UNIFIED DEVELOPMENT ORDINANCE

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CITY OF LONG BEACH, MISSISSIPPI

UNIFIED DEVELOPMENT ORDINANCE NO. 598

CITY OF LONG BEACH, MISSISSIPPI

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ARTICLE I
GENERAL PROVISIONS

Section 1: Short Title
This ordinance shall be known and may be cited as the Zoning Ordinance of the City of Long Beach.

Section 2: Authority
(a) This ordinance is adopted pursuant to the authority conferred by Mississippi Code with the intent to exercise all powers and authority available to it for the regulation of the use, development and subdivision of land and for all related matters.
(b) Whenever any provision of this ordinance refers to or cites a section of the Mississippi code and that section is later amended or superseded, this ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 3: Jurisdiction
(a) This ordinance shall be effective throughout the city's planning jurisdiction. Such planning jurisdiction may be modified from time to time in accordance with applicable state law.
(b) In addition to other locations required by law, a copy of a map showing the boundaries of the city's planning jurisdiction shall be available for public inspection in the planning department.

Section 4: Effective Date
The provisions in this ordinance were originally adopted and became effective on April 12, 2013.

Section 5: Relationship to Existing Zoning and Subdivision Ordinances
To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the city's ordinances, they shall be considered as continuations thereof and not as new enactment unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the zoning ordinance.

Section 6: Relationship to Land-Use Plan
It is the intention of the Mayor and Board of Aldermen that these sections implement the planning policies adopted by the Board of Aldermen for the city, as reflected in the land-use plan and other planning documents. While the Mayor and Board of Aldermen reaffirm its commitment that this ordinance and any amendment to it are in conformity with adopted planning policies, the Mayor and Board of Aldermen hereby express its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Section 7: No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions
(a) Subject to Article VIII of this ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this ordinance.
(b) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 8: Fees
(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, planning commission approval permits, special-use permits, zoning amendments, variances and other administrative relief. The

amount of the fees charged shall be as set forth in the city's budget or as established by resolution of the Board of Aldermen filed in the office of the city clerk.

(b) Fees established in accordance with Subsection (a) shall be paid upon submission of a signed application or notice of appeal.

Section 9: Severability

It is hereby declared to be the intention of the Mayor and Board of Aldermen that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

Section 10: Computation of Time

(a) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days intermediate Saturdays, Sundays and holidays shall be excluded.

(b) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 11: Miscellaneous

(a) As used in this ordinance, words importing the masculine gender include the feminine and neuter.

(b) Words used in the singular in this ordinance include the plural and words used in the plural include the singular.

Sections 12 and 13: Reserved

ARTICLE II
BASIC DEFINITIONS AND INTERPRETATION

Section 14: Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this ordinance.

(1) Abandoned Personal Property or Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

(2) Abandoned Vehicle. Any vehicle, including boats, RV's and trailers, which is without a current license tag and/or which is wrecked, dismantled, partially dismantled, or inoperative. Storage shall mean being on or occupying the premises for thirty (30) days or more.

(3) Abutting. Having a common border with, or being separated from such a common border by a right-of-way, alley or easement

(4) Accessory Building. A detached subordinate building located on the same building site with the main building, the use of which is incidental to that of the main building.

(5) Accessory Use. See Section 109.

(6) Addition. Any construction, which increases the size of a building such as a porch, attached garage or carport, or a new room or wing.

(7) Adjacent Property. See abutting

(8) Administrator. See Section 30.

(9) Agricultural Livestock. Any animal normally considered being a farm animal or commercially produced animal. This includes but is not limited to: cows, horses, mules, pigs, hogs, goats, ducks, geese, chickens, livestock and other forms of poultry.

(10) Agriculture. The raising or growing of crops, fowl or livestock, and includes the growth of trees for pulp, lumber, and other wood products.

(11) All Weather Surface. A surface of asphalt, concrete, or other acceptable surface of sufficient depth and compassion to provide a hard driving surface which is impervious to water and prevents erosion, dust and potholes.

(12) Alley. A minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes although not in-tended for general traffic circulation.

(13) Alteration. Any change in the supporting members of a building (such as bearing walls, columns girder) except such change as may be required for its safety; any addition to a building any change in use from that of one district classification to another; or of a building from one classification to another.

(14) Animal Unit. One animal unit shall mean one horse, one cow, one mule, two (2) goats, two (2) sheep, two (2) hogs or two (2) miniature horses.

(15) Antenna. Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

(16) Apartment. A room or suite of rooms with cooking facilities designed for or used as living quarters for a single household.

(17) Apartment House. See Dwelling, multiple family

(18) Apartment, Low Rise. A multiple dwelling not more than three (3) stories in height.

(19) Apartment, High Rise. A multiple dwelling consisting of four (4) stories or higher in height.

(20) Assisted Living, Home. A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for

the handicapped or infirm.

(21) Assisted Living, Institution. An institutional facility maintained for the purpose of providing accommodations for more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

(22) Auto Wrecking. The collecting, burning out, dismantling or wrecking of used motor vehicles, wheeled or track laying equipment, or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles, wheeled or track laying equipment, or trailers or their parts. The dismantling and rebuilding other than custom repair, of more than one motor vehicle, piece of wheeled or track laying equipment, or trailer at a time even though not for profit or a principal use of a parcel of land shall be defined as auto wrecking. The storage of a partially dismantled motor vehicle, piece of wheeled or track laying equipment or trailer shall be considered auto wrecking.

(23) Automobile Body and Painting Shops. The general repair of automobiles and light trucks, consisting of and major and minor frame and body repair and replacement; and where there can be the additional service of sanding, painting, etc., or other automobile finish work, all of which must be carried on inside a structure, and more particularly, concerning paint or paint products; all of said service must be carried on in conformance to adopted building code requirements as to paint "booths," ventilation fire prevention, etc.

(24) Auto/Vehicle Junk Area. Any non-public place used for the dismantling or wrecking of used automobiles or the storage, sale or dumping have dismantled or wrecked automobiles or their parts.

(25) Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. Also know as the 100-year flood.

(26) Basement. A story below the first story as hereinafter defined. See "story".

(27) Bed and Breakfast (A). An owner-occupied dwelling which is the primary residence of the owner and where a portion of the dwelling is available for short-term lodging, up to a maximum of five (5) bedrooms, and only lodgers are served meals.

(28) Bed and Breakfast (B). An owner-occupied dwelling which is the primary residence of the owner and where a portion of the dwelling is available for short-term lodging, up to a maximum of five (5) bedrooms, and where receptions or other social gatherings may be held. Meals may only be served to lodgers or guests of receptions and other social gatherings.

(29) Block. A parcel of land entirely surrounded by streets, streams, railroad rights-of-way, parks or other public spaces or by a combination thereof.

(30) Boardinghouse. Any dwelling in which more than three (3) families are housed or lodged for rent with or without meals.

(31) Board of Aldermen. The Mayor and Board of Aldermen of the City of Long Beach.

(32) Buffer Area. An area set aside to remain vacant or to be planted and landscaped to act as a separation between two or more different districts.

(33) Buildable Area. That portion of a lot remaining after required yards and open spaces has been provided.

(34) Buildable Width. Width of the building site left after the required yards have been provided.

(35) Building. Any covered structure intended for the shelter, housing or enclosure of persons, animals or chattels.

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

(37) Building Area. Building area means the total of the areas, taken on a horizontal plane at the main grade, of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

(38) Building, Front Line. A line being along the foremost portion of a building and parallel and/or

concentric to the street line.

(39) Building, Height. The vertical distance measured from the average elevation of the lowest finished floor along the front of the building to the eave or roofline.

(40) Building Permit. A permit authorizing the construction or alteration of or addition to a specific building or structure on a specific lot.

(41) Building, Principal. A building in which is conducted or intended to be conducted the principal use of the lot on which it is situated.

(42) Building Setback Line. The minimum distance, as prescribed by this Ordinance, between the property line of a lot or parcel of land, as established by survey, and any point on a building or structure related thereto, exclusive of those architectural features permitted to extend thereunto.

(43) Building Site. A single parcel of land occupied or intended to be occupied by a building or structure and appropriate accessory buildings or uses; every building site shall abut a dedicated street for at least thirty-five (35) feet as frontage or easement.

(44) Cafeteria. Restaurants at which patrons serve themselves at a counter and take the food to the tables to eat.

(45) Camp, Fishing. An area of land used for temporary occupancy or rented or leased by the owner including and limited to placement of mobile homes, modular homes, cabins, camper trailers, boats and accessory structures or uses.

(46) Camp, Hunting. A building, grounds and accessory structures, which residential in nature, are used for the predominant use of hunting, and similar to the structures allowed under fishing camps.

(47) Camping Trailer. See recreation vehicle

(48) Carport. A canopy or shed attached to the main building and open on two (2) or more sides for the purpose of providing shelter for one or more vehicles.

(49) Casino. A room or rooms in which gaming is conducted and in compliance with applicable state statutes.

(50) Cellar. See basement

(51) Cemetery. A tract of land, private or public, divided into plots for internment of the human dead and in compliance with applicable state statutes.

(52) Centerline of Street. That line running midway between the right-of-way lines of a dedicated street, avenue or highway. Not to be confused with the centerline of the paved surface.

(53) Certify. Whenever this ordinance requires that some agency certify the existence of some fact or circumstance to the city, the city may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the city may accept certification by telephone from some agency when the circumstances warrant it, or the city may require that the certification be in the form of a letter or other document.

(54) Certificate of Occupancy. A document issued by the Building Official allowing the occupancy and use of building(s) and structure(s) and said use(s) have been constructed and will be used in compliance with all applicable municipal codes. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the city.

(55) Certificate of Zoning Compliance. A document issued by the administrator which certifies that the proposed use of a parcel complies with all regulations of the zoning district in which it is located.

(56) ChildCare Center. An establishment providing care for four or more children. The term "child care center" includes day care nurseries, day care centers and any other facilities that fall within the scope of the definition set forth herein, regardless of auspices. Exempted from this definition is any facility operating as kindergarten, nursery school or head start in conjunction with an elementary and/or secondary school system, whether it be public, private or parochial, whose primary purpose is a structured school readiness program. The Mississippi State Board

of Health shall stipulate space requirements.

(57) Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

(58) City. The City of Long Beach, Mississippi.

(59) Clinic. A building in which a group of physicians, dentist and allied professional assistants are associated for the purpose of carrying on their profession; the clinic may include a dental or medical laboratory but it shall not include in-patient care or operating rooms for major surgery.

(60) Club. Buildings and facilities owned and operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service, which is normally carried on as a business.

(61) Condominium. That form of ownership of property under which units of improvements are subject to ownership by different owners and there is appurtenant to each unit as part thereof an undivided share in the common areas.

(62) Condominium Unit. The elements of a condominium, which are not owned in common with the owners of other condominiums in the project. When used as residential, a unit shall be considered a single-family dwelling.

(63) Conforming Use. Any lawful use of a building or lot, which complies, with the provisions of this ordinance.

(64) Construction Plans, Residential. The drawings showing types of materials and construction details for the physical structures and facilities.

(65) Construction Plans, Commercial. The engineering drawings showing types of materials and construction details for the physical structures and facilities.

(66) County. Harrison County, Mississippi

(67) Court. An unoccupied open space, other than a yard, on the same lot with building, which is bounded on two (2) or more sides by the walls of such building.

(68) Coverage, Lot. The percentage of the lot area covered by all structures.

(69) Customer Service Area. The total gross floor area of any business establishment comprising the customer waiting or receiving, service and dining areas including any other incidental areas in which the general public has unrestricted access.

(70) Day Care Center. See child care center

(71) Demolition. The destruction and removal of a building or structure from its site.

(72) Developer. Any person engaged in developing or improving a lot or groups of lots or structures thereon for use or occupancy.

(73) Developer's Engineer. A registered professional engineer, in good standing, in the State of Mississippi, whose seal shall appear on all plats, construction drawings and plans for improvements.

(74) Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(75) District. Any zoning district established by this ordinance.

(76) Drive-in Restaurant. Any place or premises used for the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

(77) Dwelling. Any building, which is designed or used for permanent living quarters for one or more families.

(78) Dwelling Unit. One room or rooms connected together, providing complete independent living facilities for one or more persons including permanent provisions for living, eating, sleeping, cooking and sanitation.

(79) Dwelling, Manufactured. A single-family detached housing unit that is manufactured under the authority of 42 U.S.C. Sec. 5401, the National Manufactured Home Construction and Safety

Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes.

(80) Dwelling, Mobile Home. See also dwelling, manufactured. A transportable, factory built home, designed to be used as a year round residential dwelling and built prior to enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

(81) Dwelling, Multi-family. A residential building designed for or occupied by more than two families.

(82) Dwelling, Single Family. A detached residential dwelling unit designed for and occupied by one family only.

(83) Dwelling, Two-Family. A building designed and intended for or occupied exclusively by two (2) families living independently of each other.

(84) Easement. A right given by the owner of land to another party for specific limited use of that land.

(85) Enclosed Structure. A building enclosed by a permanent roof and by solid exterior walls pierced only by windows and customary entrance and exit doors.

(86) Expansion to an Existing Mobile Home Park. The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including tile installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

(87) Extraction. The removal from the premises of sand, gravel, shells, topsoil, minerals, or other natural resources from a lot or a part thereof.

(88) Family. One or more persons occupying a dwelling and living as a single housekeeping unit.

(89) Farm. A parcel of land used for growing or raising agricultural products, including related structures thereon.

(90) Fence. A structure other than a building, which is a barrier and used as a boundary or means of protection or confinement. It is so constructed that not less than fifty (50%) percent of the vertical surface is open to permit the transmission of light, air, and vision through said surface in a horizontal plane. This shall include wire, mesh, steel mesh, chain link, louvered, stake, and similar materials.

(91) Filling Station. See service station and self-service station.

(92) Fix-it Shop. Fix-it shop/general repair shop: Buildings or premises used for the repair of home appliances, such as, but not limited to radios, televisions, refrigerators, deep freezes, washing machines and other similar appliances or household articles.

(93) Floodplain Management Program. An overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and land use and control measures.

(94) Floodplain. Any land area susceptible to being inundated by water from any source.

(95) Floodway. The channel of a river or other watercourse and the adjacent land areas needed to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

(96) Floor Area. The square feet of floor space within the outside line of walls and including the total of all space on all floors of a building used for occupancy or use purposes.

(97) Floor Area, Gross. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

(98) Floor Area, Habitable. Any floor usable for living purposes, which includes working sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

(99) Floor Area, Ratio. The numerical value obtained through dividing the gross floor area of a building by the total area of the lot or parcel of land on which such building is built.

(100) Front. The side of a lot bordering a street right-of-way, except in the case of corner or other

double frontage lots, in which case the owner of the lot must designate in his application for a building permit which side bordering a street is the front.

(101) Gaming or Gambling. Any activities that is regulated pursuant to the Mississippi Gaming Control Act of 1990.

(102) Garage Apartment. A dwelling unit attached to a private garage.

(103) Garage, Private. An accessory building or a part of a main building used for storage purposes for one or more automobiles.

(104) Garage, Public. Any building other than a private garage, available to the public for the parking or storing of vehicles for remuneration, hire or sale.

(105) Garage, Repair. A building, land or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

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

(107) Gas Station. See service station and self-service station

(108) Grade. The elevation of the ground at a building or building site as established by the governing (city/county) engineer.

(109) Grade, Finished. The completed surfaces of lawns, walks and roads, brought to grades as shown on official plans or designs relating thereto.

(110) Green Space. Land designated for conservation, preservation, recreation, landscaping or parks.

(111) Group Home. A nonprofit or for profit boarding house for the sheltered care of persons with special needs, which in addition to providing food and shelter, may also provide some combination of personal care, social or counseling service and transportation.

(112) Guest Unit. An accessory living quarters, either attached or detached, that is used for visiting relatives or friends of primary resident with no compensation.

(113) Halfway House. A halfway house is a residence designed to assist persons, especially those leaving institutions, to reenter society and learn to adapt to independent living. Halfway houses aim to assist in community transition, and may provide vocational training, counseling, and other services.

(114) Hardship. An unusual situation or condition involving a particular property and which makes it impossible for the owner to use the property in the manner prescribed for the district by the zoning ordinance. A hardship exists only where the owner of the property does not create the unusual situation or condition. A hardship as related to zoning is not to be confused with an economic hardship.

(115) Hazardous Material. All materials and substances that are now or hereafter designated or defined as hazardous by and state or federal law or by regulation of any state or federal agency.

(116) High Density. Any use that exceeds 15 units per acre or exceeds four (4) or more stories.

(117) Home Based Business. Any business, occupation or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit.

(118) Home Office. An accessory use in which work for compensation is undertaken, including, but not limited to receiving or initiating correspondence, such as phone calls, mail, faxes, or e-mail; preparing or maintaining business records; and word and data processing.

(119) Hospital. A certified State institution providing health services primarily for inpatients and medical and surgical care for the sick or injured. This shall include accessory uses such as laboratories, out patient clinics and medical offices.

(120) Hotel. A building containing individual sleeping rooms or suites each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals.

(121) Household. One person lives alone or two (2) or more persons living together as a single

housekeeping unit, whether related to each other legally or not and distinguished from a group of persons occupying a boarding house, lodging house, hotel, motel, dormitory or similar dwelling for group use. A household shall be deemed to include domestic employees of said household when these employees are on-premise residents.

(122) Impervious Surfaces. Any hard surface man-made that is more impervious than the natural surface.

(123) Improvement. Any permanent building or structure that becomes part of placed upon or is affixed to real property.

(124) Improvement, Public. Includes street surfacing, curb and gutter, sidewalks, water mains, sanitary sewers, storm sewers, utilities, drainage and monuments.

(125) Industry. The processing or assembly of product or raw materials.

(126) Industry, Heavy. Those operations whose processing results in the outdoor storage or processing of materials or products, the emission of any atmospheric pollution, visible light flashes or glare, odors or noise or vibration which may be heard or felt off the premises or those industries which constitute a fire or explosion hazard.

(127) Industry, Light. That operation where all processing is conducted wholly within a building.

(128) Institution. Any building used by a nonprofit corporation or nonprofit establishment for public use.

(129) Junk. Defined to mean and shall include scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metal and their alloys and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old cotton or used machinery, used tools, used appliances, used fixtures, used utensils, used boxes or crates, used pipe or pipe fittings, in-operable automobiles or airplanes or their parts and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing conditions; subject to being dismantled for scrap.

(130) Junkyard. An open area where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" also includes auto-wrecking yards, but it does not include uses enclosed entirely within a building,

(131) Kennel. Any building, lot or premises on or in which, six (6) dogs or domesticated animals are housed, groomed, bred, boarded or offered for sale.

(132) Landscaped Area. An area within the boundaries of a given lot which is devoted to and consists of plant material including but not limited to trees, shrubs, ground covers, grass, flowers and native plant materials, and also including but not limited to inorganic features such as planter, stone, brick and aggregate forms, water, excluding retention/detention ponds, and other landscape elements; provided however that the use of such inorganic materials shall not predominate over the use of organic plant material. Artificial plants are not considered landscape material.

(133) Lane. A minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes although not intended for general traffic circulation. (See also "alley.")

(134) Laundromat. Business premises equipped with individual clothes washing and drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

(135) Live-work Unit. A mixed use unit consisting of a commercial and residential function. The commercial function may be anywhere in the unit. The live component exceeds 50% of the usable area and is intended for self-employment with no employees outside of family.

(136) Loading Space. An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials and which abuts on a street, alley, or other appropriate means of access.

(137) Lot. A plot or parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded plat and which is recognized as a separate legal entity for purpose of transfer of title. Said lot is devoted to or suitable for a common use or occupied by a building and its accessory buildings, together with its open space and parking requirements and having its principal frontage or easement upon a public street or right-of-way for a minimum distance of thirty-five (35) feet.

(138) Lot Area. The total area included within the front, side and rear lot lines.

(139) Lot Depth. The average distance from the street right-of-way to the rear lot line, measured along the sidelines of the lot.

(140) Lot Frontage. That measurement of a lot abutting on a public Street, measured along the street right-of-way line from side lot line to side lot line. (Structures on corner lots fronting on a particular street shall be deemed to have frontage, on that street)

(141) Lot Line, Front. In the case of an interior lot, the line separating said lot from the street In the case of a corner or double frontage lot; the line separating said lot from the street, which the house will face, to be determined from the request for a building permit.

(142) Lot Line, Rear. The lot boundary 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.

(143) Lot Line, Side. The side lot line is the property boundary line between the front and rear lot lines.

(144) Lot Lines. The lines bounding a lot as defined herein.

(145) Lot of Record. A lot, the plat or deed or act of sale of which has been recorded in the office of the Chancery Clerk of Harrison County, Mississippi, prior to the adoption of this Ordinance.

(146) Lot Width. Distance between the side lot lines measured at the front building line.

