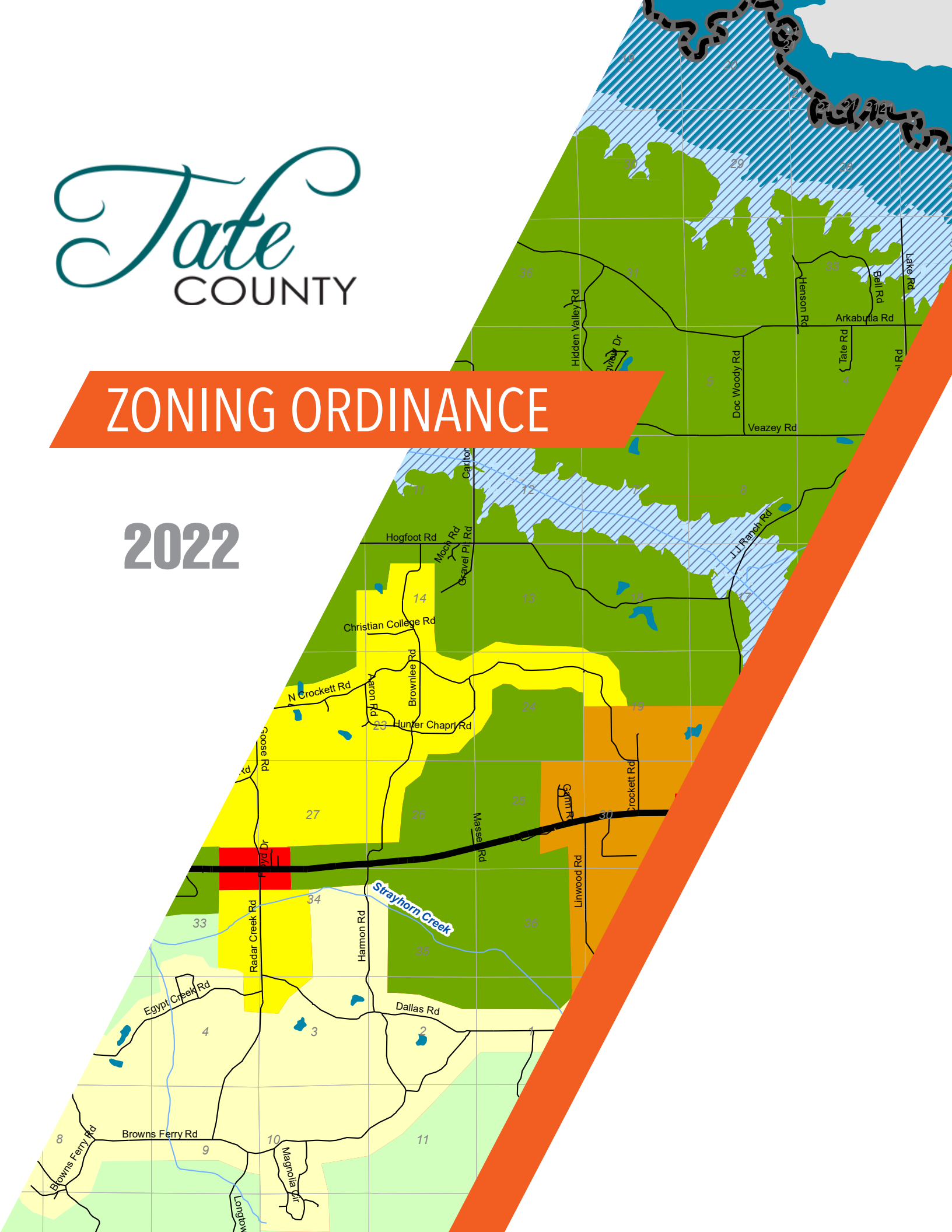


# Tate

COUNTY

## ZONING ORDINANCE

2022



# TATE COUNTY, MISSISSIPPI

## ZONING ORDINANCE

ADOPTED MARCH 22, 2022 AND EFFECTIVE APRIL 22, 2022  
AMENDED AND EFFECTIVE MAY 20, 2022

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## PREAMBLE

WHEREAS, the Statutes of the State of Mississippi, Section 17-1-1 to 17-1-27, inclusive, of the Mississippi Code of 1972, annotated, as amended, empowers Tate County, Mississippi, to enact a Zoning Ordinance and to provide for its administration, enforcement and amendment; and

WHEREAS, Section 17-1-9 of the Mississippi Code of 1972, annotated, as amended, states that "zoning regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements"; and

WHEREAS, Section 17-1-1 of the Mississippi Code of 1972, annotated, as amended, defines the term "comprehensive plan" as "a statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body, consisting of the following elements at a minimum: (1) goals and objectives for the long-range (twenty to twenty-five years) development of the county or municipality---; (2) a land use plan---; (3) a transportation plan--; and (4) a community facilities plan---"; and

WHEREAS, the Board of Supervisors on March 22, 2022 adopted by resolution a Comprehensive Plan for Tate County following public hearings relative to same; and

WHEREAS, based upon the adopted Comprehensive Plan, and amendments thereto, the Board of Supervisors have divided the County into districts and adopted regulations pertaining to such districts, and have given reasonable consideration among other things, to the character of the districts and their particular suitability for particular uses, with a view to conserving the value of property and encouraging the most appropriate use of land throughout the County; and

WHEREAS, the Board of Supervisors have given due public notice of a hearing relating to said zoning ordinance and map and have held a public hearing in accordance with the requirements of Section 17-1-15 of the Mississippi Code of 1972, annotated, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF TATE COUNTY, MISSISSIPPI, THAT THIS ORDINANCE SHALL GOVERN THE USE OF ALL LAND IN UNINCORPORATED TATE COUNTY, MISSISSIPPI.

