, judgment or order by the Board of Supervisors may be taken by any person or persons to the Circuit Court of Madison County.

SECTION 2614 - ORDINANCE ENFORCEMENT

In accordance with Section 17-1-27 of the **Mississippi Code of 1972**, 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 therefor shall be sentenced to pay a fine not to exceed one hundred

dollars (\$100.00), and in case of continuing violations without reasonable effort on the part of the defendant to correct same, each day the violation continues thereafter shall be separate offense.”

The Zoning Administrator (or his duly authorized representative) shall notify *in writing* any person who violates any provision of this Ordinance that he/ she is in violation of the applicable section or sections of the Ordinance and issue a warning to correct the violation within seven (7) days or be subject to a fine as prescribed by Section 17-1-27 cited above. However, if circumstances exist which would prevent the violator from correcting the infraction within seven days, the Board of Supervisors may extend the time for such correction prior to imposition of a fine. If the warning time is extended by the Board of Supervisors, the violator shall be notified in writing by the Zoning Administrator (or his duly authorized representative) of such time extension. If the violator does not correct the infraction within the extended time, he shall be fined for each such day that the violation continues after the ending date of the warning time. The Sheriff’s Department of Madison County is hereby empowered to act on behalf of the Zoning Administrator if necessary and to issue a citation to violators who fail to respond within the warning time provided.

Madison County is authorized to correct the infraction in case of a non-response by a violator, and to assess the violator’s property for the cost of correcting the violation. The assessment shall represent a lien against the property of the violator.