(147) Lot, Corner. A plot of land located at the intersection of and abutting on two (2) or more streets.

(148) Lot, Double Frontage. A lot, which runs through a block from street to street, and has two opposite sides abutting on two or more streets.

(149) Lot, Interior. A lot other than a corner lot.

(150) Lounge. A retail establishment offering alcoholic beverages for consumption on the premises. The definition of lounge includes barrooms.

(151) Manufactured Home. See Dwelling, manufactured housing

(152) Manufactured Housing/Mobile Home Park. Any parcel (or contiguous parcels) of land upon which two (2) or more units of manufactured housing or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations. A mobile home park must have a minimum of five (5) acres.

(153) Manufactured Housing/Mobile Home Space. A plot of ground within a manufactured housing/mobile home park designed for the accommodation of one (1) manufactured housing unit or mobile home.

(154) Manufactured Housing/Mobile Home Subdivision. The division of any tract or parcel of land, including frontage along an existing street or highway, into two (2) or more lots, plots, or other divisions of land for the purpose, whether immediate or future, of the placement of manufactured housing or mobile homes for dwelling purposes

(155) 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.

(156) Mixed use. Multiple uses within the same building or multiple buildings on a single site. Any use permitted by right in a district can be used as a mixed use, except all mixed use requires planning commission approval.

(157) Mobile Food Vendor. One who is engaged in the sale of prepared food from a motor vehicle or pushcart equipped for such purpose.

(158) Mobile Home. See Dwelling, Mobile Home.

(159) Modular Home. A modular home is a factory fabricated dwelling designed and constructed

without carriage or hitch collar as stationary house construction for placement on a permanent foundation, to be permanently connected to utilities, and to be used for year round occupancy. It may consist of two (2) or more components that can be separated when transported but designed to be joined into one integral unit. A modular home must meet the minimum construction standards for house construction as specified in all adopted building codes of the City and minimum construction standards as may from time to time be fixed by law of the State of Mississippi.

(160) Modular Structure. A modular structure is a factory-fabricated structure, notwithstanding tilt-up construction, which is designed for commercial uses but not for residential or dwelling purposes. It may consist of two (2) or more components that can be separated when transported but are designed to be joined into one integral unit.

(161) Motel. A building or group of buildings, comprising individual living quarters or dwelling units for the accommodation of transient guests, which so designed that parking is on the same building site and is conveniently accessible from the living units without having to pass through any lobby or interior court. This definition includes auto courts, tourist courts, motor hotels but doe; not include accommodations for mobile homes. A motel is a business use rather than a residential use.

(162) Motor Home. A structure built on and made an integral part of a self-propelled motor vehicle chassis primarily designed to provide temporary living quarters for recreation, camping, and travel use.

(163) New Construction. Structures for which the start of "construction" commenced on or alters the effective date of this ordinance.

(164) Nightclub. A place of entertainment offering alcoholic beverages for consumption on the premises and which may provide a floor show and music as well as space for dancing.

(165) Nursing or Convalescent Home. Nursing or convalescent home means a facility designed and intended to provide nursing service on a continuing basis to persons the majority of whom require such service under trained professional nurses or physicians and for whom medical records are maintained.

(166) Office Building. A building designed for or used as offices for professional, commercial, industrial, religious, public or semipublic activities or organizations providing that no manufactured products or commodities are warehoused or sold on the premises.

(167) Open Space. An unoccupied space open to the sky on the same lot with the principal building upon which no structure may be erected.

(168) Outdoor Storage. A depository or place for storing goods related to an establishment on the same premises and not located within a building.

(169) Overhang. That portion of a roof or other structural appendage that projects out past the main building wall of the structure.

(170) Parking Area. A required off-street parking facility enclosed or not enclosed. Parking area includes parking spaces and access drives.

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

(172) Parking Lot. An open area which is used for the temporary parking of motor vehicles but which is not a required off-street parking facility

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

(174) Patio Home. See Zero-lot line definition.

(175) Pedestrian Way. A right-of-way, however designated, either across or within a block, intended for use by pedestrian traffic.

(176) Permitted Use. A use of meeting all the requirements established by the ordinance for the district in which the use is located.

(177) Person. An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

(178) Personal Service Shops. Business establishments such as barbershops, beauty parlors, and chiropody, massage, or similar personal service shops.

(179) Place. See Open space

(180) Planned Unit Development: A land tract in which a multiplicity of land uses may be permitted including single-family residential, multifamily residential, public use and compatible commercial use, and in which land not used by residential or commercial structures and yards, but required by basic zoning of the site, shall be reserved collectively in contiguous units accessible to all the building sites in the development as open space for the purpose of providing recreational facilities and pedestrian circulation.

(181) Planning Commission. The Long Beach Planning Commission

(182) Planning Commission Approval. A use requiring the approval of the Planning Commission as being appropriate with a district.

(183) Planning Jurisdiction. The area within the city limits as well as the area beyond the city limits within which the city is authorized to plan for and regulate development.

(184) Premises. A lot parcel of land together with structure or structures occupying the lot or parcel

(185) Principle Use. The specific primary purpose for which land or a building is intended to be used.

(186) Private Drive. A right-of-way, which has the characteristics of a street, as defined herein, except that it is not dedicated for public use. A driveway located on a lot, which serves only that lot is not considered a private drive.

(187) Public Building. A building owned or used exclusively by the city, county, state or federal government.

(188) Public Uses. Includes parks and recreation, schools and other education or cultural facilities, libraries, hospitals, and other public offices or administrative facilities

(189) Public Utility. Any person, firm, corporation, municipal department, or board duly authorized under state or municipal regulations to furnish such public services as electricity, gas, water, sewer, telephone, telegraph, transportation or other public utility service to its subscribers or customers.

(190) Quarry. A lot or parcel of land or part thereof used for the purpose of extracting stone, sand, gravel or soil for sale.

(191) Recreational Facilities. Country clubs, riding stables, golf courses, swimming pools, playgrounds, recreation centers, and other noncommercial recreational areas and facilities.

(192) Recreational Vehicle. A vehicular type unit primarily designed as temporary living quarters of recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. The basic entities are travel trailers, camping trailers, truck campers and motor homes.

(193) Recreational Vehicle Park. A parcel of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational or vacation purposes, not to be confused with a mobile home park. The term Recreational vehicle "campground" includes necessary sanitary and utility facilities and permitted accessory uses.

(194) Recreational Vehicle Site. A plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle or other individual camping unit on a temporary basis.

(195) Residential Structure. A building or portion thereof designed or used exclusively for residential occupancy but not including hotels, motels and motor lodges.

(196) Rest Home. The rooming or boarding of any aged or convalescent persons, whether ambulatory or non-ambulatory, for which a license is required by a city, county, state, or federal agency.

(197) Restaurant. An establishment principally offering food for consumption on the premises and permitting no dancing by proprietors, patrons or employees. Restaurants do not include barrooms, nightclubs or lounges, but do permit service bars.

(198) Right-of-Way. A grant by the property owner, usually in the form of a dedication to the public, of a strip or strips of land to be used for or occupied by a street, highway, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

(199) Right-of-Way Line. The boundary line between a right-of-way and abutting property.

(200) Roadway. That paved portion of a right-of-way, or in the case of an unpaved roadway, the designated riding surface, which is set aside for the movement of vehicular traffic.

(201) Rooming House. A dwelling in which the resident family provides rooms for the accommodation of persons on a semi-permanent basis (one month or longer) and not as transients.

(202) Satellite Dish Antenna. A device incorporating a reflective surface of any configuration. Such devices shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbital based transmitters. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

(203) School, Business. Schools offering instruction in general business subjects such as accounting, secretarial work, business administration, computer training and similar subjects.

(204) School, Elementary or Secondary. Any institute for the education of students in elementary or secondary grades (1 through 12), which is publicly owned. The term includes day nurseries and kindergartens.

(205) School, Trade or Industrial. An establishment, public or private for the purpose of training students in skills required for the practice of trades or industries.

(206) Sectional Home. See Modular Home

(207) Semi-public Body. Includes churches and organizations such as noncommercial clubs and lodges, theater groups, recreational and neighborhood associations, and cultural activities operating as a nonprofit activity and serving a public purpose.

(208) Service Bar. An area of a restaurant, at which alcoholic beverages may be prepared to serve patrons of the dining room area only, provided no alcoholic beverages would be sold across the bar.

(209) Service Station. (See also garage, repair) Any premises where gasoline or other petroleum products are sold and where light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning may or may not be conducted. Service stations shall not include premises where heavy automobile or truck maintenance activities such as engine overhauls, painting and bodywork are conducted.

(210) Setback Line. See Building Setback Line

(211) Shell House. A structure which is composed of foundation outside walls and roof with no interior walls or fixtures, or incomplete interiors and which is transferred to another party for completion of the interior

(212) Shopping Center. A group of retail stores planned and designed for the site upon which they are built.

(213) Small Animal Clinic. A commercial facility operated to provide treatment and care including temporary boarding for domestic animals.

(214) Special Exception Use. A use that is subject to approval based on location and site plan. The use possesses such characteristics of unique or special form that each specific use shall be considered as an individual case.

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

(216) Stable, Public. A stable other than a private or riding stable.

(217) Stable, Riding. A structure, in which horses or mules used for pleasure riding or driving are housed, boarded or kept for hire, including a riding track.

(218) Story. That portion of a building, other than a cellar, included between the surface of any floor

and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

(219) Street. A public or private thoroughfare that affords the principal means of access to abutting property.

(220) Street, Arterial. A street which brings traffic to and from the city and serves those major movements of traffic within or through the city and throughout the region. Arterial streets are designed on the applicable Street Plan of the city or the transportation plan of the Metropolitan Planning Organization.

(221) Street, Collector. A street whose principal function is to carry traffic between minor and local streets and arterial streets, but may also provide direct access to abutting properties.

(222) Street, Cul-de-sac. A short street having one end open to traffic and being permanently terminated by a vehicular turn-around.

(223) Street, Dead-end. Any local street, other than a cul-de-sac, which has only one outlet.

(224) Street, Local. A street whose sole function is to provide access to abutting properties.

(225) Street, Major. A street or highway shown as a major street upon the major thoroughfare plan.

(226) Street, Minor. A street or highway not shown as a major street upon the major thoroughfare plan.

(227) Street Line. A dividing line separating a lot, tract or parcel of land and a contiguous street.

(228) Structural Alteration. Any change in the roof, exterior walls or supporting members of a building.

(229) Structure. Any type of construction that requires a permanent location.

(230) Structure, House-form. A structure designed for commercial use but having a residential architectural exterior appearance.

(231) Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds one-third (33 1/3%) the actual cash value of the structure either 1) before the improvement is started, or 2) if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

(232) Surveyor. A registered land surveyor as authorized by the state statutes to practice the profession of surveying in the State of Mississippi.

(233) Swimming Pool. A swimming pool shall be considered as a structure, the same as an accessory building, and subject to the same setback requirements but not as to area.

(234) Tenant Dwelling. A residential structure located on a bona fide farm, and occupied by a non-transient farm worker employed by the farm owner to work on that farm

(235) Theater, Drive-in. An open lot or part thereof, with it appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis to patrons seated in automobiles or on outdoor seats.

(236) Timeshare Building. A building containing condominium units, rooms or suites of rooms, with or without culinary facilities and subject to a timeshare plan or transient vacation rentals.

(237) Timeshare Plan. The practice whereby an individual or individuals, corporation, or other entity pays for and acquires the right to the timed use of a condominium or apartment unit for a specified period of time each year, generally for a week or a number of weeks in a given year, with the right to use said condominium or apartment unit for like periods in subsequent years.

(238) Tourist Court. See Motel

(239) Townhouse. A structure that is one of a series of dwelling units designed for single-family occupancy, which dwelling units are structurally connected to each other without side yards between individual dwelling units.

(240) Trailer. Any vehicle without motive power and which is designed to be drawn by a motor vehicle, and to be used in such a manner as to permit temporary occupancy thereof as sleeping quarters, or for the conduct of any business, trade or occupation or use as a selling or advertising device, or used for storage or conveyance of tools, equipment, or machinery and so

designed that it is mounted on wheels and may be used as a conveyance on highways and streets. The term trailer includes the terms "camp trailer," and similar terms, except when the latter falls within the definition of "manufactured housing or mobile home." Trailers are considered structures for the purpose of this ordinance when they are used as temporary places for human habitation, offices, warehouses, or for storage. Trailers are characteristically for a variety of temporary or intermittent types of use whereas manufactured housing or mobile home is intended for full time use as a residence.

(241) Trailer Park or Court. See Recreational Vehicle Camp

(242) Trailer, Camping. See Recreational Vehicle

(243) Transient Vacation Rentals. Rentals in a dwelling, hotel, motel, apartment hotel, condominium, motor lodge, boardinghouse, roominghouse, lodginghouse, tourist court, tourist home or other similar

(244) Travel Trailer. See Recreational Vehicle

(245) Truck Camper. See Recreational Vehicle

(246) University or College. An institute of high learning, publicly or privately owned, for the education of student in grades about the 12th. The term does not include business or trade schools.

(247) Unobstructed Open Space. An area of land upon which no structure may be erected.

(248) Use, Conditional. A use which is not allowed in the zone as a matter of right, but which is permitted upon findings of the designated authority that under the particular circumstances present and subject to specific conditions, is in harmony with the permitted uses of the zone. Allowable Planning Commission Approvals are listed under the district regulations. Uses not so listed shall not be allowed as Planning Commission Approvals.

(249) Variance. An adjustment of terms in this ordinance where such variances will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height and size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance or be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

(250) Wall. Any structure or device forming a physical barrier, which is so constructed that fifty (50%) percent or more of the vertical surface is closed to prevent the passage of light, air, and vision through said surface in a horizontal plane. This shall include concrete, concrete block, wood, or other materials that are solids and are so assembled as to from a solid barrier.

(251) Work-live Unit. A mixed use of commercial and residential uses. It typically has a substantial commercial component with incidental residential use.

(252) Yard. An open space at existing ground level between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided in this ordinance. For the purpose of determining yard measurements, the least horizontal distance between the lot line and the maximum permissible main building shall be used.

(253) Yard Sale/Garage Sale. A temporary sale of personal belongings and merchandise, which is held on, the premises of a residential use either individually or jointly with a neighboring residential use.

(254) Yard, Front. That area of yards which extends along the entire length of the front line of a lot, within the two sidelines and the minimum horizontal distance between the street right of way and the front building setback.

(255) Yard, Rear. A yard extending across the rear of a lot between the side lot lines, and being the required minimum horizontal distance between the rear lot line and the rear of the maximum permissible main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

(256) Yard, Side. That area of a yard which extends along the entire side lot line between the front and rear lot lines and the minimum horizontal distance between the side lot line and the side building setback.

(257) Zero Lot Line Construction. Detached single-family dwelling units constructed on only one of the side lot lines.

(258) Zoning Board of Adjustments. The Long Beach Board of Zoning Adjustments.

(259) Zoning District. A section of the appropriate jurisdiction designated in the land use ordinance of the jurisdiction and delineated on the zoning map or district map of the jurisdiction, in which requirements must be uniform.

(260) Zoning Map. The official zoning map or maps that are a part of this land use ordinance and delineate the boundaries of the zoning districts within the applicable jurisdiction.

Section 15: Lots Divided by District Lines

(a) Whenever a lot in single ownership of one acre or less in size and is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.

(b) Whenever a lot in single ownership is greater than one acre in size and is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

Sections 16 and 17, Reserved

ARTICLE III
ADMINISTRATIVE MECHANISMS

PART 1. PLANNING COMMISSION

Section 18: Appointment and Terms of Planning Commission Members

(a) There shall be a planning commission consisting of 9 members, all of who shall be residents of the City and qualified electors therein. The members shall be appointed by the Mayor, subject to confirmation by the Board of Aldermen. There shall be at least one member from each ward of the City.

(b) Planning commission members shall be appointed for four-year staggered terms, but members may continue to serve until their successors have been appointed. Nothing contained in this Section shall alter the term of office of any present member.

(c) Members may be appointed to successive terms without limitation.

(d) The Mayor and Board of Aldermen may remove planning commission members at any time for failure to attend three consecutive meetings or for failure to attend 30 percent or more of the meetings within any 12-month period or for any other good cause related to performance of duties. Upon request of the member proposed for removal, the Board of Aldermen shall hold a hearing on the removal before it becomes effective.

(e) Any vacancies shall be filled by the Mayor, subject to confirmation by the Board of Aldermen: a person appointed to fill a vacancy shall fill out the term of office of the original appointee.

(f) If a member moves outside the city that shall constitute a resignation from the planning commission.

(g) Commission members shall serve without pay, but may be reimbursed for expenses incurred in the performance of official duties.

Section 19: Meeting of the Planning Commission

(a) The planning commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 56 (Applications to be Processed Expeditiously).

(b) When the commission is acting as an advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all commission proceedings.

(d) All commission meetings shall be open to the public, and whenever feasible the agenda for each commission meeting shall be made available in advance of the meeting.

Section 20: Quorum and Voting

(a) A quorum for the planning commission shall consist of a majority of the commission membership (excluding vacant seats). A quorum is necessary for the commission to take official action.

(b) All actions of the planning commission shall be taken by majority vote, a quorum being present.

(c) A roll call vote shall be taken upon the request of any member.

Section 21: Planning Commission Officers

(a) At its first meeting in each year, the planning commission shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the commission's meetings and one member to serve as vice-chairman. The individuals so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the un-expired terms only by majority vote of the commission membership (excluding vacant seats).

(b) The presiding official may take part in all deliberations; however he/she shall have no vote unless such vote would determine the issue.
(c) The commission shall appoint a secretary, who may be a member or an employee of the city.

Section 22: Powers and Duties of Planning Commission

(a) The planning commission may:
   (1) Make studies and recommend to the Mayor and Board of Aldermen plans, goals and objectives relating to the growth, development, and redevelopment of the city.
   (2) Develop and recommend to the Mayor and Board of Aldermen policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
   (3) Make recommendations to the Mayor and Board of Aldermen concerning proposed planning commission approval use permit, variance and proposed zoning text and map changes.
   (4) Perform any other duties assigned by the Mayor and Board of Aldermen.
(b) The planning commission may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of the ordinance.

Section 23: Advisory Committees

(a) From time to time, the Mayor and Board of Aldermen may appoint one or more individuals to help the planning commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Mayor and Board of Aldermen may appoint advisory committees to consider the thoroughfare plan, bikeway plans, housing plans, economic development plans, etc.
(b) Members of such advisory committees shall sit as nonvoting members of the planning commission when such issues are being considered and lend their talents, energies, and expertise to the planning commission. However, the planning commission shall make all formal recommendations to the Mayor and Board of Aldermen.
(c) Nothing in this section shall prevent the Mayor and Board of Aldermen from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Mayor and Board of Aldermen.

PART 2. BOARD OF ADJUSTMENT (BZA)

Section 24: Appointment and Terms of Board of Adjustment

(a) There shall be a Board of Adjustment consisting of the 9, which may also serve as planning commission members. However, the Mayor and Board of Aldermen can appoint new members at such time it deems necessary to have a separate body to hear Board of Adjustment issues.

Section 25: Meetings of the Board of Adjustment

(a) The Board of Adjustment shall establish a regular meeting schedule and of shall meet frequently enough so that it can take action in conformity with Section 56 (Applications to be Processed Expeditiously).
(b) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.
(c) All meetings of the board shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

Section 26: Quorum

(a) A quorum for the Board of Adjustment shall consist of a simple majority of the current members (excluding vacant seats). A quorum is necessary for the board to take official action.

(b) A member who has withdrawn from the meeting without being excused as provided in Section 26 shall be counted as present for purposes of determining whether a quorum is present.

Section 27: Voting

(a) All actions of the board shall be taken by majority vote, a quorum being present.
(b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with Subsection (c) or has been allowed to withdraw from the meeting in accordance with Subsection (d).
(c) A member may be excused from voting on a particular issue by the majority vote of the remaining members present under the following circumstances:
  (1) If the member has a direct financial interest in the outcome of the matter at issue, or
  (2) If the matter at issue involves the member's own official conduct, or
  (3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility, or
  (4) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
(f) A roll call vote shall be taken upon the request of any member.

Section 28: Board of Adjustment Officers

(a) At its first meeting of each year, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the BZA's meetings and one member to serve as vice-chairman. The individuals so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the un-expired terms only by majority vote of the commission membership (excluding vacant seats).
(b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.
(c) The chairman and vice-chairman may take part in all deliberations and vote on all issues.

Section 29: Powers and Duties of Board of Adjustment

(a) The Board of Adjustment shall hear and decide:
  (1) Appeals from any order, decision, requirement, or interpretation made by the administrator.
  (2) Applications for special-use permits.
  (3) Applications for variances.
  (4) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines.
  (5) Any other matter the board is required to act upon by any other city ordinance.
(b) The board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this ordinance.