## ARTICLE I: INTRODUCTORY PROVISIONS

### SECTION 101. TITLE

This resolution shall be known and may be cited as the “Tate County Zoning Ordinance”. The map within this resolution shall be known and may be cited as the “Tate County Zoning Map”. The adoption date shall appear on the official zoning map.

### SECTION 102. PURPOSE

This resolution is enacted to promote the health, safety and general welfare of the citizens of Tate County in accordance with a Comprehensive Plan. It is the intention of this ordinance to conserve the value of buildings and property and encourage appropriate land use throughout the county.

These zoning regulations are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

### SECTION 103. SAVING CLAUSE

If, for any reason, one or more articles, sections or subsections of this resolution are held invalid or unconstitutional, such judgment shall not affect, invalidate or prejudice the remaining provisions of this resolution.

### SECTION 104. CONFLICT

In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of Tate County, Mississippi, existing on the effective date of this ordinance, the provision which, in the opinion of the Board of Supervisors, established the higher standard for the promotion and protection of the health and safety of the people of Tate County shall take precedence.

### SECTION 105. FAILURE TO ENFORCE ORDINANCE

Failure to enforce any provision of this Ordinance shall not constitute a waiver nor imply that the action is legal.

SECTION 106. EFFECTIVE DATE OF ORDINANCE

This ordinance shall become effective thirty (30) calendar days from and after its adoption. Amendments to this Ordinance shall also become effective thirty (30) calendar days from and after their adoption.

SECTION 107. ADOPTION CLAUSE

Adopted this, the 22<sup>nd</sup> day of March 2022, at the regular meeting of the Board of Supervisors of Tate County, Mississippi.

Amended this, the 20<sup>th</sup> day of May 2022, at a regular meeting of the Board of Supervisors of Tate County, Mississippi.

Attest:

\_\_\_\_\_  
President, Board of Supervisors

\_\_\_\_\_  
Tim Hale, Chancery Clerk

I, the undersigned, Tim Hale, Chancery Clerk of the Tate County, Mississippi, hereby certify that the above and foregoing is a true copy of an Ordinance adopted by the Board of Supervisors of Tate County at its meeting held on the as the same appear in Minute Book \_\_\_\_\_.

Given under my hand and official seal, this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chancery Clerk  
Tate County, Mississippi  
(SEAL)

## ARTICLE II: INTERPRETATIONS AND DEFINITIONS

### SECTION 201. INTERPRETATIONS

For the purpose of this Ordinance, words used in singular shall include the plural, the plural the singular, and the present tense shall include the future. Words not specifically defined herein shall be interpreted in accordance with their usual dictionary meaning and customary usage. The word “shall” is mandatory; the word “may” is permissive. The word “building” includes the words “structure” and “premises”. The word “lot” includes the words “plot”, “tract”, or “parcel”. The words “used” or “occupied” include the words “intended”, “designed”, or “arranged” to be used or occupied. The word “person” includes a firm, organization, association, partnership, trust, company, or corporation, as well as an individual.

### SECTION 202. DEFINITIONS

**ACCESSORY BUILDINGS OR USE:** Any building or use, which is subordinate or incidental to the main building or use of the lot.

**ACCESSORY STRUCTURE:** A subordinate structure detached from the principal structure, which shall not be used for human habitation. When located in a flood hazard district shall be designed to have low flood damage potential; shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; shall be firmly anchored to prevent flotation which may result in damage to other structures; and service facilities such as electrical and heating equipment shall be elevated or floodproofed.

**ADDITION (TO AN EXISTING BUILDING):** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is considered new construction.

**AGRICULTURE:** Land devoted to the production of crops and/or livestock for sale.

**ALLEY:** A minor way that is used primarily for vehicular service and offers a secondary means of access for properties otherwise abutting on a street.

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

**APARTMENT:** One dwelling unit, including living, cooking and sanitary facilities in a multi-family dwelling, which is either rented or leased to the occupants. Apartments are considered a Multi-family Dwelling for the purposes of this Ordinance.



**AUTOMOBILE SERVICE AND REPAIR STATION:** An establishment where gasoline and other petroleum products are sold for retail purposes. Light maintenance activities such as engine tune-ups, lubrication, and minor repairs are also provided.

**BASE FLOOD ELEVATION:** The elevation shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent of greater chance of being equaled or exceeded in any given year. See also the Flood Damage Prevention Ordinance.

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

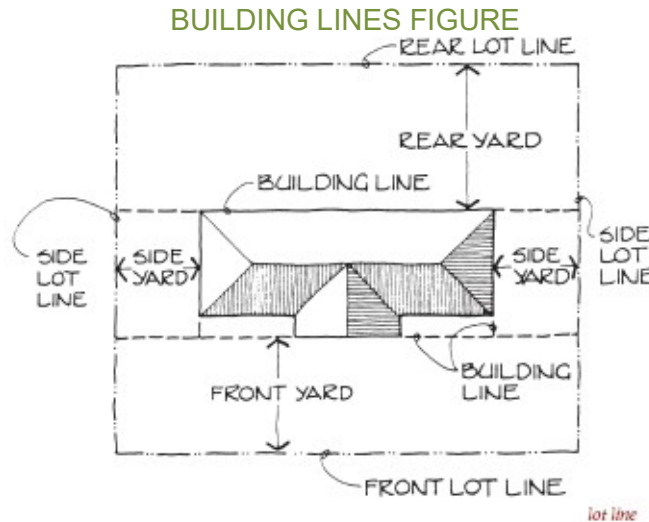
**BUFFER:** An area set aside to remain vacant or to be planted and landscaped to reduce the blighting effect of commercial, industrial, or dense residential uses on adjacent property.