PART 3. LAND-USE ADMINISTRATOR AND PLANNING DIRECTOR

Section 30: Land-Use Administrator

Except as otherwise specifically provided primary responsibility for administering and enforcing this ordinance is the planning commission, unless assigned by the Mayor and Board of Aldermen to one or more individuals. The commission or person(s) to whom these functions may be assigned shall be

referred to in this ordinance as the "land use administrator" or "administrator." The term "staff" or "planning staff" is sometimes used interchangeably with the term "administrator."

Section 31: Planning Director
If the City designates an individual to be planning director, he/she is the administrative head of the planning department.

Part 4. MAYOR AND BOARD OF ALDERMEN

Section 32: Mayor and Board of Aldermen

(a) The Mayor and Board of Aldermen, in considering variances, Planning Commission Approvals and interpretations of code, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Articles IV and VI of this ordinance.

(b) In considering proposed changes in the text of this ordinance or in the zoning map, the mayor and Board of Aldermen act in its legislative capacity and must proceed in accordance with the requirements of Article XIX.

Sections 33 and 34: Reserved

ARTICLE IV
PERMITS AND FINAL PLAT APPROVAL

PART 1. ZONING, SPECIAL-USE, AND PLANNING COMMISSION APPROVAL PERMITS

Section 35: Permits Required

(a) The use made of property may not be substantially changed (see **Section 119**), substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
   (1) A zoning permit approved by the administrator.
   (2) A special-use permit approved by the Board of Adjustment.
   (3) A planning commission approval permit approved by the Planning Commission.

(b) Zoning permits, special-use permits and planning commission approval permits are issued under this ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in **Section 53**, all development shall occur strictly in accordance with such approved plans and applications.

(c) A zoning permit, planning commission approval permit, or special-use permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the City.

Section 36: No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled

Issuance of a planning commission approval, special-use, or zoning permit authorizes recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided herein, the intended use may not be commenced, no building may be occupied, until all of the requirements of this ordinance and all additional requirements imposed pursuant to the issuance of a conditional- use or special-use permit have been complied with.

Section 37: Who May Submit Permit Applications

(a) Applications for zoning, special-use, or planning commission approval permits will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners or lessees).

(b) The City may require an applicant to submit evidence of his authority to submit the application in accordance with Subsection (a) whenever there appears to be a reasonable basis for questioning this authority.

Section 38: Applications to Be Complete

(a) All applications for zoning, special-use, or planning commission approval must be complete before the City is required to consider the application.

(b) Subject to Subsection (c), an application is complete when it contains all of the information that is

necessary for the City to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this ordinance.

(c) It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the City to evaluate the application in the light of the substantive requirements set forth in this text of this ordinance. However, whenever this ordinance requires a certain element of a development to be constructed, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the City. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII.

(d) The presumption established by this ordinance is that all of the information set forth is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the City may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the city planning commission or board of adjustment, the applicant may rely in the first instance on the recommendations of the administrator as to whether more or less information than that set forth should be submitted.

(e) The City shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted.

Section 39: Staff Consultation Before Formal Application

(a) To minimize development-planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this ordinance, pre-application consultation between the developer and the planning staff is encouraged or required as provided in this section.

(b) Before submitting an application for any permit, developers are strongly encouraged to consult with the planning staff concerning the application of this ordinance to the proposed development.

Section 40: Staff Consultation After Application Submitted

(a) Upon receipt of a formal application for a zoning, special-use, or planning commission approval permit the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(b) If the application is for a special-use or planning commission approval permit, the administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, as provided herein, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

(c) The administrator shall forward commercial development plans to the planning commission for site plan review at his discretion. The planning commission at their discretion may elect to place the project on the next monthly agenda for full planning commission review of the project layout. If the planning commission elects to have full review the applicant shall provide a site plan for development along with a construction timetable for said development. The site plan shall include, as a minimum, the following data to insure the proposed development conforms to this ordinance.

(1) Show the location of all improvements and facilities.

(2) Photographs, artist renderings or other visual documents that will assist the City in establishing compatibility.

(3) Information relative to the number of employees, visitors expected (daily, monthly), peak traffic times and days and hours of operation.

(4) Parking layout and size, landscaping, lighting and any off-site improvements.

(5) Expected access routes to and from site.
(6) Expected infrastructure improvements such as water, natural gas, electricity, drainage and sewerage.
(7) Proof of ownership or contractual lease.
(8) Other requirements as may be deemed necessary, appropriate and in the interest of the public health, safety and welfare.

Section 41: Zoning Permits

(a) A completed application form for a zoning permit shall be submitted to the City by filing a copy of the application with the planning department.
(b) The administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in Section 38, that:
  (1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses, or
  (2) The application is incomplete, or
  (3) If completed as proposed in the application, the development will not comply with one or more requirements of this ordinance (not including those requirements concerning which a variance has been granted or the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations).

Section 42: Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit

In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all of the requirements of this ordinance prior to commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Mayor and Board of Aldermen to ensure that all of the requirements of this ordinance will be fulfilled within a reasonable period (not to exceed 12 months) determined by the City.

Section 43: Special Use Permits

(a) An application for a special-use shall be submitted to the City by filing a copy of the application with the planning department.
(b) Subject to Subsection (c), the Board of Adjustment shall approve the requested permit unless it concludes, based upon the information submitted at the hearing, that:
  (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses, or
  (2) The application is incomplete, or
  (3) If completed as proposed in the application, the development will not comply with one or more requirements of this ordinance (not including those the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations), or
(c) Even if the board finds that the application complies with all other provisions of this ordinance, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
  (1) Will materially endanger the public health or safety, or
  (2) Will substantially injure the value of adjoining or abutting property, or
  (3) Will not be in harmony with the area in which it is to be located, or
  (4) Will not be in general conformity with the land-use plan, thoroughfare plan, or other plans officially adopted by the Mayor and Board of Aldermen.

Section 44: Burden of Presenting Evidence; Burden of Persuasion

(a) The burden of presenting a complete application (as described Section 38) to the City shall be upon the applicant. However, unless the city informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing); the application shall be presumed to be complete.

(b) Once a completed application has been submitted, the burden of presenting evidence to the board sufficient to lead it to conclude that the application should be denied for any reasons stated in Subsections 43(b) (1), 43(b) (3) or 43(c) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(c) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Subsection 43(c) rests on the party or parties urging that the requested permit should be denied.

Section 45: Recommendations on Special-Use Permit Applications

(a) When presented to the Board of Adjustment at the hearing, the application for a special-use permit may be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 38 (Application To Be Complete) and the other requirements of this ordinance, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

(b) If the staff proposes a finding or conclusion that the application fails to comply with Section 37 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(c) The Board of Adjustment may, by general rule applicable on a case-by-case basis, refer applications to the planning commission to obtain its recommendations.

Section 46: Recommendations on Planning commission approval Permit Applications

(a) Before being presented to the Board of Aldermen, an application for a planning commission approval permit shall be referred to the Planning Commission for action in accordance with this section. No action on a planning commission approval permit application shall be taken until the planning commission has had an opportunity to consider the application pursuant to standard agenda procedures.

(b) When presented to the board of adjustment, the application may be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 38 and other requirements of this ordinance, as well as any recommendations for additional requirements to be imposed by the board of adjustment. If the planning staff report proposes a finding or conclusion that the application fails to comply with Section 38 or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(c) The Planning Commission shall consider the application and any attached report and shall find that it complies with Section 40(c) prior to recommending to the Mayor and Board of Aldermen.

(d) After reviewing the application, the Planning Commission shall report to the Board of Aldermen its recommendations and the reasons therefore.

(e) In response to the board of adjustment's recommendations, the applicant may modify his application prior to submission to the Board of Aldermen, and the planning staff may likewise revise its recommendations.

Section 47: Board of Aldermen Action on Planning commission approval Permits.
In considering whether to approve an application for a planning commission approval permit, the Board of Aldermen shall proceed according to the following format:

(1) The Board of Aldermen shall consider whether the application is complete. If no member moves that the application is found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Board of Aldermen that the application is complete.

(2) The Board of Aldermen shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes, the Board of Aldermen need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this ordinance. Such a motion shall specify the particular requirements the application fails to meet.

Section 48: Planning Commission Action on Special-Use Permits
In considering whether to approve an application for a special-use permit the Planning Commission shall proceed in the same manner as the Board of Aldermen when considering planning commission approval permit applications (Section 47).

(1) The Commission shall consider whether the application is complete. If the Commission concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete.

(2) The Commission shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes by the necessary majority vote, the Commission need not make further findings concerning such requirements. If such a motion fails to receive the necessary majority vote or is not made, then a motion shall be made that the application be found not in compliance with one or more requirements of this ordinance. Such a motion shall specify the particular requirements application fails to meet. A separate vote may be taken respect to each requirement not met by the application.

Section 49: Additional Requirements on Special-Use and Planning commission approval Permits

(a) Subject to Subsection (b), in granting a special or conditional permit, the Board of Adjustment or planning commission, respectively, may attach to the permit such reasonable requirements in addition to those specified in this ordinance to ensure that the development in its proposed location:
   (1) Will not endanger the public health or safety,
   (2) Will not injure the value of adjoining or abutting property,
   (3) Will be in harmony with the area in which it is located, and
   (4) Will be in conformity with the land-use plan, thoroughfare plan or other plan officially adopted by the Board of Aldermen.

(b) The city may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit to a specified duration.

(d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this ordinance.

(f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subsections 43(b) or (c).

Section 50: Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special-Use or Planning commission approval Permits

(a) In cases when, because of weather conditions or other factors beyond the control of the special-use or planning commission approval permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this ordinance before commencing the intended use of the property or occupying any buildings the city may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the city to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months).

(b) When the city imposes additional requirements upon the permit recipient in accordance with Section 48 or when the developer proposes in the plans submitted to install amenities beyond those required by this ordinance, the city may authorize the applicant to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of anyone or more of the following:

(1) A performance bond or other security satisfactory to the city is furnished,

(2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made,

(c) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 79 (Penalties and Remedies for Violations) and Section 80 (Permit Revocation).

Section 51: Completing Developments in Phases

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to Subsection (c), the provisions of Section 36 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 50 (exceptions to Section 36) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of Subsection (a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this ordinance that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the city, no land may be used, no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:

(1) If the improvement is one required by this ordinance then the developer may utilize the provisions of Subsections 50(a) or 50(c),

(2) If the improvement is an amenity not required by this ordinance or is provided in response to a condition imposed by the board, then the developer may utilize the provisions of Subsection 49 (b).

Section 52: Expiration of Permits

(a) Zoning, special-use and planning commission approval permits shall expire automatically if, within six months after the issuance of such permits:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or

(2) Less than 10 percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 51) this requirement shall apply to each phase of the development.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 53.

(c) The city may extend for a period up to six months the date when a permit would otherwise expire pursuant to Subsections (a) or (b) if it concludes:

(1) the permit has not yet expired,

(2) the permit recipient has proceeded with due diligence and in good faith, and

(3) conditions have not changed so substantially as to warrant a new application.

Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, the permit within the jurisdiction of the Board of Aldermen or the Board of Adjustment is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place:

(1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand- delivered or mailed to the permit applicant; or

(2) The zoning administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required under law.

(e) Notwithstanding any of the provisions of Article VIII (Nonconforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

Section 53: Effect of Permit on Successors and Assigns

(a) Zoning, special-use and planning commission approval permits authorize the applicant to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

(1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and

(2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice of the existence of the permit at the time they acquired their interest.

Section 54: Amendments to and Modifications of Permits

(a) Insignificant deviations from the permit (including approved plan) issued by the Board of Aldermen, the Board of Adjustment, or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact

on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the city. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Aldermen or Board of Adjustment, new conditions may be imposed in accordance with Section 49, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections (a), (b), and (c).

(e) A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

Section 55: Reconsideration of Board Action

(a) Whenever (i) the Board of Aldermen disapproves a planning commission approval permit application, or (ii) the Board of Adjustment disapproves an application for a special-use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

    (1) Circumstances affecting the property that is the subject of the application have substantially changed, or

    (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the city within the time period for an appeal.

(b) Notwithstanding Subsection (a), the Board of Aldermen or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

Section 56: Applications to be Processed Expeditiously

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the city shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all, development conforms to the requirements of this ordinance.

Section 57: Maintenance of Common Areas, Improvements and Facilities

The recipient of any zoning, special-use and planning commission approval, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Section 58 and 59: Reserved

Article V
APPEALS, VARIANCES, INTERPRETATIONS

Section 60: Appeals

(a) Any person aggrieved may take an appeal from any final order or decision of the administrator to the board of adjustment. An appeal is taken by filing with the administrator and the board of adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the administrator and the board of adjustment when delivered to the planning department, and the date and time of filing shall be entered on the notice by the planning staff.

(b) An appeal must be taken within 15 days after the date of the decision or order appealed from.

(c) Whenever an appeal is filed, the administrator shall forthwith transmit to the board of adjustment all the papers constituting the record relating to the action appealed from.

(d) An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the board of adjustment that (because of facts stated in the certificate) a stay would, in the administrator's opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the board of adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator.

(e) The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

Section 61: Variances

(a) An application for a variance shall be submitted to the board of adjustment by filing a copy of the application with the administrator in the planning department. Applications shall be handled in the same manner as applications for special-use permits in conformity with the provisions of Sections 37, 38, and 45.

(b) A variance may be granted by the board of adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district,

(2) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located,

(3) The hardship relates to the applicant's land, rather than personal circumstances, such as economics,

(4) Granting the variance requested will not confer upon applicant any special privileges that are denied to other residents of the district in which the property is located,

(5) The hardship is not the result of the applicant's own actions,

(6) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare,

(7) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure, and

(8) The variance will neither result in the extension of a non-conforming situation in violation of Article VIII nor authorize the initiation of a non-conforming use of land.

(c) In granting variances, the board of adjustment may impose such reasonable conditions as will

ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

(d) A variance may be issued for an indefinite duration or for a specified duration only.

(e) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

Section 62: Interpretations

(a) The board of adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the zoning administrator, they shall be handled as provided in Section 60.

(b) An application for a map interpretation shall be submitted to the board of adjustment by filing a copy of the application with the administrator in the planning department. The application shall contain sufficient information to enable the board to make the necessary interpretation.

(c) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines,

(2) Boundaries indicated as approximately following lot lines, city limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries,

(3) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines,

(4) Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map, and

(5) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

Section 63: Requests to be Heard Expeditiously

As provided in Section 56, the board of adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Article VI, and obtain the necessary information to make sound decisions.

Section 64: Burden of Proof in Appeals and Variances

(a) When an appeal is taken to the board of adjustment in accordance with Section 69, the administrator shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(b) The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions set forth in Subsection 70(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 65: Board Action on Appeals and Variances

(a) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive a majority vote, then the appeal is automatically denied without further action.

(b) Before granting a variance, the board must vote affirmatively on the eight (8) required findings stated in Subsection 61(b). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in Subsection 61(b) shall include a statement of the specific reasons or findings of fact supporting such motion.

(c) A motion to deny a variance may be made on the basis that anyone or more of the eight criteria set forth in Subsection 61(b) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by a majority vote.

Sections 66 and 67: Reserved

ARTICLE VI
Hearing Procedures for Appeals and Applications

Section 68: Hearing Required on Appeals and Applications

(a) Before making a decision on an appeal or an application for a variance, special-use permit, or a petition from the planning staff to revoke a special-use permit or planning commission approval permit, the board of adjustment or the Board of Aldermen, as the case may be, shall hold a hearing on the appeal or application.

(b) Subject to Subsection (c), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify under the direction of the chairman.

(c) The board of adjustment or council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(d) The hearing board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Section 69: Notice of Hearing

The administrator shall give notice of any hearing required by Section 68 as follows:

(1) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than 15 days before the, hearing.

(2) Notice may be given to neighboring property owners by mailing a written notice not later than 15 days before the hearing to those persons who have listed for taxation real property any portion of which is located within 200 feet of the property that is the subject of the application or appeal.

(3) Notice shall be given to other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than fifteen (15) nor more than thirty (30) days prior to the hearing.

(4) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 70: Evidence

(a) The provisions of this section apply to all hearings for which a notice is required by Section 69.

(b) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

Section 71: Modification of Application at Hearing

(a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Mayor and Board of Aldermen or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it,

the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

Section 72: Record

(a) A tape recording may be made of all hearings required by Section 68, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

(b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the city for at least two years.

Section 73: Written Decision

(a) Any decision made by the board of adjustment or Mayor and Board of Aldermen regarding an appeal or variance or issuance or revocation of a Planning Commission Approval permit or special use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

(b) In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.

Sections 74 through 75: Reserved

Article VII
ENFORCEMENT AND REVIEW

Section 76: Complaints Regarding Violations
Whenever the administrator receives a written, signed complaint alleging a violation of this ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Section 77: Persons Liable
The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Section 78: Procedures Upon Discovery of Violations
(a) If the administrator finds that any provision of this ordinance is being violated, the City shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the City's discretion.
(b) The final written notice (and the initial written notice may be the final notice) shall state what action the City intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the board of adjustment in accordance with Section 60.
(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the City may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 79.

Section 79: Penalties and Remedies for Violations
(a) Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special-use or planning commission approval permits, shall constitute a misdemeanor and shall be punishable as allowed by Mississippi state statute.
(b) This ordinance may also be enforced by any appropriate equitable action.
(c) Each day that any violation continues after notification by the City that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.
(d) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this ordinance.

Section 80: Permit Revocation
(a) A zoning, sign, special-use, or planning commission approval permit may be revoked by the City (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this ordinance, or any additional requirements lawfully imposed by the City.
(b) Before a planning commission approval or special-use permit may be revoked, all of the notice and hearing and other requirements of Article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
    (1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in Subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that

party.

(2) A motion to revoke a permit shall include insofar as practicable a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient 15 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and his right to obtain an informal hearing on the allegations. If the permit is revoked, the City shall provide to the permittee a written statement of the decision and the reasons therefor.

(d) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special-use or planning commission approval permits after such permit has been revoked in accordance with this section.

Section 81: Judicial Review

(a) Every decision of the Mayor and Board of Aldermen granting or denying a planning commission approval permit and every final decision of the board of adjustment shall be subject to review by the Circuit Court or court of like jurisdiction.

(b) The petition for the writ of certiorari must be filed with the Harrison County Clerk of Court within 30 days after the later, but not thereafter, of the following occurrences:

(1) A written copy of the board's decision (see Section 73) has been filed in the office of the planning department, and

(2) A written copy of the board's decision (see Section 73) has been delivered by personal service or mail to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(c) A copy of the writ of certiorari shall be served upon the City.

Sections 82 through 83: Reserved

ARTICLE VIII
NONCONFORMING SITUATIONS

Section 84: Definitions

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

(1) Dimensional Nonconformity. A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

(2) Effective Date of This Ordinance. Whenever this article refers to the effective date of this ordinance, the reference shall be deemed to include the effective date of any amendments to this ordinance if the amendment, rather than this ordinance as originally adopted, creates a nonconforming situation.

(3) Expenditure. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

(4) Nonconforming Building. A building or part thereof lawfully existing on the effective date of this ordinance and which does not conform to all of the regulations of the district in which it is located.

(5) Nonconforming Lot. A lot existing at the effective date of this ordinance (and not created for the purposes of evading the restrictions of this ordinance) that does not meet the minimum area requirement of the district in which the lot is located.

(6) Nonconforming Project. Any structure, development, or under-taking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

(7) Nonconforming Use. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

(8) Nonconforming Situation. A situation that occurs when, on the effective date of this ordinance, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this ordinance, or because land or buildings are, used for purposes made unlawful by this ordinance. Nonconforming signs shall not be regarded as nonconforming situations for purposes of this article but shall be governed by the provisions of Sections193 and 194.

Section 85: Continuation of Nonconforming Situations and Completion of Nonconforming Projects

(a) Unless otherwise specifically provided in this ordinance and subject to the restrictions and qualifications set forth in Sections 86 through 90, nonconforming situations that were otherwise lawful on the effective date of this ordinance may be continued.

(b) Nonconforming projects may be completed only in accordance with, the provisions of Section 91.

Section 86: Nonconforming Lots

(a) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Section 142, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular district is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (Section 145) cannot reasonably be complied with, then the entity authorized by this ordinance to issue a permit for the proposed use (the administrator, board of adjustment, or Board of Aldermen) may allow deviations from the applicable setback requirements if it finds that:

(1) The property cannot reasonably be developed for the use proposed without such deviations,

(2) These deviations are necessitated by the size or shape of the nonconforming lot, and

(3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(c) For purposes of Subsection (b), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

(d) This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 89.