**BUILDABLE AREA:** That portion of a lot bounded by the required front, rear and side yards. Also known as the Building Envelope.

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

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of finished grade along the front of the building to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or the height of the highest ridge of a gable, hip or gambrel roof.

**BUILDING LINE - FRONT, SIDE, REAR:** Lines which define the required area for the front, side and rear yards, as set forth in this Ordinance and illustrated below. This line is usually fixed parallel to the lot line and is equivalent to the required yard.



Source: *A Planners Dictionary*, PAS report 521/522 (2004)

**BUILDING, MAIN OR PRINCIPAL:** A building in which the primary use of the lot is conducted.

**CANNABIS:** As defined in *Mississippi Code*, all parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts. Such term shall not mean cannabis-derived drug products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug and Cosmetic Act.

*Cannabis Cultivation Facility:* A business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area.

*Cannabis Disposal Entity:* A business entity licensed and registered by the Mississippi Department of Health that is involved in the commercial disposal or destruction of medical cannabis.

*Cannabis Processing Facility:* A business entity licensed and registered by the Mississippi Department of Health that (i) acquires or intends to acquire cannabis from a cultivation facility; (ii) possesses cannabis with the intent to manufacture a cannabis product; (iii) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and (iv) sells or intends to sell a cannabis product to a medical cannabis dispensary, cannabis testing facility, or cannabis research facility.

*Cannabis Products:* Cannabis flower, concentrated cannabis, cannabis extracts and products that are infused with cannabis or an extract thereof and are intended for use or

consumption by humans. The term includes, without limitation, edible cannabis products, beverages, topical products, ointments, oils, tinctures and suppositories that contain tetrahydrocannabinol (THC) and/or cannabidiol (CBD) except those products excluded from control under Sections 41-29-113 and 41-29-136 of the Mississippi Code.

*Cannabis Research Facility:* A research facility at any university or college or an independent entity licensed and registered by the Mississippi Department of Health pursuant to Mississippi Code that acquires cannabis from cultivation and processing facilities in order to research cannabis, develop best practices for specific medical conditions, develop medicines and provide commercial access for medical use.

*Cannabis Testing Facility:* An independent entity licensed and registered by the Mississippi Department of Health that analyzes the safety and potency of cannabis.

*Cannabis Transportation Entity:* An independent entity licensed and registered by the Mississippi Department of Health that is involved in the commercial transportation of medical cannabis.

*Medical Cannabis:* Cannabis, cannabis products and edible cannabis that are intended to be used by registered qualifying patients as provided by Mississippi Code.

*Medical Cannabis Dispensary:* An entity licensed and registered with the Mississippi Department of Revenue that acquires, possesses, stores, transfers, sells, supplies or dispenses medical cannabis, equipment used for medical cannabis, or related supplies and education materials to cardholders.

*Medical Cannabis Establishment:* A cannabis cultivation facility, cannabis processing facility, cannabis testing facility, cannabis dispensary, cannabis transportation entity, cannabis disposal entity or cannabis research facility licensed and registered by the appropriate state agency.

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

**CARPOR:** A canopy attached to the main building, open and to remain open on two sides providing a sheltered place for parking an automobile and for entering and alighting from said automobile.

**CENTERLINE OF STREET:** The line surveyed and monumented by the governing body shall be the centerline of the street; or if such centerline has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street. In cases on county roadways

where the pavement is not stripped with a centerline, the centerline of street shall also mean the midpoint of the width of existing pavement.

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

**COMMON AREA:** An area held in private ownership available for use by the occupants of more than one unit and recorded as part of the subdivision in the County Plat Book.

**COMMUNITY FACILITY:** A building or structure owned and operated by a governmental agency that provides a governmental service to the public.

**COMPATIBILITY:** The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict. Some elements affecting compatibility include: residential density; pedestrian or vehicular traffic generated; volume of goods handled; and such environmental effects such as noise, vibration, glare, air pollution, or radiation.

**COMPREHENSIVE PLAN:** The Tate County Comprehensive Plan as adopted by the Board of Supervisors. A comprehensive plan is a policy document which guides future growth and development within the County regarding transportation, land use, and community facilities and services.

**CONDITIONAL USE:** A use that would not be appropriate generally or without restriction throughout the zoning district but if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted as conditional uses if specific conditions are made. Specific uses of this ordinance may be allowed in that zoning district with approval by the Tate County Planning Commission. Additional unique and special uses not listed may be considered a conditional use if determined by the County Planner for potential approval by the Planning Commission.

**CONDOMINIUM:** According to Mississippi Code of 1972, Annotated, Section 89-9-5, 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 common areas. Further defined by Mississippi Code of 1972, Annotated, Section 89-9-7, as real property consisting of an undivided interest in common of a portion of a parcel of real property, plus a separate interest in space in residential, office, commercial or other land use.

**CONFORMING USE:** Any lawful use of a building or lot which complies with the provisions of this Ordinance.

**CONVENIENCE STORE:** Retail establishment selling a limited selection of groceries, household items, and possibly gasoline, if pumps are provided, which are all intended for the convenience of the neighborhood. It does not include or offer any automobile repair services.