(e) Subject to the following sentence, if, on the date this Section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Section 87: Extension or Enlargement of Nonconforming Situations

(a) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation without the planning commission's approval. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

(1) An increase in the total amount of space devoted to a nonconforming use, or

(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to Subsection (d), a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 91 (authorizing the completion of nonconforming projects in certain circumstances); a nonconforming use may not be extended to additional buildings or to land outside the original building.

(c) Subject to Section 91 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the

lot where the use was established at the time it became nonconforming, if 10 percent or more of the earth products had already been removed on the effective date of this ordinance.

(d) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

(e) Notwithstanding Subsection (a), any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 90 (abandonment and discontinuance of nonconforming situations).

(f) Notwithstanding Subsection (a), whenever:
   (1) there exists a lot with one or more structures on it, and
   (2) a change in use that does not involve any enlargement of a structure is proposed for such lot, and
   (3) the parking or loading requirements of Article XVII that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation.

(g) The applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 206 if:
   (1) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and
   (2) such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning or special-use or planning commission approval permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

(h) In the case of extreme hardship, an owner may request permission through the planning commission to allow for the expansion of a nonconforming situation. The burden of proof is on the applicant and the planning commission shall only grant the minimal expansion necessary to allow the nonconforming situation to exist.

Section 88: Repair, Maintenance and Reconstruction

(a) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 50 percent of the appraised valuation of the structure to be renovated may be done only in accordance with a zoning permit issued pursuant to this section.

(b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed fifty-one (51) percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in Subsection 87(e).

(c) For purposes of Subsections (a) and (b):
   (1) The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
   (2) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections (a) or (b) by doing such work

incrementally.

(3) The "appraised valuation" shall mean either the most recent appraised valuation for property tax purposes or the valuation determined by a licensed Mississippi property appraiser.

(d) The administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:

(1) No violation of Section 87 will occur, and

(2) The permittee will comply with the extent reasonably possible with all provisions of this ordinance applicable to the existing use (except that the permittee shall not lose his right to continue a nonconforming use).

(e) Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship, caused by the cost of meeting such requirements as paved parking, does not constitute grounds for finding that compliance is not reasonably possible.

Section 89: Change in Use of Property Where a Nonconforming Situation Exists

(a) A change in use of property (where a nonconforming situation exists) that is sufficiently substantial to require a new zoning, special-use, or planning commission approval permit in accordance with Section 34 may not be made except in accordance with Subsections (b) through (d). However, this requirement shall not apply if only a sign permit is needed.

(b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this ordinance applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this ordinance is achieved, the property may not revert to its nonconforming status.

(c) If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this ordinance applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this ordinance to issue a permit for that particular use (the administrator, board of adjustment, or Board of Aldermen) issues a permit authorizing the change. This permit may be issued if the City finds, in addition to any other findings that may be required by this ordinance, that:

(1) The intended change will not result in a violation of Section 86, and

(2) All of the applicable requirements of this ordinance that can reasonably be complied with will be complied with. Compliance with a requirement of this ordinance is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained o moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements, as paved parking, does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

(d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by this ordinance to issue a permit for that particular use (administrator, board of adjustment, or board of aldermen) issues a permit authorizing the change. The permit issuing authority may issue the permit if it finds, in addition to other findings that may be required by this ordinance, that:

(1) The use requested is one that is permissible in some zoning district with either a zoning, special-use, or planning commission approval permit, and

(2) All of the conditions applicable to the permit authorized in Subsection (c) of this section are satisfied, and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the surrounding neighborhood than the use in operation at the

time the permit is applied for.

Section 90: Abandonment and Discontinuance of Nonconforming Situations

(a) When a nonconforming use is
   (1) discontinued for a consecutive period of 365 days, or
   (2) discontinued for any period of time without a present continuance of intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.

(b) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is
   (1) discontinued for a consecutive period of 365 days, or
   (2) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations.

This permit may be issued if the City finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.

(c) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 365 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

(d) When a structure or operation made nonconforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the 365 days period for purposes of this section begins to run on the effective date of this ordinance.

Section 91: Completion of Nonconforming Projects

(a) All nonconforming projects on which construction was begun at least 180 days before the effective date of this ordinance as well as all nonconforming projects that are at least 10 percent completed in terms of the total expected cost of the project on the effective date of this ordinance may be completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

(b) Except as provided in Subsection (a), all work on any nonconforming project shall cease on the effective date of this ordinance, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a zoning, special-use, planning commission approval, or sign permit issued in accordance with this section by the individual or board authorized by this ordinance to issue permits for the type of development proposed. The permit-issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land-use law as it existed before the effective date of this ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the permit-issuing authority shall be guided by the following, as well as other relevant considerations:
   (1) All expenditures made to obtain or pursuant to a validly issued and unrevoked building, zoning, sign, or special- or conditional- use permit shall be considered as evidence of reasonable

reliance on the land-use law that existed before this ordinance became effective.

(2) Except as provided in Subdivision (b)(1), no expenditures made more than 180 days before the effective date of this ordinance may be considered as evidence of reasonable reliance on the land-use law that existed before this ordinance became effective. Expenditure is made at the time a party incurs a binding obligation to make that expenditure.

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.

(4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion of a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(5) Expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (i) the total estimated cost of the proposed project, and (ii) the ordinary business practices of the developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land-use law affecting the proposed development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land-use law affecting a development site, the permit-issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit-issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (i) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development, and (ii) the developer had legitimate business reasons for making expenditures.

(c) When it appears from the developer's plans or otherwise that a project was intended to be or reasonably could be completed in phases, stages, segments, or other discrete units, the developer shall be allowed to complete only those phases or segments with respect to which the developer can make the showing required under Subsection (b). In addition to the matters and subject to the guidelines set forth in Subdivisions (1) through (6) of Subsection (b), the permit-issuing authority shall, in determining whether a developer would be unreasonably prejudiced if not allowed to complete phases or segments of a nonconforming project, consider the following in addition to other relevant factors:

(1) Whether any plans prepared or approved regarding uncompleted phases constitute conceptual plans only or construction drawings based upon detailed surveying, architectural, or engineering work.

(2) Whether any improvements, such as streets or utilities, have been installed in phases not yet completed.

(3) Whether utilities and other facilities installed in completed phases have been constructed in such a manner or location or such a scale, in anticipation of connection to or interrelationship with approved but uncompleted phases, which the investment in such utilities or other facilities cannot be recouped if such approved but uncompleted phases are constructed in conformity with existing regulations.

(d) The permit-issuing authority shall not consider any application for the permit authorized by Subsection (b) that is submitted more than 60 days after the effective date of this ordinance. The City may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

(e) The administrator shall send copies of this section to the persons listed as owners for tax purposes

(and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than 15 days before the effective date of this ordinance.

(f) The City shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible before the effective date of this ordinance, so that construction work is not needlessly interrupted.

Sections 92 and 93: Reserved

ARTICLE IX
ZONING DISTRICTS and ZONING MAP

Part 1. Zoning Districts

Section 94: Residential Districts Established

(a) The following residential districts are hereby established: R-1, R-2, R-3, R-4 and R-O. Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these districts are explained in the remainder of this section.

(b) The R-1 district is designed primarily to accommodate single-family detached residential uses (other than mobile or manufactured homes) at low and medium densities.

(c) The R-2 district is designed to accommodate single-family detached and two-family dwelling units.

(d) The R-3 zone is designed primarily to accommodate all residential uses including low and high rise apartments.

(e) The R-4 district is designed to accommodate residential and agricultural uses.

(f) The R-O district is designed to accommodate low density residential and small office uses in a house-form appearance.

Section 95: Commercial Districts Established

(a) The following commercial districts are hereby established: C-1, C-1HD, C-2, C-2B, and C-3. These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.

(b) The C-1 (central business) district is designed to accommodate a wide variety of commercial and mixed use activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the city's central business district.

(c) The C-1HD (high density) district is designed to accommodate retail mixed with condominiums, apartments, offices and entertainment complexes, including gaming activities.

(d) The C-2 (highway commercial) district is designed to accommodate the widest range of commercial activities and high density residential.

(e) The C-2B (beachfront) district is designed to accommodate mixed-use commercial and residential, including condominiums, apartments, offices and light commercial.

(f) The C-3 (neighborhood business) districts are designed to accommodate commercial development on a scale that is less intensive than that permitted in a C-2 district. A lesser intensity of development is achieved through setback, height, and minimum lot size requirements that are more restrictive than those applicable to the C-2 zone. The C-3 district thus may provide a transition in some areas between commercial and residential or may provide for a smaller scale shopping center that primarily serves one neighborhood or area of the city (as opposed to a regional shopping center). The City encourages the use of house-form structures in this district.

Section 96: Industrial Districts Established

The following districts are hereby established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment: I-1 and I-2. The performance standards set forth in Part II of Article XI place limitations on the characteristics of uses located in these districts.

(a) The I-1 (planned industrial park) district is designed to provide a location for a planned development of an industrial complex. Such a complex may have one or more industries and is developed and remains in the control of a supervising authority.

(b) The I-2 industrial district is designed for industry established on existing lots or parcels.

Section 97: Waterfront District Established

The Waterfront District (WD) is hereby established primarily to accommodate enterprises engaged in the marine, entertainment and water related uses. The waterfront area is a chief attraction to the City and an important part of the local culture. Uses, along with mixed-uses shall be adjacent to water bodies and compatible with waterfronts. The City shall allow only such uses that promote waterfront development, enhance the beach views and encourage public use of facilities.

Section 98: Planned Unit Development Districts Established

(a) There are hereby-established 6 different planned unit development (PUD) districts as described in this section. Each PUD district is designed to combine the characteristics of at least two and possibly three zoning districts.
   (1) One element of each PUD district shall be the medium-density residential element. Here there are two possibilities, each one corresponding to the R-2 or R-4 residential districts described in Subsection 94 (d) and (e). Within that portion of the PUD zone that is developed for medium density residential purposes, all development must be in accordance with the regulations applicable to the medium density residential district to which the particular PUD zoning district corresponds.
   (2) One element of each PUD district shall be the higher density residential element. Here there are two possibilities; each one corresponding either to the R-3 or R-4 zoning districts described in Subsections 102(d) and (e), respectively. Within that portion of the PUD District that is developed for higher density residential purposes, all development must be in accordance with the regulations applicable to the higher density residential district to which the PUD district corresponds.
   (3) A second element of each PUD district shall be the commercial element. Here there are two possibilities, each one corresponding to one of the following commercial districts identified in Section 94: C-2 or C-3. Within that portion of a PUD district that is developed for purposes permissible in a commercial district, all development must be in accordance with the regulations applicable to the commercial district to which the PUD district corresponds.

(b) In accordance with the description set forth in Subsection (a), the 6 PUD districts shall carry the following designations to indicate their component elements:
   (1) R-2, R-4, C-2
   (2) R-2, R-4, C-3
   (3) R-4, C-2
   (4) R-4, C-3
   (5) R-3, C-2
   (6) R-3, C-3

(c) No area of less than five (5) contiguous acres may be zoned as a PUD district, and then only upon the request of the owner or owners of all the property intended to be covered by such zone.

(d) As indicated in the Table of Permissible Uses (Section 105), a planned unit development is the only permissible use of a PUD zone and planned unit developments are permissible only in such zones.

(e) Planned unit developments are subject to the requirements set forth in Sections 117 and 118.

Section 99: Floodplain and Floodway Districts

The floodplain and floodway districts may be established as "overlay" districts, meaning that these districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the applicable overlay district.

Section 100: Special Use District

(a) The purpose of a Special Use District is to enable the Planning Commission and City of Long Beach, Mississippi to establish zoning districts for mixed uses of land in accordance with the following procedures and regulations.

(b) The establishment of a Special Use District shall adhere to the regulations imposed for like categories or functions under this Zoning Ordinance.

(c) The types of Special Use District which could be established shall include, but not be limited to such districts as:

(1) Medical Complex District to include activities such as hospitals, public health centers, nurses training facilities, pathology laboratories, doctors' clinics and offices, extended care and nursing facilities, dental clinics and offices, and other closely related and compatible uses.

(2) Recreational District to include active and passive activities such as neighborhood centers, parks and playgrounds, swimming pools, picnic areas, and other closely related and compatible uses.

(3) Educational Institutions District to include activities such as grade schools, secondary schools and colleges, auditoriums, libraries, recreational facilities, and other closely related and compatible uses.

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

(5) Housing District to include such residential uses as single and two-family residences, garden apartments, town houses and high-density development.

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

(d) In applying for a Special Use District, or an amendment to such a district, an overall development plan shall be submitted to the Planning Commission along with a report showing the need of such a District and its effect on adjacent and surrounding uses. This overall development plan shall include, but not be limited to:

(1) Plans showing location and design of structures, delivery points, loading and storage areas, walls, fences, screen planting, signs, lighting devices and pedestrian walks.

(2) Plans illustrating adequate off-street parking according to standards established in this ordinance.

(3) Plans showing entrance and exits to the area and the traffic routing system so designed as to minimize nuisance effects due to the generation of traffic to and from the area.

(4) Any other information the Planning Commission may need to adequately consider the effect the proposed uses may have upon the cost of providing adequate services to the area.

The Commission may attach reasonable special conditions to the approval of such District or amendments to insure that there will be no departure from the intent of this Zoning Ordinance.

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

(e) All Special Use Districts shall:

(1) Contain a minimum of five acres, except for an expansion of an existing Special Use District. If the existing Special Use District does not contain five acres, then the additional acreage shall contain at least the amount needed to bring the total land area to five acres.

(2) Be compatible with adjacent land use, if not, adequate buffers and screening shall be required.
(3) Start construction within one year after approval of final plat. If initial construction (for example footings, foundations) does not begin within one year, all land shall revert to the original zoning. In any case, where there was no original zoning, all land will be rezoned to conform to adjacent uses.
(4) Conform to established regulations. Even though this district will have mixed uses, each separate use will meet the requirements of similar uses in other districts. For example, all residential uses in this district will comply with the applicable residential regulations as set forth in this Zoning Ordinance.
(5) Since a mixture of uses are permitted within this district, no building, structure, land or premises shall be used and no building or structure shall be hereinafter erected, constructed, reconstructed or altered until such use, erection, construction, reconstruction or alteration shall have been specifically authorized by the governing body after study and recommendation by the Planning Commission.
(6) Be binding upon the applicant or applicants, their successors and assigns, and shall limit the development to all conditions and limitations established in such plans.
(7) Proposed expansions or revisions to any originally approved Special Use District shall be submitted to the Planning Commission. Upon receiving this request, the Planning Commission shall follow the general procedures and regulations as previously set forth.

Section 101: Architectural Guidelines
The City of Long Beach may adopt Architectural Guidelines; the purpose of those guidelines shall be used to share ideas to assure that new development and rebuilding fit in with the visual appearance and goals of the City. Decisions made regarding the overall configuration, disposition, function and materials of any structure shall comply with these Architectural Guidelines and this ordinance.

Part 2. Zoning Map
Section 102: Official Zoning Map
(a) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the city's planning jurisdiction. This map shall be digitally drawn or other durable material from which prints can be made, shall be dated, and shall be kept in the planning department.
(b) The Official Zoning Map dated is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Article XIX.
(c) Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map created from which prints can be made. No further council authorization or action is required so long as no district boundaries are changed in this process.

Section 103: Amendments to Official Zoning Map
(a) Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments to this chapter, as set forth in Article XIX.
(b) The administrator shall update the Official Zoning Map as soon as possible after adopted by the council. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.
(c) No unauthorized person may alter or modify the Official Zoning Map.
(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

Section 104: Reserved

ARTICLE X
CHART OF USES

Section 105: Chart of Uses

The Chart of Uses should be read in close conjunction with the definitions of terms set forth in Section 14, and other interpretative provisions set forth in this article. The following symbols are represented on the chart:

R = permitted by right
X = permitted with Planning Commission Approval
S = permitted as Special-use (hearing)

Chart of Use

	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WD
Agricultural													
Greenhouse Commercial				R									
Crops / Forestry				R									
Riding Stable				X									
Livestock				X									
Wildlife Refuge				X									
Forest Preserve				R									
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Residential													
Single Family	R	R	R	R	R	X		X	X	X			
Accessory Unit	X	X	X	X	X	X		X	X	X	X	X	
Duplex / 2 Family Dwelling		R	R		X								
Townhouse			R			X	X	X	X	X			
Condominium			R			X	R	X	X	X			X
Apartment Building *Low Rise*			R			X	X	X	X	X			
Apartment Building *High Rise*			X			X	X	X	X	X			
Mobile Home Park				S									
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Special Care Homes													
Homes for Handicapped or Infirm			X	X				R		X			
Nursing Care, Intermediate Care Homes			X	X				R		X			
Halfway Houses								S					
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Lodging													
Hotel / Motel (12+ rooms)						X	R	X	R	X			X
Inn (up to 12 rooms)						X	X	X	R	X			
Bed and Breakfast (1-5 rooms)		X	X			X		X	R	X			
Tourist Homes (renting by the day or week)	X	X	X	X	X	X		X	X	X			
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Office, Clerical, Research and Services (Not primarily related to goods and merchandise)													
Home Occupation (No customer/ client traffic generation)	R	R	R	R	R	R	R	R	R	R			
Operations designed to attract and serve customers or clients on the premises					X	R		R	R	R	R	R	X
Operations designed to attract little or no customers or client traffic other than employees of the entity					R	R		R	R	R			
Office building (multiple offices)						X	R	R	R	X	R	R	
Operations with drive up window						X	X	R	X	X			X
Work / Live Unit					R	R		R	R	R			
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Services and Enterprises Relating to Animals													
Veterinarian (small animals only)					X	X		R	X	X			
Veterinarian (small / large animals)				S				X		X	X		
Boarding Kennel				S				X		X	X		

Note: R = permitted by right
X = permitted with Planning Commission Approval
S = permitted as Special-use (hearing)

	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WD
Sales and Rental of Goods, Merchandise and Equipment													
No storage or display of goods outside fully enclosed building													
High volume traffic generation (more than 2,500 sq ft)						R	R	R	R	R			X
Low volume traffic generation (up to 2,500 sq ft)						R	R	R	R	R			X
Wholesale sale								R			R	R	
Storage and display of goods outside fully enclosed building allowed													
High volume traffic generation (more than 2,500 sq ft)							X	R	X	X	R	R	
Low volume traffic generation (up to 2,500 sq ft)							X	R	X	X	R	R	
Wholesale sale								R	X	X	R	R	
	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WD
Manufacturing, Processing, Creating, Repairing, Painting, Renovation, Cleaning and Assembling of Goods													
All operations conducted entirely within fully enclosed building													
Majority of dollar volume of business done with walk-in trade						X		X	X	X	R	R	
Majority of dollar volume of business not done with walk-in trade								X	X	X	R	R	
Operations conducted within or outside fully enclosed building													
Majority of dollar volume of business done with walk-in ade								X			R	R	
Majority of dollar volume of business not done with walk-in trade								X			R	R	
	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WD
Regulated Businesses													
Check cashing, title loan or pawn								R			X		
Escort services											S		
Lingerie modeling studio											S		
Sex oriented cabaret, cinema, media, or sex shop with sale or rental of sex oriented merchandise											S		
Tattoo and body piercing parlor								R			X		
	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WD
Motor Vehicle Related Sales and Service													
Motor vehicle sales or rental								R			X		
Sales with installation of parts or accessories (tires, mufflers, etc.)								R			R		
Motor vehicle repair and maintenance not including substantial body work								R			R		
Motor vehicle repair and maintenance not including substantial body work								R			R	R	
Gas Sales							X	R	X	X	R	R	X
Gas Sales with repair and maintenance services								R			R	R	
Car Wash								R		X	R	R	
Scrap materials, salvage or junk yards and vehicle graveyards											X	R	
utomobile parking garages or parking lots (commercial)						X	X	X	X	X	R	R	