**DAY CARE CENTER:** A place operated by a person, social agency, corporation, institution, or other group that receives pay for the care of six (6) or more children under 17 years of age for less than 24 hours per day, without transfer of custody.

**DEDICATION:** The setting aside of land and/or improvements for a particular public use.

**DENSITY:** The number of dwelling units per acre allowed by this Zoning Ordinance.

**DEVELOPER:** Any individual, firm, association, partnership, corporation, trust or other legal entity commencing proceedings under these regulations to subdivide land for either him or herself or for another. Also referred to as subdivider or applicant.

**DEVELOPMENT:** A manmade change to improved or unimproved real estate, including, but not limited to, construction of buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.

**DRIVEWAY:** A privately owned or maintained access from a street to a dwelling unit or from a street to office, commercial, or industrial activities. It is designed for low travel speeds and is often used in association with parking areas for vehicles.

**DWELLING:** A building or portion thereof which is designed for human residential habitation. For the purpose of this Ordinance, the term "dwelling" shall not include boarding or rooming houses, motels, hotels, campers, recreational vehicles, tents or other structures designed for transient residence. Any structure not designed for human residential habitation such as storage buildings, shipping containers or similar shall not be considered a dwelling.

*Dwelling, Multi-family:* A building designed for occupancy by three (3) or more families living independently of each other. This terms shall be understood to include apartments and condominiums as have been defined by this Ordinance.

*Dwelling, Single-family, Attached:* A one-family dwelling attached to two or more one-family dwellings by a common vertical fire wall with each dwelling being located on a separate lot. This definition does not include zero lot line development. However, this definition does include a townhouse dwelling.

*Dwelling, Single-family, Detached:* A building designed for or occupied exclusively by one (1) family which has no connection by a common wall to another building or structure similarly designed. This definition does include zero lot line development. Manufactured homes and modular homes shall be considered separate of this definition.

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

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

**EASEMENT:** A right, distinct from the ownership of land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or for drainage or access purposes.

*Ingress - Egress Easement (or Access Easement):* An area of land intended for the purpose of providing vehicular or pedestrian access across one parcel to a different parcel or to a land-locked parcel.

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

**FACTORY BUILT HOUSING:** A factory built structure designed for residential use. For the purposes of these regulations, factory built housing consists of three (3) types: modular homes, mobile homes and manufactured homes.

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

**FARM:** Any parcel of land containing at least five (5) acres which is used for the growing of the usual farm products such as vegetables, fruits, trees, hay, cotton, grain, animals and poultry.

**FENCE:** A constructed vertical barrier having no connection to a roof, typically used to enclose an area, mark a boundary, control access, provide a visual barrier, or form a decorative element in landscaping or architecture.

**FINISHED FLOOR ELEVATION:** The required first floor elevation of any building constructed within the 100 year floodplain. It is measured from the FEMA determined base flood elevation.

**FLOOD INSURANCE RATE MAP (FIRMS):** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** The official report provided by the Federal Emergency Management Agency which contains flood profiles, water surface elevation, or the base flood, as well as the Flood boundary map.

**FLOODPLAIN:** Any land area susceptible to being inundated by water from any source. Areas with a 1% chance of flooding in any given year are called the 100-year floodplain.

**FLOODWAY:** The channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Development within the floodway is prohibited.

**FLOWAGE EASEMENT:** Privately owned land on which the U.S. Army Corps of Engineers has acquired certain perpetual rights. Namely the right to flood it in connection with the operation of the reservoir; the right to prohibit construction or maintenance of any structure for human habitation; the right to approve all other structures constructed on flowage easement land, except fencing. This is typically based on elevation and is done to protect individual property during a flood event and allow hydrologist to better predict the changes in elevation a lake will undergo during high inflow.

**FOUNDATION, MANUFACTURED HOME:** The site built or constructed supporting parts upon which the manufactured home is placed including, but not limited to, concrete footings, piers, ground anchors, tiedowns, etc.

**FOUNDATION, UNDERPINNING:** The exterior material(s) used to enclose the crawlspace of a manufactured home for the purpose of visually and physically screening the foundation.

**FRONTAGE:** All property on the side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street; or if the street is dead ended, all of the property abutting one side between an intersecting street and the dead end of the street. See also lot frontage.

**HOME OCCUPATION:** Any gainful occupation conducted by a member of the immediate family residing on the premises. See Article V, Section 501 for detailed requirements.

**JUNK YARD:** A lot or parcel of land used for collection, storage or sale of discarded material such as waste paper, rags, automobiles, and scrap metal. For the purposes of this ordinance, a lot or parcel with two or more inoperable or unlicensed automobiles shall be considered a Junk Yard.

**KENNEL:** The keeping and boarding of more than three animals that are more than six months old for compensation or an establishment where more than three animals are bred and raised for commercial sale.

**LOADING SPACE:** An off-street area on the same lot with a building or group of buildings designed for temporary parking of a vehicle while loading and unloading merchandise or materials. See Article V, Section 503 for detailed requirements.