	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WD
Storage													
Storage rental units								X		X	R	R	
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Entertainment, Recreation, Amusement													
Activity conducted entirely within building or structure													
Bowling alleys, skating rinks, billiard halls , indoor athletic facilities and similar uses						X	X	R	X	X			
Movie theaters and Performing Arts						X	X	R	X	X			
Coliseums, stadiums and similar uses				S			R	R	R				
State Approved Gaming and related uses						X	R		R				R
Activity conducted primarily outside enclosed building													
Privately owned outdoor recreational facilities				S			X	X	X				X
Drive- in movies									X				
Publicly owned and operated outdoors recreation facilities	X	X	X	X			X	X	X	X	X	X	X
Golf course				S					X				
Golf driving ranges (not accessory to golf courses)				S				R	X				
Horseback riding or stables				X									
Automobile and motorcycle racetracks				S									
RV Park				S					X				
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Food Service, Restaurants, Lounge													
No substantial carry-out or delivery services, no drive-in service or primary consumption outside fully enclosed building						R	R	R	R	R			R
Restaurants with alcohol as accessory use						R	R	R	R	R			R
Lounge for consumption of alcoholic beverages on premises						R	R	R	R	X			R
Carry-out, delivery and drive-in services, primary consumption outside fully enclosed building						X	X	R	X	X			X
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Marine Related Facility													
Marina stores and supplies (up to 2,500 sq ft.)						R	R	R	R	R			R
Live bait stores									X				X
Harbor and related uses								R	X		R	R	R
Boat storage (indoor and outdoor)								R	X		R	R	X
Boat maintenance and repair								R	X		R	R	X
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Civic and Emergency Services													
Community Facility	X	X	X	X	X	X	X	R	X	X	R	R	X
Police Stations	X	X	X	X	X	X	X	X	X	X	X	X	
Fire Station	X	X	X	X	X	X	X	X	X	X	X	X	
Rescue and ambulance								R			R	R	
Infrastructure / Utilities	X	X	X	X	X	X	X	X	X	X	X	X	X
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WD**
Miscellaneous public and semi-public uses													
Post office	X	X	X	X	X	X	X	X	X	X	X	X	
Airport		S											
Sanitary landfill		S											
Transit Facility							X	R	X				X
Military reserve centers		S											

	R1	R2	R3	R4	RO	C1	C1HD	C2	C2B	C3	I-1	I-2	WFD
Funeral Home, Cemetery, Crematorium													
Funeral Home with embalming on site								R		X			
Funeral Home (visitation / services only)								R		X			
Crematorium											R	R	
Cemetery				S									
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WFD**
Educational, Cultural, Religious, Philanthropic, Social, Fraternal, Child Care													
Child care facility (3 or fewer)	X	X	X	R	X			R	X	R			
Child care facility (4 or more)				X				R		R			
Elementary School	X	X	X	X				X	X	X	X	X	
Middle / High School	X	X	X	X				X	X	X	X	X	
College / University (including dormitory)	X	X	X	X				X	X	X	X	X	
Learning Center								R			R	R	X
Special training / Vocational								R			R	R	
Research facility						X	X	R	X	X	R	R	X
Libraries, museums, art centers and similar uses						X	X	R	X	X	R	R	X
Social, fraternal clubs and similar uses	X	X	X	X	X			R	X	X			
Churches, synagogues and temples	S	S	S	S	S	S	S	X	X	X			
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WFD**
Towers and Related Structures													
Towers or antennas for individual residential use (limited to district height limit)	X	X	X	X	X	X	X	X	X	X	X	X	X
Towers or antennas for community or regional use							X	X	X	X	R	R	
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WFD**
Open air markets and horticultural sales													
Open air markets (farm, craft, and produce)				S		X	X	R	X	R			X
Open air flea markets				S				X					
Horticultural sales with outdoor display				X				R	X	X			
	R1	**R2**	**R3**	**R4**	**RO**	**C1**	**C1HD**	**C2**	**C2B**	**C3**	**I-1**	**I-2**	**WFD**
Industrial													
Auto related industrial								X			R	R	
Communication / Transportation								X			R	R	
Manufacturing / Processing								X			R	R	
Marine related facility								X			R	R	
Products and Services								X			R	R	
Storage and Distribution								X			R	R	

Note: R = permitted by right
X = permitted with Planning Commission Approval
S = permitted as Special-use (hearing)

Section 106: Use of the Designations R, S, X in the Chart of Uses

(a) Subject to Section 107, when used in connection with a particular use (Section 105), the letter "R" means that the in Chart of Uses use is permissible in the indicated zone with a zoning permit issued by the administrator. The letter "S" means a special-use permit must be obtained from the board of adjustment, and the letter "X" means planning commission approval must be obtained from the planning commission.

Section 107: Board of Adjustment Jurisdiction Over Uses Otherwise Permissible with Zoning Permit

Notwithstanding any other provisions of this article, whenever the Chart of Uses (interpreted in the light of Section 106 and the other provisions of this article) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special-use permit shall nevertheless be required if the administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the administrator shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

Section 108: Permissible Uses and Specific Exclusions

(a) The presumption established by this ordinance is that all legitimate uses of land are permissible within at least one zoning district in the city's planning jurisdiction. Therefore, because the list of permissible uses set forth in Section 105 (Chart of Uses) cannot be all inclusive; those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) Notwithstanding Subsection (a), all uses that are not listed in Section 105 (Chart of Uses), even given the liberal interpretation mandated by Subsection (a), are prohibited. Nor shall Section 105 (Chart of Uses) be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

  (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the city's fire prevention code.

  (2) Stockyards, slaughterhouses, rendering plants.

  (3) Use of a travel trailer as a temporary or permanent residence. (Situations that do not comply with this subsection on the effective date of this ordinance are required to conform within one year.)

  (4) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. (Situations that do not comply with this subsection on the effective date of this ordinance are required to conform within 30 days.)

Section 109: Accessory Uses

(a) The Chart of Uses (Section 105) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential

development, would require a special-use permit (use classification 6.210).

(b) For purposes of interpreting Subsection (a):
   (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use,
   (2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(c) Without limiting the generality of Subsections (a) and (b), the following activities, so long as they satisfy the general criteria set forth above, are specifically regarded as accessory to residential principal uses:
   (1) Accessory residential unit shall be connected to principal buildings utilities.
   (2) Hobbies or recreational activities of a noncommercial nature.
   (3) Yard sales or garage sales, so long as such sales conform to existing codes.

(d) Without limiting the generality of Subsections (a) and (b), the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.
   (1) Storage outside of a substantially enclosed structure of any motor vehicle, boat or trailer that is neither licensed nor operational.
   (2) Parking outside a substantially enclosed structure of more than four motor vehicles or the number of legally licensed drivers residing, between the front building line of the principal building and the street on any lot used for purposes that fall within residential classifications.

Section 110: Permissible Uses Not Requiring Permits

Notwithstanding any other provisions of this ordinance, no zoning, special-use, or planning commission approval permit is necessary for the following uses:
   (1) Streets.
   (2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.
   (3) Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or town) of the right-of-way.

Section 111: Change in Use

(a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot change. This occurs whenever:
   (1) The change involves a change from one principal use category to another.
   (2) If the original use is a mixed use or planned unit development, the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.
   (3) If the original use is a mixed use or planned unit development use, the mixture of *types* of individual principal -uses that comprise the mixed use or planned unit development use changes.
   (4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.
   (5) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building move out and is replaced by a clothing store that constitutes a change in use even though both tenants fall within principal use classification. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since

the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center - combination use) has not changed.

(b) A mere change in the status of property from unoccupied to occupy or vice versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

(c) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

Section 112: Mixed Uses

(a) When a mixed use comprises two or more principal uses that require different types of permits (zoning, special-use, or planning commission approval), then the permit authorizing the mixed use shall be:
   (1) A planning commission approval permit if any of the principal uses combined requires a planning commission approval permit.
   (2) A special-use permit if any of the principal uses combined requires a special-use permit but none requires a planning commission approval permit.
   (3) A zoning permit in all other cases.

(b) When a mixed use consists of a single-family detached residential subdivision and two-family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

(c) When a mixed use consists of a single-family detached, architecturally integrated subdivision and two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit specified in Section 143.

Section 113: More Specific Use Controls

Whenever a development could fall within more than one use classification in the Chart of Uses (Section 105), the classification that most closely and most specifically describes the development shall control.

Sections 114 and 115: Reserved

ARTICLE XI
SUPPLEMENTAL USE REGULATIONS

Part I. General Provisions
Section 116: Central Business District

(a) Buildings-General
  (1) One principal building at the frontage, and one outbuilding to the rear of the principal building, may be built on each lot as provided in Article XII, Table 1.
  (2) Facades shall be built parallel to a rectilinear principal frontage line or to the tangent of a curved principal frontage line.
  (3) Setbacks for principal buildings shall be as shown in Article XII, Table 1; however, where the property to be developed abuts an existing building, Planning Commission Approval may be granted so that the proposed building matches or provides a transition to adjacent Setbacks.
  (4) In areas where a dominant setback pattern exists, the new building shall provide a transition in setback to the adjacent existing buildings or shall match that of one of the existing abutting buildings. In these cases, Planning Commission Approval shall not be required.
  (5) Rear Setbacks for outbuildings shall be a minimum of 12 feet measured from the centerline of the rear alley or rear lane easement. In the absence of rear alley or rear lane, the rear setback shall be as shown in Article 6, Table 1.
  (6) Buildings shall have their principal pedestrian entrances on a Frontage Line.
  (7) No principal building shall be constructed with a metal exterior surface wall without planning commission approval.

(a) Building-Configuration
  (1) Sidewalks occur at the edge of the Right-of-Way.
  (2) Pedestrian passages should be paved and landscaped and may provide limited vehicular access.
  (3) The private frontage of buildings shall conform to and be allocated in accordance with this Article.
  (4) Buildings on corner lots may have two private frontages.
  (5) All facades shall be glazed with glass no less than 30% of the first story.
  (6) Awnings, arcades, and galleries may encroach the sidewalk to within two feet of the curb but must clear the sidewalk vertically by at least eight feet. Awnings may encroach the public sidewalk without limit.
  (7) Stoops, light wells, balconies, bay windows, and terraces may encroach the first story.
  (8) Loading docks and service areas shall be permitted on frontages only by Planning Commission Approval.

(c) Building-Use
  (1) Accessory Uses of limited lodging or limited office shall be permitted within an accessory building or structure. Rental of accessory buildings shall be permitted.
  (2) First story commercial uses shall be permitted throughout.
  (3) To the extent permitted by applicable FEMA requirements and the City's Flood Damage Prevention Ordinance, the ground floor of any building or structure located within a Special Flood Hazard Area may be used as sidewalk retail, an Open Air Market, Loggia, porch, or combination thereof; or other open-air area for recreation, relaxation, gathering, or other use as recommended by the Planning Commission and approved by the Board of Aldermen.

(d) Parking and Density Calculations
  (1) Buildable Density on a lot shall be determined by the sum of the actual parking calculated as that provided (1) within the lot, (2) along the parking lane corresponding to the lot frontage, and (3) by purchase or lease off-site within 1,000 feet of the site, if available.
  (2) Based on the effective parking available, the density of the projected activity(s) may be increased with planning commission approval.

(3) Accessory Units do not count toward density calculations.
(4) Liner buildings less than 30 feet deep and no more than two stories shall be exempt from parking requirements.
(5) Parking under elevated structures shall be permitted under the condition that it is screened from the frontage and approved by the planning commission.

(e) Parking Location Standards
(1) Parking shall be accessed by rear alleys or rear lanes, when such are available.
(2) On-street parking available along the frontage lines that correspond to each lot shall be counted toward the parking requirement of the building on the lot.
(3) Open parking areas shall be masked from the frontage by a building or street screen.
(4) All parking lots, garages, and parking structures shall be masked from the frontage by a building or street screen and approved by the planning commission.
(5) Vehicular entrances to parking lots, garages, and parking structures shall be no wider than 30 feet at the frontage.
(6) Pedestrian exits from all parking lots, garages, and parking structures shall be directly to a frontage line (i.e., not directly into a building).
(7) Parking structures shall have liner buildings.
(8) A minimum of one bicycle rack place shall be provided within the public or private frontage for every 20 vehicular parking spaces.
(9) Required parking within may be provided off-site within 1,000 feet of the site that it serves, subject to approval by Planning Commission Approval.

(f) Environmental Standards
(1) Impermeable surface by building shall be minimized and confined to the ratio of lot coverage.
(2) To the extent not inconsistent with applicable state or federal law, management of stormwater shall be primarily through underground storm drainage systems, where such systems are available, in which case there shall be no retention or detention required on the individual Lot.

(g) Landscape Standards
(1) Prior to any new occupancy, a landscape plan for the public frontage shall be approved by the planning commission.

Section 117: Planned Residential Developments

(a) Planned residential developments (PRDs) are permissible only tracts of at least five acres located within an R-2, R-3 or R-4 zoning districts.
(b) The overall density of a tract developed by a PRD shall be determined as provided in Section 143.
(c) Permissible types of residential uses within a PRD include single-family detached dwellings, two-family residence, and multi-family residence. At least 50 percent the total number of dwelling units must be single-family detached residence on lots of at least 6,000 square feet.
(d) A PRD shall be an architecturally integrated subdivision.
(e) To the extent practicable, the two-family and multi-family portions of a PRD shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residence border adjacent properties.

Section 118: Planned Unit Developments

(a) In a planned unit development, the developer may make use of the land for any purpose authorized in a particular PUD zoning district in which land is located, subject to the provisions of this ordinance. Section 97 describes the various types of PUD zoning districts.
(b) Within any lot developed as a planned unit development, not more than 35 percent of the total lot area may be developed for higher density residential purposes (R-2 or R-3, as applicable), not more than 10 percent of the total lot area may be developed for purposes that are permissible only in a C-2, or C-3 zoning district (whichever corresponds to the PUD zoning district in question).
(c) The plans for the proposed planned unit development shall indicate the particular portions of the lot

that the developer intends to develop for higher density residential purposes, lower density residential purposes, purposes permissible in a commercial district (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the lot so designated shall then be treated as if it were a separate district, zoned to permit, respectively, higher density residential (R-2 or R-3), lower density residential (R-1), commercial. However, only one permit, a planned unit development permit, shall be issued for the entire development.

(d) The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the development are completed or their completion is assured by any of the mechanisms provided in Article IV to guarantee completion. The purpose and intent of this provision is to ensure that the planned unit development procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential development.

Section 119: Lots

(a) No dwelling unit shall be erected on a lot, which does not abut or have access to at least one dedicated street.

(b) On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth, shall obstruct sight lines at elevations over two feet, six inches (2'-6") above any portion of the crown of the adjacent roadways. A sight triangle shall be formed by measuring back twenty-five (25) feet from the point of intersection of the right-of-way lines and connecting the points so as to establish a sight triangle on the area of the lot adjacent to the street intersection.

(c) Where side yards are required and a lot of record is less than fifty (50) feet in width and on the effective date of this ordinance lawfully existed and of record, each side yard shall have a width of not less than 6.67% of the width of the lot.

(d) The Planning Commission may establish greater setbacks from highways or thoroughfares than the front yard setback requirements of the zoning district in which the highway or thoroughfare is located.

Section 120: Height

(a) The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations appearing in Article XII.

(b) Chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend above the height limit.

(c) Churches, schools, hospitals, sanitariums and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one (1) foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed limit. In addition, the developer shall provide proof that the fire chief has approved of the increased height.

(d) Any residential structure elevated to comply with code shall have the exposed area under the elevated structure screened in a fashion acceptable to the planning commission.

Section 121: Nonconforming Building Site

(a) Where a lot or lots located in a residence district contains less than the minimum building site area for the district and on the effective date of this ordinance was lawfully existing and of record and held in separate and different ownership from any lot immediately adjoining and having contiguous frontage, such lot may be used as the building site for a one-family dwelling.

(b) Where a lot or lots located in a commercial or industrial district contains less than the minimum building site area for the district and on the effective date of this ordinance was lawfully existing and of record and held in separate and different ownership from any lot immediately adjoining and having continuos frontage, such lot may be used as the building site for a business or industry.

Section 122: Excess Height

In any district, any main structure may be erected or altered to a height in excess of that specified for the district in which the structure is located provided that each dimension provided herein for required front, side and rear yard is increased one foot for each two (2) feet of such excess height; provided, further, that where no yard is required the part of the structure exceeding the height specified for the district shall be set back from the vertical plane of the adjacent building site line one foot for each two (2) feet of such excess height. In addition, the developer shall provide proof that the fire chief has approved of the increased height.

Section 123: Townhouse and Zero Lot Line Residential Uses

The purpose of this use is to provide for the development of moderate to high-density residential uses and structures in moderately spacious surroundings but so designed as to protect the health, safety and welfare of the public. In fulfilling the purpose of this use, the townhouse or row house concept may be used which permits the construction of single-family dwellings immediately adjacent to one another without side yards between the individual units. The purpose of this use may also be fulfilled by the use of the zero lot line concepts which permits the construction of detached single-family dwellings on lots without a side yard requirement on at least one side of the lot. In order to allow any deviation from the following minimum requirements for these types of development, the developer must show evidence that such deviation is in the benefit of the public.

(a) Minimum lot area: The first 2 townhouse lots shall equal 4,000 square feet and each additional unit shall have 1,500 square feet. Zero lot line dwelling units shall have 3,000 square feet.
(b) Minimum lot width: Twenty (20) feet for townhouses and thirty (30) feet for zero lot line houses, except that for corner lots the minimum shall be determined based on the minimum requirement for said district.
(c) Minimum front yard: The same as required for each district, except where the development contains units located on both sides of a street constructed by developer to the city's specifications. In this case the minimum front yard setback may be reduced to fifteen (15) feet.
(d) Minimum side yard: None for townhouses except on corner lots. Also, the minimum side yard required for the townhouse unit located at the end of a row of town houses shall be ten (10) feet from the exterior lot line. In zero lot line developments there shall be no minimum side yard required on one side and fourteen (14) feet on the opposite side. However, for corner lots the minimum side yard required shall be fourteen (14) feet. Also, the minimum side yard required for the dwelling located adjacent to a lot that is not a part of the zero lot line development shall be fourteen (14) feet.
(e) Minimum rear yard: Use district rear yard minimum.
(f) Maximum height: The maximum height is thirty-five (35) feet.
(g) Maximum lot coverage: Coverage is limited to seventy-five (75%) percent for all structures.
(h) Maximum length of row: A row of townhouses shall not exceed two hundred twenty-five (225) feet. An open space of twenty (20) feet shall be provided between adjacent rows.
(i) Townhouses shall be constructed up to side lot lines without side yards and no windows, doors or other opening shall face a side lot line except that the outside wall of end units may contain such openings.
(j) Zero lot line dwelling shall be constructed against the lot line on one side of a lot and no windows, doors or other openings shall be permitted on this side. Where adjacent zero lot line dwellings are not constructed against a common lot line, the building or developer must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall.
(k) All townhouse and zero lot line developments shall be subject to review and approval by the planning commission.

Section 124: Temporary Emergency, Construction or Repair

(a) Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.

(b) Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the administrator may renew such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

Section 125: Special Events on Private Property

(a) In deciding whether a permit for a special event should be denied for any reason or in deciding what additional conditions to impose on the applicant the administrator shall ensure that, (if the special event is conducted at all):
   (1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.
   (2) The amount of noise generated shall not disrupt the activities of adjacent land uses.
   (3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the city.
   (4) The administrator shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(b) In cases where it is deemed necessary, the administrator may require the applicant to go before the planning commission for a decision.

(c) In cases where it is deemed necessary, the planning commission may require the applicant to post a bond to ensure compliance with the conditions of the permit.

(d) If the permit applicant requests the city to provide extraordinary services or equipment or if the planning commission otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the city a fee sufficient to reimburse the city for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

(e) Those events that are traditional to the City of Long Beach or sponsored by the City are exempt from this section. Examples of these events are Mardi Gras and the Pilgrimage.

Section 126: Home Occupation

(a) A home occupation is an Accessory Use of a Dwelling Unit, for gainful employment involving the manufacture, provision, or sale of goods and/or services.

(b) It is the intent of this Section to eliminate as home occupation all uses except those that conform to the standards set forth herein. These standards are intended to insure compatibility with other permitted uses and with the Residential character of Long Beach Neighborhoods.

(c) Home Occupations are permitted as Accessory Uses to Dwelling Units subject to the following conditions.
   (1) No Person other than members or the immediate family occupying such Dwelling shall be employed. This does not apply to customary household or yard help.
   (2) No alteration of the Principal Building shall be made which changes the character thereof as a Dwelling.
   (3) No use shall require the use of material or mechanical equipment that would change the fire rating of the structure or the fire zone in which the structure is located.
   (4) No Home Occupation shall cause an increase in the use at any one or more utilities (water, sewer, electricity, telephone, garbage, etc.) so that the combined total use for Dwelling and Home Occupation purposes materially exceed the average for residences in the Neighborhood.
   (5) There shall be no outside storage of any kind related to the Home Occupation.
   (6) The use shall not generate pedestrian or vehicular traffic beyond that reasonable to the Zone District in which it is located.

(7) The Home Occupation shall be conducted entirely within the Principal Building that is used as the Residential Dwelling.

(8) No stock in trade (except articles produced by the members of the immediate family residing, on the premises) shall be displayed or sold upon the premises.

(9) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average Residential occupancy in the Zone in question under normal circumstances wherein no Home Occupation exists.

(10) There shall be no Signs other than those permitted in the Zone in which the Home Occupation is located.

(d) The following home occupations are permitted by right but if any vehicle or trailer is used, then approval must be granted by the Planning Commission pursuant to the Subsection (h). Uses allowed: artists; sculptors; authors; composers; dressmakers; seamstresses; tailors; family day care; limited to no more than three (3) children; office of a minister, rabbi or priest; office of a salesman or sales representative, provided no retail or wholesale transactions are made on premise; individual tutoring; individual stringed instrument instruction; maid or home cleaning; lawn care/gardening service.

(e) Home office in which work for compensation or without compensation is undertaken, including, but not limited to receiving or initiating correspondence, such as phone calls, mail, faxes, or email; preparing or maintaining business records; and word and data processing or personal services is allowed.

(f) Personal instruction or personal services in which customers or students visit the home by appointment only, and services is provided on a one-on-one basis is allowed. No adult entertainment activities shall be allowed as a home based business/occupation.

(g) Sales of a specific product in which members of the immediate family are employed, but which offer for sale stock in trade which is obtained from national franchise entity is allowed. Sales of products may be by delivery only. Examples of this type of home occupation include Amway, Tupperware, Mary Kay Makeup and similar products.

(h) Vehicles and Trailers: all allowable home occupations listed herein, in which use of any vehicle or trailer is required, shall require approval of the Planning Commission. The applicant for approval shall submit to the Planning Commission a site plan that will detail the property dimensions, abutting streets, all buildings, driveways and proposed parking of all vehicles. The site plan will address where vehicles, equipment and supplies will be stored. The business shall be limited to one (1) work vehicle (no greater in capacity of size and weight than a one-ton pick-up truck) and one (1) trailer (no longer than twenty-four (24) feet). A work trailer must be parked in the rear of property, only, and screened from view of adjacent neighbors. Storage of equipment or supplies must be kept within the confines of the work vehicle, trailer, or the principle structure. No repairs of equipment or vehicle for the business will be conducted on the property. The business must comply with all other zoning and building code requirements.

(i) Prohibited Home Occupations include the following: Auto repairs, minor or major; barber shop or beauty parlor; dance instruction; upholstering; stables or kennels; restaurants; tourist homes; veterinary clinics or hospitals; private schools with organized classes; gift shops; medical or dental clinic or hospitals; medical offices; dental offices; painting of vehicles, trailers, or boats; photo developing; photo studios; radio or television repair; cabinet shops and any activity that is considered an "adult only" business.

(j) Home Occupation Fee: A fee is hereby established to cover all administrative costs associated with monitoring compliance with the City codes and ordinances required by Home Occupation Permits. Such costs will include, but shall not be limited to, visits, conferences, telephone, computer, city vehicles, city staff (i.e., secretarial, inspectors), appointed or elected officials, consultant, city attorney and any other normal overhead expense. In addition, there will be increased costs to the city in lost commercial value of a building the community's economic vitality.

Based on this increased cost to the city, said annual administrative fee shall be determined by the Mayor and Board of Aldermen. Upon filing for a Home Occupation, applicant shall pay for the first year fee amount with the application. The administrative fee shall be paid each following year at the renewal of the City Privilege License. Failure to pay said fee will result in automatic termination of said home occupation. All previous granted home occupations shall be required to pay the administrative fee at the time of renewal of the existing privilege license; renewal is due one year from the date he initial license is granted and yearly thereafter.

Section 127: Recreational vehicles.

(a) Permissible locations. Recreational vehicles shall not be occupied or used at any time for any purpose other than temporary residential use and when used as such, it must be located in a legal recreational vehicle park. However, a self-contained recreational vehicle may be used by an individual owner for a period not to exceed two (2) consecutive days within a thirty-day period provided that such recreational vehicle is parked on property on which the owner's principal residence is located.

(b) Park size and density.
  (1) Minimum of three (3) acres of land.
  (2) Minimum of forty (40) recreational vehicle sites.
  (3) Maximum density of eighteen (18) recreational vehicle sites per acre.

(c) Recreational vehicle site.
  (1) Minimum recreational vehicle site: One thousand five hundred (1,500) square feet.
  (2) Minimum recreational vehicle site lot width: Thirty (30) feet.
  (3) Minimum of ten (10) feet separation of recreational vehicles from each other and from other structures.
  (4) No part of a recreational vehicle or other unit placed on a recreational vehicle site shall be closer than five (5) feet to a site line.
  (5) Each site shall contain a stabilized parking pad of shell, marl, gravel or other suitable material.

(d) Recreational vehicle park traffic circulation.
  (1) All recreational vehicle parks shall abut upon a public dedicated street for at least thirty-five (35) feet and shall be provided with safe and convenient vehicular access from such street.
  (2) Entrance driveways shall be located no closer than one hundred twenty (120) feet from the intersection of public streets.
  (3) Streets in recreational vehicle parks shall be private, but shall be constructed with a stabilized driveway (materials and construction methods as approved by the city engineer) that is regularly and properly maintained. The street shall meet the following minimum stabilized driveway width requirements:

One-way, no parking	11 feet
One-way with parking on one side, or two-way with no parking	18 feet
Two-way with parking on one side	27 feet
Two-way with parking on both sides	34 feet

  (1) Turnarounds shall be provided for all dead-end roads. The minimum radius of a required turnaround shall be eighty (80) feet.
  (2) At least one and one-half (1½) parking spaces shall be provided in the park per recreational vehicle site. At least one parking space shall be provided at the recreational vehicle site. Each parking space shall be composed of stabilized compacted material (shell, marl, gravel, paving or other suitable material). Each parking space shall be at least eight (8) feet wide and eighteen (18) feet long exclusive of a maneuvering area.

(e) Recreational vehicle park accessory uses. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a recreational vehicle park and campground are permitted as accessory uses in recreational vehicle parks in districts where such uses are not allowed as principal uses, subject to the following restrictions:

(1) Such establishments and the parking areas primarily related to their operation shall not occupy more than five (5) percent of the gross area of the park.

(2) Such establishments shall be restricted to serve only occupants of the park.

(3) Such establishments shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park.

(4) The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within a park.

(f) Park open space and recreational areas.

(1) A minimum of eight (8) percent of the gross recreational vehicle park area shall be set aside and developed as common use areas for open or enclosed recreation facilities. No required buffer strip, street, storage area, recreational vehicle site or utility site shall be included in meeting recreational purposes.

(g) Recreational vehicle park setbacks and screening. Each recreational vehicle park shall have set aside along the perimeter of the property line the following areas which shall be landscaped and used for no other purpose:

(1) Minimum park front setback. Twenty-five (25) feet except when park abuts on a designated major thoroughfare; then the minimum shall be fifty (50) feet.

(2) Minimum side setback. When abutting residential districts, the side setback shall be fifty (50) feet; when abutting a dedicated public right-of-way, the side yard setback shall be twenty-five (25) feet on the side street; when abutting a designated major thoroughfare, the minimum shall be fifty (50) feet; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.

(3) Minimum park rear setback. Fifteen (15) feet except when the rear yard abuts a dedicated public right-of-way or a residential district. If the rear yard abuts a public right-of-way, the minimum shall be twenty-five (25) feet. If the rear yard abuts a designated major thoroughfare, the minimum shall be fifty (50) feet. If the rear yard abuts a residential district, the minimum rear setback shall be fifty (50) feet.

(4) Where needed to enhance aesthetics or to ensure public safety, the campgrounds shall be enclosed by a fence, wall, landscape screening, earth mounds or by other designs approved by the planning commission which will compliment the landscape and ensure compatibility with the adjacent environment.

(h) Permanent occupancy prohibited.

(1) No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond six (6) months in twelve-month period shall be presumed to be permanent occupancy.

(2) Any action toward removal of wheels of a recreational vehicle except for temporary purpose of repair or to attach the vehicle to the grounds for stabilizing purposes is hereby prohibited.

(i) Recreational vehicle park utilities. Privies, septic tanks, underground absorption fields, sewerage lagoons, the use of "honey wagons," package type treatment facilities and other types of private waste water treatment systems are strictly prohibited. Also prohibited is the use of private water supply systems. The recreational vehicle park shall under all circumstances connect to the City of Gulfport's water supply and waste water disposal systems. Storm water sewers shall be separate and apart from any sewer intended for the conveyance of sanitary sewerage. All utility receptacles and facilities shall be designed in such a manner as to provide protection of the receptacle or facility from damage.

(1) Recreational vehicle sanitary waste disposal stations.

(a) One recreational vehicle sanitary waste disposal station shall be provided for each one hundred (100) recreational vehicle stands, or part thereof, which are not equipped with individual sewer connections.

(b) Sanitary waste disposal stations shall be located not less than fifty (50) feet from a recreational vehicle site or other residential area.

(c) The disposal hatch of a sanitary waste disposal station shall be connected to the city's sewer system.

(2) Recreational vehicle flushing facilities. A means for flushing the immediate area of a sanitary waste disposal station and a camping vehicle holding tank shall be provided at each sanitary waste station. If individual sewer connections are provided, one flushing facility shall be provided for each one hundred (100) recreational vehicle stands or part thereof. Flushing facilities shall be located not less than fifty (50) feet from a recreational vehicle site or other residential area. Adjacent to the flushing outlet there shall be posted a sign constructed of durable material, not less than two (2) feet square, and inscribed thereon in clearly legible letters shall be: "Danger—Not To Be Used For Drinking Or Domestic Purposes."

(3) Recreational vehicle water station. A water station for filling camping vehicle water storage tanks shall be provided at the rate of one station for every one hundred (100) recreational vehicle stands or part thereof. These shall be located not less than fifty (50) feet from a sanitary station. The station shall be posted with signs of durable material, not less than two (2) square feet in size, and inscribed thereon in clearly legible letters shall be: "Potable Water—Do Not Use To Flush Waste Tanks."

(4) Toilet and shower facilities. Required toilet, lavatory and bathing facilities shall be provided in the following minimum numbers:

(a) One toilet and one lavatory shall be provided for each sex at the rate of one each for every fifteen (15) recreational vehicle sites or fraction thereof.

(b) One shower shall be provided for each sex for every thirty (30) recreational vehicle sites or fraction thereof.

(c) The plumbing shall be installed in accordance with the codes of the City of Long Beach, Mississippi governing the same.

(5) Sewerage facilities, washroom or toilet facilities and water supply. All sewerage facilities, washroom or toilet facilities and water supply shall comply with the sanitary regulations of the Mississippi State Board of Health, and/or Mississippi Air and Water Pollution Control Commission where applicable.

(6) Electrical and gas supply systems. All electrical and gas equipment installations within a recreational vehicle park shall be in compliance with the codes of the City of Long Beach, Mississippi, governing the same.

(7) Lighting. Adequate lighting shall be provided for all streets, walkways, buildings and other facilities subject to nighttime use. Exterior illumination shall be provided as follows:

(a) Streets. An average illumination level of six-tenths of a foot-candle and a minimum level of one-tenth of a foot-candle.

(b) Service buildings. Illumination levels of at least five (5) foot-candles shall be maintained at the entrance.

(c) Common parking areas. Illumination levels of at least one and five-tenths (1.5) foot-candles but not more than five (5.0) foot-candles measured at pavement level shall be maintained in common parking areas.

(8) Swimming facilities. If provided, such facilities shall be designed in accordance with the codes of the City of Long Beach governing the same and applicable regulations of the Mississippi State Board of Health and/or the Mississippi Air and Water Pollution Control Commission.

(j) Refuse disposal.

(1) The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents or other nuisance conditions.

(2) Durable, watertight, easily cleanable refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than three hundred (300) feet from any camp or picnic site unless provided at the campsite. Refuse containers shall be provided at the rate of at least one twenty-gallon container for each two (2) campsites.

(3) All solid waste generated by a recreational vehicle park shall be stored and disposed of in accordance with the Mississippi State Board of Health Regulations Governing Solid Waste Management and the codes of the City of Long Beach, Mississippi, governing the same.

(k) Nonconforming uses.

(1) A legal nonconforming recreational vehicle park may be continued so long as it remains otherwise lawful. However, from the effective date of this ordinance, a nonconforming recreational vehicle park may not be enlarged either to increase the number of recreational vehicle sites or to enlarge the total area except in conformity with this ordinance.

Sections 128 through 131: Reserved

Part 2. Manufacturing/Processing Performance Standards

The burden of proof that an industry meets these minimum standards as set forth in Part 2, is on the applicant and not the City. All costs associated with providing proof shall be at the expense of the applicant.

Section 132: Smoke

(a) For the purpose of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, *Bureau of Mines Information Circular* 8333, May 1967, shall be used. The Ringlemann number referred to in this section refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringlemann No.1 indicates a 20 percent density of the smoke observed.

(b) All measurements shall be taken at the point of emission of the smoke.

(c) In the C-1, C-2, C-3, and all PUD districts, no use may emit from a vent, stack, chimney, or combustion process any smoke that is visible to the naked eye.

(d) In an I-1 or I-2 district, no use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. I, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No.2 is permissible for duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of a residential district.

Section 133: Noise

(a) No industrial use in any permissible business district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the use if that use is one of several located on a lot, or (ii) uses located on adjacent lots.

(a) Except as provided in Subsection (f), the table set forth in Subsection (d) establishes the maximum permissible noise levels for uses in I-1 and I-2 districts. Measurements shall be taken at the boundary line of the lot where the use is located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the use is located.

(b) A decibel is a measure of a unit of sound pressure. Since sound having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low) an A-weight constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying on the human ear of different pitches, shall be used on any sound level meter

taking measurements required by this section. And according measurements are expressed in dB (A) to reflect the use of his A-weighted filter.

(c) The standards established in the table set forth in Subsection (e) expressed in terms of the Equivalent Sound Level (Leq), which m calculated by taking 100 instantaneous A-weighted sound levels at 10-second intervals (see Appendix F-l) and computing the Leq in accordance with the table set forth in Appendix F-2.

(d) Table of Maximum Permitted Sound Levels, dB (A).

	(Re: 0.0002 Microbar) Zoning of Adjacent Lot				
Zoning of Lot Where Industrial Use Located	Residential and PUD 7 a.m.-7 p.m.	7 p.m.-7 a.m.	Cl, C2, C3, C4	I1, I2	I3
I-1	50	45	55	60	65
I-2, I-3	50	45	60	65	70

(e) Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB (A) in excess of the figures listed in Subsection (e), except that this higher level of permissible noise shall not apply from 7 p.m. to 7 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.

(f) Noise resulting from temporary construction activity that between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

Section 134: Vibration

(a) No use in any permissible business district may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at (i) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot, or (ii) the lot line if the enterprise generating the vibration is the only enterprise located on a lot.

(b) No use in any industrial district may generate any ground-transmitted vibration in excess of the limits set forth in Sub (e). Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in Subsection (d).

(c) The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.

(d) The vibration maximums set forth in Subsection (e) are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$PV=6.28\ FxD$

Where:

PV = Particle velocity, inches-per-second

F = Vibration frequency, cycles-per-second

D = Single amplitude displacement of the vibration, inches.

The maximum velocity shall be the vector sum of the three components recorded.

(e) Table of Maximum Ground- Transmitted Vibration

	Particle Velocity, Inches-Per-Second	
Zoning District	Adjacent Lot Line	Residential District
I-l	0.10	0.02
I-2, I-3	0.20	0.02

(f) The values stated in Subsection (e) may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.

(g) Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.

Section 135: Odors

(a) For purposes of this section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter that can be detected by the olfactory systems of a panel of healthy observers.

(b) No use in any district may generate any odor that reaches the odor threshold, measured at:
   (1) The outside boundary of the immediate space occupied by the enterprise generating the odor.
   (2) The lot line if the enterprise generating the odor is the only enterprise located on a lot.

Section 136: Air Pollution

(a) Any use that emits any "air contaminant" shall comply with applicable state standards concerning air pollution, as set forth in Mississippi air pollution control law.

(b) No zoning, special-use, or planning commission approval permit may be issued with respect to any development covered by Subsection (a) until the appropriate state agency has certified to the permit-issuing authority that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

Section 137: Disposal of Liquid Wastes

(a) No use in any district may discharge any waste contrary to the provisions of Mississippi law governing discharges of radiological, chemical, or biological wastes into surface or subsurface waters.

(b) No use in any district may discharge into the city sewage treatment facilities any waste that cannot be adequately treated by biological means.

Section 138: Water Consumption

The city engineer, to ensure proper capacity shall approve all uses that require city water.

Sections 139 and 141: Reserved

ARTICLE XII
Density and Dimensional Regulations

Section 142: Area, Yard and Height Requirements
See Table 1

TABLE 1

AREA, YARD AND HEIGHT REQUIREMENTS

DISTRICT	FRONT SET BACK MINIMUM	SIDE SET BACK MINIMUM	REAR SET BACK MINIMUM	HEIGHT LIMIT MAXIMUM	LOT WIDTH MINIMUM	LOT AREA MINIMUM	COVERAGE MAXIMUM	DISTRICT AREA MINIMUM
R-1, SINGLE FAMILY	25 FT.	8 FT.	15 FT.	35 FT.	75 FT.	7,500 SFT.	45%	
R-2, MEDIUM DENSITY								
SINGLE-FAMILY	25 FT.	8 FT.	15 FT.	45 FT.	60 FT.	7,500 SFT.	45%	
TWO-FAMILY	25 FT.	8 FT.	15 FT.	45 FT.	75 FT.	7,500 SFT.	45%	
LOW RISE APARTMENTS AND CONDOMINIUMS	25 FT.	8 FT.	15 FT.	45 FT.	75 FT.	4,000 SFT/U	45%	
OTHER PERMITTED USES	25 FT.	8 FT.	15 FT.	45 FT.	60 FT.	7,500 SFT.	45%	
R-3, MULTI-FAMILY								
SINGLE-FAMILY	25 FT.	8 FT.	10 FT.	45 FT.	60 FT.	6,000 SFT.	45%	
TWO-FAMILY	25 FT.	8 FT.	10 FT.	45 FT.	70 FT.	7,200 SFT.	45%	
MULTI-FAMILY	25 FT.	5 FT.	10 FT.	66 FT. (BFE)		907 SFT/U	75%	
OTHER PERMITTED USES	25 FT.	8 FT.	10 FT.	66 FT. (BFE)		907 SFT/U	75%	
R-4, RESIDENTIAL/FARM								
SINGLE-FAMILY	25 FT.	8 FT.	15 FT.		75 FT.	6,000 SFT.	45%	
TWO-FAMILY	25 FT.	8 FT.	15 FT.		75 FT.	7,200 SFT.	45%	
MOBILE HOME PARK	50 FT.	15 FT.	25 FT.		100 FT.	10 ACRES	45%	
INDIVIDUAL SITE	100 FT.	50 FT.	50 FT.		125 FT.	3 ACRES	45%	
AGRICULTURAL USE	25 FT.	5 FT.	10 FT.			3 ACRES	45%	
HUNTING PRESERVES	25 FT.	5 FT.	10 FT.			50 ACRES		
OTHER PERMITTED USES	25 FT.	5 FT.	10 FT.			6,000 SFT.	45%	
R-O, RESIDENTIAL/OFFICE	25 FT.	8 FT.	15 FT.	35 FT.	75 FT.	10,000 SFT.	45%	
C-1, CENTRAL BUSINESS	0 FT.	0 or 3 FT.*	3 FT.	44 FT. (BFE)	18 FT.		100%	
APARTMENTS/CONDO	0 FT.	0 or 3 FT.	3 FT.	44 FT (BFE)	18 FT.	1,815 SFT/U	100%	
C-1HD, CENTRAL BUSINESS HD	0 FT.	3 FT.	0 FT.	100 FT. (BFE)	18 FT.		100%	
APARTMENTS/CONDO	0 FT.	3 FT.	0 FT.	100 FT. (BFE)	18 FT.	907 SFT/U	100%	
C-2, HIGHWAY COMMERCIAL	25 FT.	8 FT.	10 FT.	45 FT.	75 FT.		45%	
C-2B, BEACHFRONT	25 FT.	5 FT.	10 FT.	100 FT. (BFE)		907 SFT/U	100%	
C-3, NEIGHBORHOOD COMM.	25 FT.	5 FT.	10 FT.	45 FT.	75 FT.		45%	
I, INDUSTRIAL	25 FT.	10 FT.	10 FT.	45 FT.	100 FT.	10,000 SFT	45%	

DISTRICT	FRONT SET BACK MINIMUM	SIDE SET BACK MINIMUM	REAR SET BACK MINIMUM	HEIGHT LIMIT MAXIMUM	LOT WIDTH MINIMUM	LOT AREA MINIMUM	COVERAGE MAXIMUM	DISTRICT AREA MINIMUM
WR, WATERFRONT								3 ACRES
RV, RECREATIONAL PARK	100 FT.	50 FT.	50 FT.	45 FT.	300 FT.		45%	10 ACRES
PUD-RESIDENTIAL								5 ACRES
PUD-COMMERCIAL								5 ACRES
PUD-INDUSTRIAL								50 ACRES
PUD-MIXED USE								5 ACRES

- THE SETBACK SHALL BE ZERO OR A MINIMUM OF 3 FEET.