**LOT:** A parcel of land unoccupied, occupied or intended for occupancy under single ownership, and not divided by a street. See Lot Types Figure below:

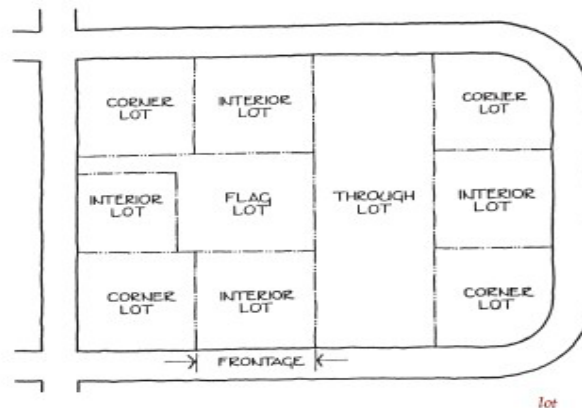
*Lot, Corner:* A lot that fronts on two or more streets at the junction of those streets.

*Lot, Double Frontage:* A lot that fronts on two or more non-intersecting streets.

*Lot, Flag:* A lot where the only frontage on a public street is a narrow strip of land which is generally wide enough to accommodate a driveway but is too narrow to accommodate any structures.



## LOT TYPES



Source: *A Planners Dictionary, PAS report 521/522 (2004)*

**LOT AREA:** The total land area included within lot lines as calculated by multiplying the length and width of the lot dimensions.

**LOT COVERAGE:** The lot area covered by all buildings located thereon, expressed as a percentage of the total lot area.

**LOT FRONTAGE:** The width dimension of a lot or portion of a lot abutting on a public or private street.

**LOT WIDTH:** The width of a lot measured at the building line.

**MANUFACTURED HOME:** A factory manufactured movable home as provided in Section 75-49-3, Mississippi Code of 1972, Annotated. Also a residential dwelling, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured Homes are defined by and shall be constructed in accordance with, the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, and manufactured after June 14, 1976. For the purposes of this ordinance and as defined in the aforementioned section of Mississippi Code, manufactured homes are factory built homes. Also see Article V, Section 505 for detailed requirements.

**MINI-STORAGE:** A facility that provides lease space for storage of personal and business items.

**MOBILE HOME:** Under Section 75-49-3, Mississippi Code of 1972, Annotated, a mobile home means a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended. It is a structure that is transportable in one or more sections, that, in the traveling

mode is eight (8) feet or more in width and thirty-two (32) body feet or more in length, or, when erected on site, is two hundred fifty-six (256) or more square feet, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes any plumbing, heating, air conditioning and electrical systems contained therein. For the purposes of this Ordinance and as defined in the aforementioned section of Mississippi Code, mobile homes are factory built homes.

**MODULAR HOME:** Under Section 75-49-3, Mississippi Code of 1972, Annotated, a modular home means a structure which is (i) transportable in one or more sections; (ii) designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; (iii) certified by its manufactures as being constructed in accordance with a nationally recognized building code; and (iv) designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term “modular home” does not include manufactured housing as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974. Furthermore, a modular home must be inspected by the Tate County Building Official prior to final placement to ensure said unit meets the standards of the nationally recognized building code which has been formally adopted by Tate County Board of Supervisors. For the purposes of this Ordinance and as defined in the aforementioned section of Mississippi Code, a modular home is a factory built home.

**NON-CONFORMING LOT:** A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district. Refer to Article III, Section 305.

**NON-CONFORMING STRUCTURE OR BUILDING:** A structure or building where the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district. Refer to Article III, Section 305.

**NON-CONFORMING USE:** Any use of building or premises which lawfully existed prior to the adoption of, or amendment of this Ordinance, but which no longer complies with the use regulations of the district in which it is located. Refer to Article III, Section 305.

**NURSERY SCHOOL:** A home operated by any person who receives pay for providing less than 24-hour supervision and care, without transfer of custody, for not to exceed 5 children under 6 years of age, who are not residents of the household. A license is not required for a house providing care for fewer than 5 children.

**NUISANCE:** an obnoxious use of land that either threatens the public health, safety, and welfare or interferes with the adjacent property owner's enjoyment and use of land.

**OFFICE:** Any room, studio, clinic, suite, or building in which the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by a salesman, sales representative or manufacturer's representative; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents and landscape architects; and including offices for dentists, physicians or other medical practitioners.

**PARKING SPACE:** A paved and properly drained area enclosed or unclosed that is required by this Ordinance to be permanently reserved for parking one (1) motor vehicle. Each required parking space shall have a minimum area of one hundred eighty (180) square feet and be not less than nine (9) feet wide, exclusive of driveways and shall be connected with a public street, alley or by a paved driveway affording safe and convenient ingress and egress. Except on lots occupied by single-family and two-family dwellings, parking spaces and driveways shall be arranged as to provide for both ingress and egress into any street by forward motion of the parked or parking vehicle. Also see Article V, Section 503 for detailed requirements.

**PERMANENT RESIDENTIAL DWELLING:** A residential dwelling unit that includes single-family residential units, modular homes, manufactured homes and other dwellings for which a registration is required and able to be obtained from the County Tax Assessor's office.

**PERMITTED USE:** Any use specifically identified as being allowed in a zoning district and subject to the restrictions applicable to that zoning district. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

**PLANNING COMMISSION:** The duly appointed Tate County Planning Commission. In absence of such appointed Planning Commission, the Tate County Board of Supervisors shall be considered the Planning Commission.

**PUBLIC HEARING:** A meeting held for the review of a matter or matters where opinion may be presented by the public. These hearings may take place during the regular Planning Commission and/or Board of Supervisor meetings and are held according to state laws.

**PUBLIC USES:** Facilities such as, but not limited to parks, schools, and offices owned and operated by governmental bodies.

**PUBLIC UTILITY:** Any plant or equipment for the conveyance, production, transmission, delivery of or furnishing of heat, chilled air, water, light, power or water, or sewage facilities, either directly or indirectly to or for the public. Also, any person, firm, corporation, municipal department or

board duly authorized to furnish electricity, gas, steam, communications, telegraph, transportation, water or sewer to the public under state or municipal regulations.

**RECREATIONAL FACILITIES:** Areas for sports activities, including playground and athletic areas, swimming areas, marinas and other similar areas.

**RECREATIONAL VEHICLE:** A vehicular or portable unit designed to be mounted on a chassis and wheels with either its own power or drawn by another vehicle, or is mounted on another vehicle. Such units are designed for temporary living quarters for recreational, camping, or travel use, and are not intended to be permanent dwellings. For the purposes of this Ordinance, any readily, movable dwelling unit that does not meet the definition of a mobile home, manufactured home, or modular home, is considered a Recreational Vehicle.

**RIGHT-OF-WAY (ROW):** A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation by a public entity and either occupied or intended to be occupied by a road, communication, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and similar purposes for public use or benefit.

**SETBACK:** The minimum distance required between the lot boundary and the building line.

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

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

**STORY:** That portion of a building included between the floor and the ceiling above the floor; or any portion of a building used for human occupancy, between the top most floor and the roof. A basement not used for human occupancy shall not be counted as a story.

*Story, Half:* A story under a sloping roof, the finished floor area which does not exceed one half of the floor area of the floor immediately below it, or a basement used for human occupancy,

the floor area of the part of the basement thus used not to exceed fifty (50) percent of the floor area of the floor immediately above.

**STREET:** A way for vehicular traffic, whether the street is designated as an avenue, arterial, collector, boulevard, drive, highway, road, expressway, lane, alley or other way, and for the purpose of these regulations, “streets” are divided into the categories defined below.

*Street, Arterial:* A major highway used primarily for heavy through traffic which will be so designated on the Tate County Transportation Plan.

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

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

*Street, Cul-de-sac:* A short, local street having an outlet at one end and having the other end permanently closed and designed with a circular turnaround; not intended to be extended in the future.

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

*Street, Private:* A street that provides access to abutting property for private users of such property and is not maintained by the County.

*Street, Public:* A street constructed within the boundaries of an officially dedicated public right-of-way, which provides the principal means of access to abutting property and is maintained by the County.

*Street Stub:* A street temporarily having only one outlet for vehicular traffic because the street terminates at the edge of undeveloped property. Any time that a street terminates at the edge of undeveloped property there is the intent to extend the street when the property develops.

**STRUCTURE:** Anything constructed or erected, except a fence, the use of which requires location on the ground, or attachment to something being located on the ground.

**SUBDIVISION:** Any division of any tract or parcel of land into three (3) or more lots, any one (1) of which has an area of ten (10) acres or less, for the purpose, whether immediate or future, of sale or building development. It also includes resubdivision or replatting of land, lots, or tracts. Divisions of land into parcels greater than ten (10) acres shall not be included within this definition, unless any such subdivision of parcels greater than ten (10) acres includes the planning or development of a new street or access easement.

*Major Subdivision:* The division of any tract or parcel of land into six (6) or more lots, any one (1) of which has an area ten (10) acres or less, for the purpose, whether immediate or future for sale or building development. A family subdivision, as defined herein, shall become a major subdivision if the division results in nine (9) or more lots.

*Minor Subdivision:* The division of any tract or parcel of land into three (3) to five (5) lots, any one (1) of which has an area ten (10) acres or less, for the purpose, whether immediate or future for sale or building development. All new lots are accessed via public roadway or an access easement.

*Family Subdivision:* The division of a lot or parcel of land into three (3) to eight (8) lots, any one (1) of which has an area ten (10) acres or less, for the purpose of sale or gift to a member of the immediate family of the property owner, as defined by the Tate County Zoning Ordinance, or otherwise defined by State law. These subdivisions may be exempted from compliance with certain portions of the subdivision requirements imposed on unrelated parties.

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

**TINY HOME:** A dwelling structure that shall be governed through this ordinance based upon the construction standard in which it is built. If the structure does not conform to a single construction standard, such as a nationally recognized building code, then it is assumed to be a recreational vehicle.

**USE:** The special purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

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

**VARIANCE:** A modification of the application of this ordinance, when strict enforcement of the requirements of this ordinance would cause undue hardship owing to the circumstances unique to the individual property.

**WAREHOUSE:** A structure used exclusively for the storage of merchandise or commodities.

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

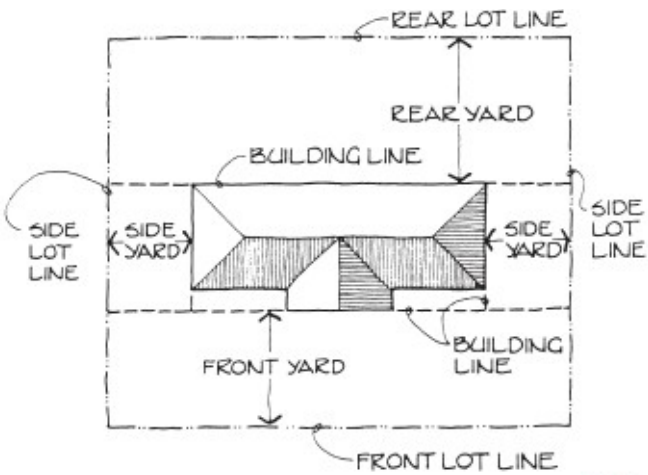
**WIRELESS COMMUNICATIONS:** Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes Federal Communications Commission (FCC) licensed commercial telecommunications services including cellular, personal communications services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

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

**WIRELESS COMMUNICATIONS STRUCTURE:** A communications tower is a structure designed to support an antenna array. A monopole tower is permitted within the guidelines of this Ordinance. Guyed towers, hereinafter referred to as Wireless Communications Towers, require external wire supports.