Note: If there is no number: there is no minimum or maximum.

Section 143: Accessory Building Setback

All accessory buildings in residential districts (i.e., those established by Section 103 must comply with the street right-of-way and side lot boundary setbacks set forth in Section 152 but (subject to the remaining provisions of this subsection) shall be required to observe only a five-foot setback from rear lot boundary lines.

(a) Where the high point of the roof or any appurtenance of an accessory building exceeds 12 feet in height, the accessory building shall be set back from rear lot boundary lines an additional one foot for every two feet of height exceeding 12 feet.

(b) Maximum lot coverage of principal and accessory buildings shall not exceed 45 percent of the lot.

Sections 144 to 146: Reserve

ARTICLE XIII
STREETS AND SIDEWALKS

Section 147: Access to Lots
Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles, as well as, for all those likely to need or desire access to the property in its intended use. However, no lot shall have less than thirty-five (35) front feet on a street or other improved access as permitted by the planning commission.

Section 148: Access to Arterial Streets
Whenever a major subdivision that involves the creation of one or more new street borders on or contains an existing or proposed arterial street, there shall be no direct driveway from the lots within this subdivision onto this street.

Section 149: Entrances to Streets
(a) All driveway entrances and other openings onto streets within the city's planning jurisdiction shall be constructed so that:
  (1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets, and
  (2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.
  (3) Vehicular entrances to parking lots, garages and parking structures shall be no wider than 30 feet at the frontage.
(b) Specifications for driveway entrances are set forth in (1) of this subsection. If driveway entrances and other openings onto streets are constructed in accordance with the foregoing specifications and requirements, this shall be deemed prima facie evidence of compliance with the standard set forth in Subsection (a).
  (1) All driveway entrances and other openings onto city-maintained streets shall, at a minimum, be prepared by a draftsman in consultation with the City's Public Works Department.
(c) For purposes of this section, the term prima facie evidence means that the planning commission may (but is not required to) conclude from this evidence alone that the proposed development complies with Subsection (a).

Section 150: Coordination with Surrounding Streets
(a) The street system of a subdivision shall be coordinated with existing, proposed, and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.
(b) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.
(c) Local, and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
(d) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the planning commission may require temporary turnarounds to be constructed at the end of such streets pending their extensions when such turnarounds appear necessary to facilitate the flow of

traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

Section 151: Relationship of Streets to Topography

(a) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and stormwater runoff objectives set forth in the Long Beach Subdivision Regulations, and street grades shall conform as closely as practicable to the original topography.

Section 152: General Layout of Streets

(a) To the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.
(b) All permanent dead-end streets (as opposed to temporary dead-end streets, see Subsection 150(d) shall be developed as cul-de-sacs in accordance with the standards set forth in Subsection (d). Except where no other practicable alternative is available, such streets may not extend more than 600 feet (measured to the center of the turnaround).
(c) The right of way of a cul-de-sac shall have a radius of 50 feet. The radius of the paved portion of the turnaround (measured to back-of-curb or outer edge of the pavement if not curb) shall be 40 feet.
(d) Half streets (i.e., streets of less than the full required right-or-way and pavement width) shall not be permitted except where such streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-or-way and pavement requirements of this ordinance.
(e) Streets shall be laid out so those residential blocks do not exceed 600 feet, unless no other practicable alternative is available.
(f) Streets shall be laid out so as to not create double fronted lots.
(g) Reserve strips, which control access to other streets or abutting property, shall be prohibited except where their control is deliberately placed by the planning commission.

Section 153: Street Intersections

(a) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees. Not more than two streets shall intersect at any one point, unless the city engineer certifies to the planning commission that such an intersection can be constructed with no extraordinary danger to public safety.
(b) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.
(c) Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

Section 154: Construction Standards and Specifications

Construction and design standards and specifications for streets, sidewalks, and curbs and gutters are contained in the Long Beach Subdivision Regulations and all such facilities shall be completed in accordance with these standards.

Section 155: Attention to Handicapped in Street and Sidewalk construction

(a) Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the appropriate governing agency.

(b) In un-subdivided developments, sidewalk construction for the handicapped shall conform to the requirements of the local building code.
(c) Sidewalks shall be provided for all new construction or construction of dwelling units that are damaged over 51% of their true value, in residential districts.

Sections 156 and 160: Reserved

ARTICLE XIV
UTILITIES

Section 161: Utility Ownership and Easement Rights
In any case in which a developer installs or causes the installation of water, sewer, electrical, power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

Section 162: Lighting Requirements
(a) Subject to Subsection (b), all public streets, sidewalks, and other common areas or facilities in subdivisions created after the effective date of this ordinance shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.
(b) To the extent that fulfillment of the requirement established in Subsection (a) would normally require street lights installed along public streets, this requirement shall be applicable only to subdivisions located within the corporate limits of the city.
(c) All roads, driveways, sidewalks, parking lots, and other common areas and facilities in undivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.
(d) All entrances and exits in substantial buildings used for nonresidential purposes and in two-family or multi-family residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings.
(e) Street lights along public streets which are to be dedicated to the City under this ordinance shall be installed by developer, and maintained and operated at Developer's sole expense during the entire one-year warranty period (or longer, if the warranty period is extended for any reason such as failure to complete improvements under a Completion Bond). At the end of the warranty period, Developer is responsible to transfer the electric account to the City of Long Beach. Failure to have account transferred will not obligate City to pay for electric charges incurred prior to the date of transfer. City will not accept streetlights unless they are installed within dedicated street rights-of-way or utility easements.

Section 163: Excessive Illumination
Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited.

Section 164: Electric Power
(a) Every principle use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:
   (1) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.
   (2) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 165: Telephone Service

Every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such lot. Compliance with this requirement shall be determined as follows:

(a) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 166: Underground Utilities

(a) All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this ordinance shall be placed underground in accordance with the specifications and policies of the respective utility service providers.

(b) Whenever an un-subdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this ordinance, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies.

Section 167: Utilities to Be Consistent With Internal and External Development

(a) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(b) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

Section 168: As-Built Drawings Required

Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the city with a copy of a drawing that shows the exact location of such utility lines. The utility service provider must verify said drawings as accurate. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

Section 169: Fire Hydrants

(a) Every development (subdivided or un-subdivided) that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.

(b) The presumption established by this ordinance is that to satisfy the standard set forth in Subsection (a), fire hydrants must be located so that all parts of every building within the development may be served by a hydrant by laying not more than 500 feet of hose connected to such hydrant. However, the fire chief may authorize or require a deviation from this standard if in his professional opinion another arrangement more satisfactorily complies with the standard set forth in Subsection (a).

(c) The fire chief shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet behind the curb line of publicly dedicated streets that have curb and gutter.

(d) The fire chief shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the fire chief, all hydrants shall have two 2½-inch hose connections and one 4

½-inch hose connection. The 2½-inch hose connections shall be located at least 21½ inches from the ground level. All hydrant threads shall be national standard threads.

(e) Water lines that serve hydrants shall be at least six-inch lines when looped to provide two-way flow to the hydrant lead or at least 8-inch when the hydrant is on a dead-end water main.

Section 170: Sites for and Screening of Dumpsters

(a) Every development that, under the city's solid waste collection policies, is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
   (1) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way, and
   (2) Constructed according to specifications established by the public works director to allow for collection without damage to development site or the collection vehicle.

(b) All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:
   (1) Persons located within any dwelling unit on residential property other than that where the dumpster is located.
   (2) Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster is located, unless such other property is used primarily for purposes permitted exclusively in an industrially zoned district.
   (3) Persons traveling on any public street, sidewalk or other public way.

(c) When dumpster screening is required under this section, such screening shall be constructed, installed and located to prevent or remedy the conditions requiring screening.

Section 171 and 172: Reserved

ARTICLE XV
STORMWATER MANAGEMENT

Section 173: Purpose

The purpose of this article is to diminish threats to public health and safety caused by the runoff of excessive stormwater; reduce economic losses to individuals and the community at large and protect, conserve and promote the orderly development of land and water resources. The provisions of this article further regulate, guide and control:

(a) The subdivision layout, redevelopment and improvement of lands located within the City of Long Beach.
(b) The construction of buildings and drainage of the sites on which structures are located, including parking and other paved areas.
(c) The design, construction and maintenance of stormwater drainage facilities and, systems.

Section 174: General Criteria and Standards

(a) This ordinance shall be applicable within the City of Long Beach's jurisdictional area and shall apply to any residential development of five acres or more or any non-residential development of three acres or more. This article shall also apply to any residential development of less than five acres or any non-residential development of less than three acres but having 50% or greater impervious surface.
(b) No development shall be undertaken that increases the rate of surface runoff to downstream property owners or drainage systems.
(c) The increased stormwater runoff resulting from the proposed development shall be detained by the provision of retention or detention facilities, sometimes referred to as "Stormwater Retarding Structures or Facilities".
(d) Retention or detention facilities shall be designed with sufficient capacity to accommodate all runoff caused by the development in excess of that runoff which would occur from the site if left in its natural, undeveloped condition. This storage shall be sufficient to store all excess flows for the 100-year storm of 24 hour duration.
(e) The stormwater runoff from the proposed development shall not increase channel instability downstream.
(f) If detention storage is provided within a floodplain of a major stream, no storage volume for the facility may be provided below the high water elevations established for the floodplain.
(g) Drainage systems shall have adequate capacity to bypass, through the development, the natural flow from all upstream areas.
(h) It shall be unlawful to dump trash, debris, landscape waste and other deleterious materials in any and all drainageways in the City.

Section 175: Improvement Regulation

The following information and data prepared and certified by a registered professional engineer in the State of Mississippi shall be furnished with the plans of each proposed residential, commercial and industrial development.

(a) A topographic map with two-foot (2') minimum interval contours, meeting National Map Accuracy Standards, of the land to be subdivided and such adjoining land whose topography may affect the layout or drainage of the subdivision. On such a map, the following shall be shown:
    (1) The banks and centerline of streams and channels;
    (2) The normal shoreline of lakes, ponds and retention/detention basins, and lines of inflow and outflow;
    (3) The location, sizes and slope of stormwater conduits and drainage swales;

(4) Storm, sanitary and combined sewers and outfalls of record;
(5) Delineation of upstream and downstream drainage features and watersheds which might be affected by the development;
(6) Base flood (100-year) elevation (BFE) and floodways for the property, established pursuant to Long Beach's Flood Ordinance; and
(7) Environmental features including the limits of wetlands areas and any designated natural areas.

(b) A comprehensive drainage plan shall be designed to safely and completely handle the stormwater runoff and to detain increased stormwater runoff. This plan shall provide and be accompanied by maps and/or other descriptive material showing the following:
(1) The extent and area of each watershed tributary to the drainage channels in the development;
(2) The storm sewers and other storm drains to be built, the basis of their design, the outfall and outlet locations and elevations, receiving stream or channel and its high water elevation and the functioning of the drains during high water conditions;
(3) Existing streams and floodplains to be maintained and new channels to be constructed including their locations, cross-sections and profiles;
(4) Proposed culverts and bridges to be built including their materials, elevations. waterway openings and basis of design;
(5) Existing retention/detention facilities to be maintained; enlarged or altered and new facilities to be built including their design;
(6) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed;
(7) The slope, type and size of all sewers and other waterways;
(8) Any proposed environmental enhancement or mitigation features;
(9) Retention/detention basins to be built including a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;
(10) For all retention/detention basins, design hydrographs of inflow and outflow for the 100-year peak flows from the site under natural and developed conditions;
(11) The formula for determining the storage for a retention/detention basin is:
(12) The live detention storage to be provided shall be calculated on the basis on the 100-year frequency rainfall as published by the U.S Weather Bureau for this area;
(13) Landscaping plan for retention/detention facility and located to reduce visibility from residential structures and public ROW; and
(14) One of more typical cross-sections of all existing and proposed channels or other open drainage facilities, showing the elevation of the existing land and the proposed changes thereto, together with the high water elevations expected from stormwater runoffs under the controlled conditions called for by this article, and the relationship of structures, street and other utilities.

(c) Detention basins shall be constructed to temporarily detain the stormwater runoff in excess of the volumes of runoff occurring on the site before development and will conform to the following standards:
(1) The volume of storage provided in these basins, together with such storage as may be authorized in other detention facilities, shall be sufficient to control the excess runoff from the 100-year storm of any duration;
(2) The maximum planned depth of stormwater stored shall not exceed five feet unless natural ground conditions lend themselves to greater depths.
(3) The approach slopes of the basin shall conform as closely as possible to natural land contours. Re-grading is preferable if necessary to keep the slopes under ten percent. Erosion control measures shall be provided as well as devices or measures to insure public safety.
(4) Outlet control structures shall be designed as simply as possible and shall operate automatically. They will be designed to limit discharges into existing or planned downstream channels or conduits so as not to exceed predetermined safe capacities and not in excess of flows which

would have occurred with the land in its natural, undeveloped condition. If necessary, velocity dissipation measures shall be employed to ensure that the discharge does not increase downstream erosion.

(5) Emergency overflow facilities shall be provided unless positive measures are installed to control the inflow so as not to exceed the safe capacity of the basin.

(6) Detention facilities shall where possible, use natural topography and natural vegetation. In lieu thereof, these facilities shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders.

(7) A six-foot fence shall enclose detention structures where the depth of the water would reach two feet. Each fenced structure shall be effectively and attractively screened with trees and plant material.

(d) Basins designed with permanent pools shall conform to the standards for detention basins as specified in paragraph unless modified or amended as follows:

(1) The minimum normal depth of water before the introduction of excess stormwater shall be four feet.

(2) For emergency purposes, cleaning or shoreline maintenance, facilities shall be provided or plans prepared for the use of auxiliary equipment to permit emptying and drainage.

(3) Aeration facilities may be required, dependent on the quality of the influent and detention time.

(4) The side slopes shall be of non-erosive material with a slope of 3:1 or flatter. The ledge shall be four to six feet wide, three feet below normal water depth and sloping gently toward the shore to prevent people or objects from sliding into deep water. There shall be a free board of 18 inches above the high water elevation on all retention basins. Alternate designs for side slopes may be considered under special circumstances where good engineering practice is demonstrated.

(5) Adequate area for sediment storage shall be provided in all retention basins.

(e) The developer shall be responsible for the maintenance of all improvements until such time as 80 percent of the lots have been improved with buildings and occupancy permits issued. However, the developer shall not transfer these improvements for the purpose of maintenance until he has complied with the above and until he has received final approval, final inspection, and a Certificate of Compliance from the City Engineer and the Public Works Director.

All improvements, including landscaping, shall be maintained in perpetuity and cannot be developed for any other use, which would limit or cause to limit the use of the improvements. The improvements shall be owned and/or maintained by the Property Owner's Association of the development and each property owner shall own a proportionate share of the improvements and shall bear his proportionate responsibility for the continued maintenance in accordance with the above.

Each property owner shall, within the contents of his deed, be liable for the combined maintenance of the improvements. A special note to this effect shall appear on any final plat of subdivision or any plat of condominium and their declarations.

The Property Owner's Association shall be formed by the Developer in perpetuity for the maintenance of the improvements. Membership shall be mandatory by all property owners. Articles of agreement of the Property Owner's Association must be approved by the Board of Aldermen of the City of Long Beach before recording.

In subdivisions consisting of five single-family residential lots or fewer, the provisions of Property Owner's Association may be waived, provided that other parts of this section have been met.

The City of Long Beach will maintain all facilities that are located in dedicated public rights-of-way and/or dedicated easily accessible drainage easements.

When problems arise due to inadequate maintenance, the City Engineer or public Works Director or their Agents of the City of Long Beach may inspect the improvements and compel the correction of the problem by written notice. Whenever facilities fail, the Property Owner's Association may contract with the City of Long Beach for the correction of the problem provided the City is adequately reimbursed.

(f) Whenever drainage facilities are planned to service several projects or a specific area deemed necessary by the City of Long Beach; the drainage facilities may be dedicated to the City. When these projects are of a regional nature, the City of Long Beach will maintain these facilities. In these cases, access easements shall be provided to the City.

(g) The City Engineer shall inspect all drainage facilities while under construction. When facilities are not constructed according to approved plans, the City of Long Beach has the explicit authority to compel compliance and have any situations corrected which are not according to the approved plans. All drainage facilities located on private property, whether dedicated to the City or not, shall be accessible at all times for inspection by the City Engineer of other responsible public official.

(h) The requirements for on site retention/detention facilities may be waived by the City of Long Beach if it is determined that a development project is too small, or if engineering, aesthetic or economic factors make a combined or regional facility more practical for construction by the City. In this case, the City of Long Beach shall require a fee and/or dedication of land from the developer, which the City shall use to construct the regional facility. This fee and/or dedication of land shall be based on the proportionate share for the development in its completely developed state of the present costs of constructing the regional facility.

Section 176: Miscellaneous

(a) The Mayor and Board of Aldermen shall have the power to authorize variances from the provisions or requirements of this article.

Reserved: Section 177 and 178.

ARTICLE XVI
Signs

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

(a) Sign. Any device that (a) is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives set forth in subdivision ii of this definition, and (b) is designed to attract the attention of such persons or to communicate information to them.

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

(c) Effective Date of this Article. The effective date of this article as originally adopted, or the effective date of an amendment to it if the amendment makes a sign nonconforming.

(d) Freestanding Sign. A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. For the purpose of this ordinance a monument sign is the preferred choice of the City and will be allowed by right. All other freestanding signs shall be approved by the Planning Commission using the regulations in this Article and being in conformity with the District. A sign that stands without supporting elements, such as "sandwich sign," is also a freestanding sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

(e) Internally Illuminated Signs. Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that (a) are filled with neon or some other gas that glows when an electric current passes through it and (b) are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

(f) Off-Premises Signs. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocates or proclaims a political, religious, or other noncommercial message shall also be an off- premises sign unless such sign is excluded from regulation under Subsection 180(j) or is subject to regulation under Subsection 181(a)(5).

(g) On-Premises Sign. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.

(h) Temporary Sign. A sign that (a) is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (b) is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Section 179: Permit Required for Signs

(a) Except as otherwise provided in Sections 180 (Signs Excluded from Regulation) and 181 (Certain Temporary Signs: Permit Exceptions and Additional Regulations), no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this section. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration.

(b) If plans submitted for a permit, include sign plans in sufficient detail that the City can determine whether the proposed sign or signs comply with the provisions of this ordinance, then issuance of the requested zoning permit shall constitute approval of the proposed sign or signs.

(c) Signs not approved as provided in Subsection (b) or exempted under the provisions referenced in Subsection (a) may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a sign permit issued by the administrator.
   (1) Sign permit applications and sign permits shall be governed by the same provisions of this ordinance applicable to zoning permits.
   (2) In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), sign permits shall be issued in the name of the lot owner or his agent rather than in the name of the individual business enterprise requesting a particular sign. The city may assist the owner by suggesting a formula whereby the maximum square footage of sign area allowed on the lot may be allocated equitably among all tenants, but the city shall be responsible for enforcing only the provisions of this ordinance and not the provisions of any allocation formula, lease, or other private restriction.

Section 180: Signs Excluded From Regulation

The following signs are exempt from regulation under this ordinance except for those stated in Subsections 190(b) through (e).

(a) Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (i) signs giving property identification names or numbers or names of occupants, (ii) signs on mailboxes or newspaper tubes, and (iii) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
(b) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
(c) Official signs of a noncommercial nature erected by public utilities.
(d) Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
(e) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
(f) Signs directing and guiding traffic on private property that does no exceed four square feet each and that bear no advertising matter.
(g) Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street and 16 square feet in area.
(h) Temporary signs, including banners and flags covering such events of community interest not exceeding 32 square feet.
(i) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
(j) Signs proclaiming religious, political, or other noncommercial messages (other than those regulated by Subdivision 181(5) that, do not exceed one per abutting street and 16 square feet in area and that are not internally illuminated.

Section 181: Certain Temporary Signs: Permit Exemptions and Additional Regulations

(a) The following temporary signs are permitted without a zoning permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this ordinance except those contained in Sections 184 (Total Sign Surface Area) and 186 (Number of Freestanding Signs).
   (1) Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent together with information identifying the owner or agent. Such signs may not exceed six (6) square feet in area, including riders, and shall be removed immediately after sale, lease, or rental.
      (i) For property where the sides or rear adjoin a second street, waterway or golf course a second sign of equal size will be allowed on the second street location.
      (ii) For property of two (2) acres or more or the promoting a new or proposed subdivision a sign shall not exceed twenty (20) square feet in size.

(2) Construction site identification signs. Such signs may identify the project, the owner or developer, architect, engineer, contractors, subcontractors, funding sources, and may contain related information including but not limited to sale or leasing information. Not more than one such sign may be erected per site, and it may not exceed 32 square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within 10 days after the issuance of the final occupancy permit.