**WIRELESS COMMUNICATIONS TOWER:** Structure used for receiving and relay of communication signals and requiring external wire supports.

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



Source: A Planners Dictionary, PAS report 521/522 (2004)

**Yard, Front:** The unoccupied space on the same lot with a building and situated between the street line and the front line of the building projected to the sideline of the lot.

*Yard, Side:* Yard between the main building and the sideline of the lot, and extending from the front yard line to the rear yard line on a corner or interior lot, or from one front yard line to the other front yard line on a double frontage lot.

*Yard, Rear:* A yard extending the full width of the lot between a main building and the rear lot line.

**ZERO LOT LINE DEVELOPMENT:** A detached single-family dwelling distinguished by the location of one exterior wall on a side property line.

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



## ARTICLE III: GENERAL PROVISIONS

### SECTION 301. BUILDING LOTS, YARDS, SETBACKS, HEIGHT, AND IDENTIFICATION

#### 301.1 LOTS

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301.1A. Where zoning districts allow for a minimum lot size of less than one and a half (1.5) acres, public water must be provided.

301.1B. Where zoning districts allow for a minimum lot size of less than one (1) acre, centralized sewer must be provided.

301.1C. Each lot regardless of zoning district shall have a minimum lot frontage of fifty (50) feet on an existing public right-of-way. Where existing lots do not have adequate frontage, the necessary requirements and regulations for access easements shall be addressed as discussed in the Tate County Subdivision Regulations. All driveway culverts shall be installed by the owner but first approved by the Tate County Road Department.

301.1D. Each lot regardless of zoning district shall have one (1) main structure plus any additional accessory structures allowed by this Ordinance.

301.1E. Each lot shall conform to the requirements of the Tate County Subdivision Regulations in that the lot length to width ratio shall remain greater than or equal to 4:1, meaning the lot length shall not be greater than four (4) times the width.

#### 301.2 SETBACKS

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302.2A. The front setback of any lot is measured from the centerline of the street unless the street on which the lot is located has a platted and dedicated right-of-way, in which case, the front setback shall be measured from the front property line.

302.2B. Each zoning district specifies the required building lines and yard requirements. All structures erected or altered shall conform to the requirements in the said zoning district.

#### 301.3 HEIGHT

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The height limitations in the District Bulk Regulations (Article IV, Chart 2) do not apply to spires, belfries, cupolas, antennas, wireless communication facilities, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above roof level and not intended for human occupancy; however, in residential districts, no ground-mounted antenna may exceed 45 feet in height, no wireless communication structure shall exceed 200 feet in height, and no billboard shall exceed 40 feet in height.

### 301.04 IDENTIFICATION

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All permanent structures hereafter constructed or modified in unincorporated Tate County shall have street/road numbers posted either on the structure if visible from the roadway, or at the street/road right-of-way on which the structure fronts. Such numbers shall be of sufficient size to be clearly legible for identification purposes.

### SECTION 302. FENCES, OBSTRUCTION AND VISIBILITY

Fences, where required as part of the buffer yard requirements, shall be of a solid material which provides for adequate screening of private property. All solid fences shall be located behind the front yard building line and shall not enclose the utility meters. Fences shall be no more than six (6) feet tall.

In all zoning districts, no object of obstruction including, but not limited to, fence, wall, landscaping, sign, equipment, vehicles, etc. shall be placed on Tate County Right-of-Ways unless it is an USPS approved mailbox structure and also meets state and federal highway regulations. This is to ensure adequate visibility at all roadway intersections.

### SECTION 303. RESERVED

### SECTION 304. PERMITTED USES

Permitted uses shall be allowed upon approved application to the Building Official and/or County Planner, except as otherwise stated within this Ordinance. Permitted uses shall not include non-conforming uses. Conditional uses shall follow the process outlined in Article VI.

Additional structures and uses which serve governmental, educational, religious, and other immediate needs are permitted by-right or are permissible as conditional uses within all districts, subject to certain restrictions and requirements which are intended to preserve and protect the character of the districts. All new underground utilities including, but not limited to, fiber, internet, telephone, water, sewer, cable, etc., must be permitted by the County Engineer.

Upon a change in use of a structure or parcel and prior to issuance of a privilege license or building permit, a zoning verification must be completed by the Tate County Building Official and/or County Planner. The proposed use of the property should comply with the zoning regulations for that type use including, but not limited to, off-street parking, access, and buffer yards as deemed appropriate to protect the health, safety, and welfare of the general public.

## SECTION 305. NON-CONFORMING LOTS, USES, AND STRUCTURES

It is the intent of this Ordinance to permit nonconformities to continue until they are removed or abandoned. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Ordinance to be incompatible with permitted land use in the districts involved. Therefore, a nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by the addition of other uses of a nature which would be prohibited generally in the district involved.

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

A transfer of ownership, which includes sale, gift, or inheritance, does not affect the status, designation, or allowance of a non-conforming lot, structure, or use. A non-conforming lot, structure, or use may transfer ownership. Furthermore, agricultural and forestry operations are further protected by Mississippi Code Section 17-1-21.