(3) Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, may not cover more than 75 percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within 30 days after placement.

(4) Displays, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within 10 days following the holidays.

(5) Signs erected in connection with elections or political campaigns. Such signs shall be removed within three days following the election or conclusion of the campaign. No such sign in a residential district shall exceed 16 square feet in surface area.

(6) Signs indicating that a special event such as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located. Such signs may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.

(7) Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:

(a) Not more than one such sign may be located on any lot.

(b) No such sign may exceed four square feet in surface area.

(c) Such sign may not be displayed for longer than three consecutive days or more than 10 days out of any 365-day period.

(b) Other temporary signs not listed in Subsection (a) shall be regarded and treated in all respects as permanent signs, except that (as provided in Section 184) temporary signs shall not be included in calculating the total amount of permitted sign area.

Section 182: Determining the Number of Signs

(a) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

(b) A two-sided or multi-sided sign shall be regarded as one sign so long as:

(1) With respect to a V-type sign, the two sides are at no point separated by a distance that exceeds five feet; and

(2) With respect to double face (back to back) signs, the distance between the backs of each face of the sign does not exceed three feet.

Section 183: Computation of Sign Area

(a) The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more eight straight lines, or a circle or an ellipse, enclosing the extreme limit , the writing, representation, emblem, or other display, together with material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

(b) If the sign consists of more than one section or module, all of the area including that between sections or modules, shall be included in computation of the sign area.

(c) With respect to two-sided, multi-sided, or three-dimensional signs, sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be see anyone time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:
   (1) The sign surface area of a double faced, back to back sign shall calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed three feet.
   (2) The sign surface area of a double faced sign constructed in, form of a "V" shall be calculated by using the area of only o side of such sign (the larger side if there is a size difference),, long as the angle of the "V" does not exceed 30 degrees and at, point does the distance between the backs of such sides exceed five feet.

Section 184: Total Sign Surface Area

(a) Unless otherwise provided in this article, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs except temporary signs shall be included in calculation.
(b) Unless otherwise provided in this Article or in Article XI (Supplementary Use Regulations), the maximum sign surface area permitted on any lot in any residential district is four square feet.
(c) Subject to the other provisions of this section, the maximum SF surface area permitted on any lot in a commercial district other than the C-2 District or Industrial District shall be determined as follows:
   (1) There may be not more than 0.5 square feet of sign surface per linear foot of lot street frontage up to 200 feet of frontage.
   (2) There may be up to 0.75 square feet of additional sign surf area per linear foot of lot street frontage in excess of 200 feet.
(d) Subject to the other provisions of this section, the maximum sign surface area on any lot in the C-2 and C-1HD Districts shall be determined by multiplying the number of linear feet of street frontage of the lot by 1.0 feet. However, in no case may the total sign surface area exceed 500 square feet.
(e) If a lot has frontage on more than one street, then the total sign surface area permitted on that lot shall be the sum of the sign surface area allotments related to each street on which the lot has frontage. However, the total sign surface area that is oriented toward a particular street may not exceed the portion of the lot's total sign surface area allocation that is derived from frontage on that street.
(f) The sign surface area of any sign located on a wall of a structure may not exceed 50 percent of the total surface area of the wall on which the sign is located.

Section 185: Freestanding Sign Surface Area

(a) For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in Section 184. For example, wall signs typically have one side. Freestanding signs typically have two sides (back to back), although four-sided and other multi-sided signs are also common.
(b) Subject to Subsection (c), a single side of a freestanding sign may not exceed 0.3 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of a freestanding sign exceed 50 square feet in surface area if the lot on which the sign is located has less than 200 feet of frontage on the street toward which that sign is primarily oriented, 75 square feet on lots with 200 or more but less than 400 feet of frontage, and 100 square feet on lots with 400 or more feet of frontage.
(c) In the C-3 district, a single side of a freestanding sign may not exceed 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of such signs exceed 250 square feet: in surface area.
(d) With respect to freestanding signs that have no discernible sides, as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed under Subsections (b) or (c) for a single side of a freestanding sign.

Section 186: Number of Freestanding Signs

(a) Except as authorized by this section, no development may have more than one freestanding sign.

(b) If a development is located on a corner lot that has at least 100 feet, frontage on each of the two intersecting public streets, then the development may have not more than one freestanding sign along each side of development bordered by such streets.

(c) If a development is located on a lot that is bordered by two public streets that do not intersect at the lot's boundaries (double-front lot), then development may have not more than one freestanding sign on each side of the development bordered by such streets.

Section 187: Subdivision and Multi-Family Development Entrance Signs

At any entrance to a residential subdivision or multi-family development, there may be not more than two signs identifying such subdivision or development. A single side of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs located at a single entrance exceed 32 square feet.

Section 188: Location and Height Requirements

(a) Freestanding signs shall observe the setback requirements set forth in Table 1.

(b) No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces construct at an angle of 75 degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.

(c) No sign attached to a building may project more than 12 inches from the building wall.

(d) No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the city.

(e) No part of a freestanding sign may exceed a height, measured from ground level, of 25 feet in the C-2 and Industrial Districts and 15 feet in other districts.

Section 189: Sign Illumination and Signs Containing Lights

(a) Unless otherwise prohibited by this ordinance, signs may be illuminated if such illumination is in accordance with this section.

(b) No sign within 150 feet of a residential zone may be illuminated between the hours of midnight and 6 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

(c) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

(d) Except as herein provided, internally illuminated signs are not permissible in R-1, R-2, and R-3 zoning districts. This subsection shall not apply to the following types of signs:

   (1) Signs that constitute an integral part of a vending machine, telephone booth, device that indicates the time, date, or weather conditions or similar device whose principal function is not to convey an advertising message.

   (2) Signs that do not exceed two square feet in area and that convey the message that a business enterprise is open or closed or that a place of lodging does or do not have a vacancy.

(e) Subject to Subsection (e), no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

(f) Subsection (e) does not apply to temporary signs erected in connection with the observance of holidays.

Section 190: Miscellaneous Restrictions and Prohibitions

(a) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(b) Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement (i) is not a primary design feature of the sign, and (ii) is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs specified in Subdivision 181(4) or to signs indicating the time, date, or weather conditions.

(c) No sign may be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

(d) Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure and comply with the International Building Code or other City adopted code as to wind load capacity.

(e) Setbacks for all signs, except in C-1 and C-1HD Districts, shall be as follows: front – 15', side – 20' and rear – 5'.

(f) The bottom edge of all projecting signs shall be a minimum of nine (9') feet above the sidewalk or ground level.

(g) Landscaping is required around Neighborhood Identification signs.

(h) Surfaced mounted letters may be flush mounted or raised up to six (6") inches.

Section 191: Maintenance of Signs

(a) All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the: natural environment.

(b) If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 60 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

(c) If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located' or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire; message portion of the sign or remove the remaining components of the, sign. This subsection shall not be construed to alter the effect of Subsection: 193(c), which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

Section 192: Unlawful Cutting of Trees or Shrubs

No person may, for the purpose of increasing or enhancing the visibility or any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

(a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the City of Long Beach or other agency having jurisdiction over the streets.

(b) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(c) In any area where such trees or shrubs are required to remain under permit issued under this ordinance.

Section 193: Nonconforming Signs

(a) Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this ordinance may be continued until they are required to be removed under Section 194.

(b) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the; generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor, may illumination be added to any nonconforming sign.

(c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this ordinance.

(d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds 60% of the value of the sign so damaged.

(e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformity (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).

(f) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period 50 percent of the value of such sign.

(g) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

(h) If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:

(1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or

(2) The advertising message it displays becomes illegible in whole or substantial part; or

(3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(i) As reasonably possible after the effective date of this Section, the administrator shall make every reasonable effort to identify all the nonconforming signs within the city's planning jurisdiction. He shall then contact the person responsible for each such sign (as well as the owner of the property where the nonconforming sign is located, if different from the former) and inform such person (i) that the sign is nonconforming, (ii) how it is nonconforming, (iii) what must be done to correct it and by what date, and (iv) the consequences of failure to make the necessary corrections. The administrator shall keep complete records of all correspondence, communications, and other actions taken with respect to such nonconforming signs.

Section 194: Amortization of Nonconforming Signs

(a) The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered to comply with the provisions of this ordinance or removed within 90 days after the effective date of this article:

(1) Portable signs and temporary signs.

(2) Signs that are in violation of Section 189 or Subsections 190(b), (c), or (d).

Sections 195 – 197: Reserved

Article XVII
PARKING

Section 198: Definitions

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.

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

(2) Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

(3) Gross Floor Area. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

(4) Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 208.

(5) Vehicle Accommodation Area. That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

(6) Parking Area Aisles. That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

(7) Parking Space. A portion of the vehicle accommodation area set for the parking of one vehicle.

Section 199: Number of Parking Spaces Required

(a) All developments in all zoning districts other than the C-l district shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(b) The presumptions established by this article are that: (i) a development must comply with the parking standards set forth in Subsection (e) to satisfy the requirement stated in Subsection (a), and (ii) any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in Section 200.

(c) Uses in the Table of Parking Requirements (Subsection (e)), indicated by a numerical reference keyed to the Chart of Use Section 105. When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(d) The Mayor and Board of Aldermen recognize that the Table of Parking Requirements set forth in Subsection (e) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the planning commission is authorized to determine the parking requirements using this table as a guide.

(e) Table of Parking Requirements

Use	Unit	Required spaces/unit
Residential		
Single Family	Dwelling	2.0
Two Family	Dwelling	2.0
Multi-Family	Dwelling	1.5
Condominium	Dwelling	1.5
Mobile Home Park	Site, Pad or space	2.0
Townhome	Dwelling	2.0

Rooming House	Guest Room	1.5
Recreational Vehicle	Site, Pad or space	2.0
Auditorium, Theater, Stadium	Seat	0.2
Restaurant	50 sq. ft. of GFA	1.0
Church	Seat	0.2
Retail Sales	300 sq. ft. of GFA	1.0
Office	400 sq. ft. of GFA	1.0
General Business	300 sq. ft. of GFA	1.0
Shopping Center	1,000 sq. ft. of GFA	3.0
Hotel, Motel, Inn, B&B	Guest Room	1.5
Hospital, Nursing Home	Bed	0.5
Wholesale Sales	1,000 sq. ft. of GFA	1.0
Industrial	Every 2 Empl./max. Shift	1.0
Outdoor Entertainment	300 sq. ft. of area	1.0
Private Club or Lodge	50 sq. ft. of GFA	1.0
Gas Sales	1,000 sq. ft. of GFA	1.0
Auto Sales and Repair	500 sq. ft. of GFA	1.0

Section 200: Flexibility in Administration

(a) The Mayor and the Board of Aldermen recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Subsection 199(e) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Section 199, the planning commission may permit deviations from the presumptive requirements of Subsection 199(e) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in Subsection 199(a).

(b) Without limiting the generality of the foregoing, the planning commission may allow deviations from the parking requirements set forth in Subsection 199(e) when it finds that:
   (1) A residential development is irrevocably oriented toward the elderly;
   (2) A business is primarily oriented to walk-in trade.
   (3) Or any other development that is unique in nature due to clients or visitors.

(c) Whenever the planning commission allows or requires a deviation from the presumptive parking requirements set forth in Subsection 199(e), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the planning commission concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by Subsection 199(e) for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth.

Section 201: Parking Space Dimensions

(a) Subject to Subsections (b) and (c), each parking space shall contain a rectangular area at least 18 feet long and 10 feet wide. Lines demarcating, parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(b) In parking areas containing 10 or more parking spaces, up to 20 percent of the parking spaces may contain a rectangular area of only 7 ½ feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(c) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by 10 feet.

Section 202: Required Widths of Parking Area Aisles and Driveways

(a) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	Parking Angle				
Aisle Width	**0°**	**30°**	**45°**	**60°**	**90°**
One-Way Traffic	13	11	13	18	24
Two-Way Traffic	19	20	21	23	24

(b) Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic, except that 10 feet wide driveways are permissible for two-way traffic when (i) the driveway is not longer than 50 feet, (ii) it provides access to not more than 6 spaces, and (iii) sufficient turning space is provided so that vehicles need not back into a public street.

Section 203: General Design Requirements

(a) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.

(b) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(c) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(d) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

Section 204: Vehicle Accommodation Area Surfaces

(a) Vehicle accommodation areas that (i) include lanes for drive-in windows or (ii) contain parking areas that are required to have more than 5 parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standard set forth in this subsection shall be determined by the City Engineer.

(b) Vehicle accommodation areas that are not provided with the type of surface specified in Subsection (a) shall be graded and surfaced with crushed stone, gravel, or other suitable material (shall be determined by the City Engineer) to provide a surface that is stable and will help to reduce dust and erosion. Bricks, stones, railroad ties, or other similar devices shall define the perimeter of such parking areas. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in Subsection (a) for a distance of 15 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family residences or other uses that are required to have only one or two parking spaces.

(c) Parking spaces in areas surfaced in accordance with Subsection (a) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection (b) shall be demarcated whenever practicable.

(d) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

Section 205: Joint Use of Required Parking Spaces

(a) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space, assigned to one use may not be credited to any other use.

(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90 percent vacant on weekends, another development that operates only on weekends, could be credited with 90 percent of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50 percent of capacity on days other than Sunday, another development could make use of 50 percent of the church lot's spaces on those other days if provided in writing by owner of property.

(c) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section 207 are also applicable.

Section 206: Satellite Parking

(a) If the number of off-street parking spaces required by this Section cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as satellite parking spaces.

(b) All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking, or within 400 feet of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance.

(c) The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.

(d) Persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article.

Section 207: Special Provisions For Lots With Existing Buildings

Notwithstanding any other provisions of this ordinance, whenever (i) there exists a lot with one or more structures on it constructed before the effective date of this ordinance, and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking requirements of Section 201 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Ordinance to the extent that (i) parking space is practicably available on the lot where the development is located.

Section 208: Loading and Unloading Areas

(a) Subject to Subsection (e), whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe an convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the planning commission may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Leasable Area of Building	Number of spaces*
1,000- 19,999	1
20,000 - 79,999	2
80,000 - 127,999	3
128,000- 191,000	4
192,000- 255,999	5
256,000 -319,999	6
320,000 -391,999	7

Plus one (1) space for each additional 72,000 square feet or fraction thereof.

*Minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade required.

(c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right-of-way, and (ii) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(d) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

(e) Whenever (i) there exists a lot with one or more structures on it constructed before the effective date of this ordinance, and (ii) a change in us that does not involve any enlargement of a structure is proposed for such lot, and (iii) the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.

Sections 209 through 210: Reserved

ARTICLE XVIII
SHADING

Section 211: Mayor and Board of Aldermen Findings and Declaration of Policy on Shade Trees

(a) The Mayor and Board of Aldermen finds that:
   (1) Trees are proven producers of oxygen, a necessary element for human survival,
   (2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe,
   (3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems,
   (4) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers,
   (5) Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control,
   (6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas, and
   (7) For the reasons indicated in Subdivision (6), trees have an important impact on the desirability of land and therefore on property values.

(b) Based upon the findings set forth in Subsection (a), the Mayor and Board of Aldermen declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the city's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

Section 212: Retention and Protection of Large Trees

(a) Every development shall conform to the City's tree ordinance.

(b) Every development shall make every effort to retain all existing trees over 18 inches in diameter, unless the retention of such trees would unreasonably burden the development.

(c) In reference to Subsection (b), no excavation or other subsurface disturbance may be undertaken within the drip line of any retained tree over 18 inches in diameter and no impervious surface (including, but not limited to, paving or buildings) may be located within 12½ feet (measured from the center of the trunk) of any retained tree unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(d) The retention or protection of trees as provided in Subsections (b) and (c) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

(e) If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsections (a) or (b), and, as a result, the parking requirements set forth in Article XVII cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of Subsections (a) and (b), up to a maximum of 15 percent of the required spaces.

Section 213: Required Trees Along Dedicated Streets

Along both sides of all newly created streets that are constructed in accordance with the public street standards set forth in Article XIII, the developer shall either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street,

there is for every 50 feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix E.

Section 214: Shade Trees in Parking Areas

(a) Vehicle accommodation areas that are required to be paved by Section 224 must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least 12 inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix E.

(b) Each tree of the type described in Subsection (a) shall be presumed to shade a circular area having a radius of 15 feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, 20 percent of the vehicle accommodation area will be shaded.

(c) No paving may be placed within 12 ½ feet (measured from the center of the trunk) of any tree retained to comply with Subsection (a), and new trees planted to comply with Subsection (a) shall be located so that they are surrounded by at least 200 square feet of unpaved area.

(d) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches.

Sections 215 and 216: Reserved

Article XIX
Amendments

Section 217: Amendments in General

(a) Amendments to the text of this ordinance or to the zoning map may be made in accordance with the provisions of this article.

(b) Each proposed amendment shall be sent to the planning commission to hold a public hearing, as provided in Mississippi Code and gather pertinent information concerning the amendment.

(c) Upon conclusion of the hearing process the planning commission shall forward their recommendation to the Mayor and Board of Aldermen for a public hearing, as provided in Mississippi Code and final action.

(d) The Mayor and Board of Aldermen, in a timely manner and at an announced, scheduled meeting, shall hold a public hearing and then decide to approve, disapprove, modify or remand back to the planning commission the recommendation of the planning commission on the proposed amendment.

(e) No decision by the Mayor and Board of Aldermen shall be made prior to the ten (10) day protest period provided for in Section 221.

Section 218: Initiation of Amendment

(a) Whenever a request to amend this ordinance is initiated by the Mayor and Board of Aldermen or the planning commission, the planning commission shall set a date for a public hearing.

(b) Any other person may also petition the Board of Aldermen to amend this ordinance. The petition shall be filed with the administrator and shall include, among the information deemed relevant by the administrator:

  (1) The name, address, and phone number of the applicant,

  (2) A description of the land affected by the amendment if a change in zoning district classification is proposed,

  (3) Stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 218,

  (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this ordinance.

(c) Upon receipt of a petition as provided in Subsection (b), the administrator shall either:

  (1) Treat the proposed amendment as one initiated by the city administration and proceed in accordance with Subsection (a) if he believes that the proposed amendment has significant merit and would benefit the general public, or

  (2) Forward the petition to the planning commission with or without written comment for a public hearing can be set in accordance with subsection (d).

(d) Upon receipt of an application as provided in Subsection (a), the planning commission may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in Subsection (b), the planning commission may summarily deny the petition or set a date for a public hearing on the requested amendment.

Section 219: Hearing Required; Notice

(a) No action that amends any of the provisions of this ordinance may be adopted until a public hearing has been held on such action.

(b) The administrator shall publish a notice of the public hearing that proposes to amend the provisions of this ordinance in a newspaper having general circulation in the area. The notice shall be published fifteen (15) days prior to the date fixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be.

(c) The administrator shall mail written notice of the public hearing to the record owners for tax purposes of all properties within 160 feet of the property rezoned by the amendment.
(d) The notice required or authorized by this section shall:
   (1) State the date, time, and place of the public hearing,
   (2) Summarize the nature and character of the proposed change,
   (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment, and
   (4) State that the full text of the amendment can be obtained from the city clerk.
(e) The City shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the planning commission's intention that no failure to comply with any of the notice provisions (except those set forth in Subsection (b)) shall render any amendment invalid.

Section 220: Planning Commission Action on Amendments
(a) At the conclusion of the public hearing on a proposed amendment, the planning commission may proceed to vote on the proposed amendment, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.
(b) The planning commission is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.
(c) Any aggrieved person or group may appeal or protest the decision of the planning commission by

Section 221: Ultimate Issue Before Mayor and Board of Aldermen on Amendments
In deciding whether to adopt a proposed amendment to this ordinance, the central issue before the Mayor and Board of Aldermen is whether the proposed amendment advances the public health, safety, or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed map amendments:
   (1) The Mayor and Board of Aldermen shall not consider any representations made by the petitioner that if the change is granted the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board of Aldermen shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.
   (2) The Mayor and Board of Aldermen shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 222: Protest to Amendments or Changes
(a) If a petition opposing an amendment is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of two-thirds of the Board of Aldermen, as provided in the Mississippi Code.
(b) The Mayor and Board of Aldermen, in the case of protest, shall hold a public hearing in accordance with Mississippi Code.
(c) To trigger the two-thirds vote requirement, the petition must:
   (1) Be signed by the owners of 20 percent or more either of (i) the lots included in a proposed change, or (ii) the lots within 160 feet of either side or the rear of the tract to be rezoned, or (iii) the lots directly opposite the tract to be rezoned and extending 160 feet from the street frontage of such opposite lots.
   (2) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.

(3) Be received by the city clerk within 10 days of the public hearing date or a decision by the planning commission, which ever is the latter.
(4) Be on a form provided by the city clerk and contain all the information requested on this form.

Sections 223 and 225: Reserved