### 305.1 NON-CONFORMING LOTS

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In any district in which single-family dwellings are permitted, a one-family dwelling and customary accessory buildings may be erected on any non-conforming undeveloped (or vacant) lot of record after the effective date of this Ordinance, provided that the required yard dimensions and other requirements (than those applying to lot area or width, or both) of the proposed single-family residential use shall conform to the regulations in the district in which the lot is located.

In any district in which commercial or industrial uses are permitted, a commercial or industrial structure and customary accessory buildings may be erected on any non-conforming undeveloped (vacant) lot of record after the effective date of this Ordinance.

### 305.2 NON-CONFORMING STRUCTURES

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Where a lawful structure exists before the effective date of adoption or amendment of this Ordinance that could not subsequently be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its placement on the lot, or other dimensional requirements concerning the structure may be continued so long as it remains otherwise lawful, PROVIDED THAT:

- A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. Should such nonconforming structure or nonconforming portions of a structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with the provisions of this Ordinance.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

All existing structures, including manufactured homes, are grandfathered in.

### 305.3 NON-CONFORMING USES

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If the lawful use of land or land and structure in combination exists prior to the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of the newly adopted or amended Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming use shall be enlarged, extended, moved, or structurally altered to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment.
- B. No additional structures or land not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.
- C. When a non-conforming use is discontinued or abandoned for six consecutive months or for six months during any three year period (except when government action has impeded access to the premises), the non-conforming use shall not be resumed.

## SECTION 306. NUISANCES AND PROPERTY MAINTENANCE

It shall be unlawful for any owner or occupant of a lot, parcel of land, or vehicle to cause or permit any nuisance as defined in this Ordinance. Upon complaint by adjacent property owners, it shall be the responsibility of the owner or occupant to abate and remove any nuisance from the premises. The Tate County Board of Supervisors may take action towards nuisance complaints according to the Mississippi Code of 1972, Annotated, Section 19-5-105.

## SECTION 307. MEDICAL CANNABIS FACILITIES

All medical cannabis facilities must remain in full compliance with all State of Mississippi regulations. Each facility must be fully enclosed, locked and secured at all times.

## ARTICLE IV: ZONING DISTRICTS

### SECTION 401. ZONING DISTRICTS

Tate County, Mississippi, is hereby divided into zoning districts for the purpose of applying the provisions of this Ordinance. The districts are as follows:

- A – 1      Agricultural
- AR – 1     Agricultural Residential
- R – 1      Rural Density Residential
- R – 2      Low Density Residential
- C – C      Community Commercial
- C-1        General Commercial
- M – 1      Industrial
- F – P      Flood Preservation
- PD         Planned Development

### SECTION 402. OFFICIAL ZONING MAP

The boundaries of the above districts are established and indicated upon the official Zoning Maps of Tate County, Mississippi. The said zoning maps and all notations, references, and other matters set forth by said official Zoning Maps shall be and hereby made a part of this Ordinance. The said official Zoning Maps shall be, and shall remain, on file in the office of the County Planner.

### SECTION 403. INTERPRETATIONS OF ZONING MAPS

Except where referenced and noted on the official Zoning Maps by a designated line and/or dimensions, the district boundary lines are intended to follow section lines, half-section lines, property lines, lot lines and centerlines of streets, alleys, streams, or railroads as they existed at the time of the passage of this Ordinance, or the extension of such lines. Where a district boundary is not drawn on the centerline of a street but offset a certain distance, that distance is interpreted to be one-thousand (1,000) feet from the street centerline. Commercial district boundaries are typically centered on roadway intersections unless otherwise shown on the Zoning Map and are generally interpreted to be one-thousand (1,000) feet from the street centerline or intersection.

The County Planner shall interpret the boundary lines on the Zoning Map. If the County Planner’s interpretation is disputed, the Planning Commission shall determine the boundary lines. If the Planning Commission’s interpretation is disputed, it may be appealed to the Board of Supervisors for a final determination of the boundary lines.

**SECTION 404. APPLICATION OF ORDINANCE**

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

**SECTION 405. COMPATIBILITY WITH COMPREHENSIVE PLAN**

Rezoning, variance, and conditional use applications regardless of the existing zoning district should consult and be compatible with the Future Land Use Plan and recommendations discussed in the Tate County Comprehensive Plan.

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## SECTION 406. "A - 1" AGRICULTURAL DISTRICT

### 406.1 GENERAL DESCRIPTION

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The Agricultural Districts are established to protect and maintain the rural character and agriculture uses of which most of the County is still devoted to. Residential uses are considered a secondary use and other various districts are created to more readily accommodate future residential growth. All proposed developments in this district should be carefully examined to ensure that any future changes continue to protect the rural integrity of the County. Due to the lack of availability of central water and sanitary sewer service, this district should continue to maintain a rural residential density.

This Ordinance recognizes the importance of and need for affordable types of housing within the County and recognizes that manufactured housing meets the affordability needs for many County residents. For these reasons, manufactured housing is permitted within this district and is governed by Article V, Section 505.

Certain commercial uses are also allowed as conditional uses as long as they preserve the agricultural character, serve the basic needs of residents, and meet the regulations and requirements under the C-C district.

### 406.2 PERMITTED USES

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- A. Single Family Detached Residential
- B. Modular Homes
- C. Manufactured Homes, Doublewide, Either new or less than 5 years old
- D. Manufactured Homes, Singlewide, Either new or less than 5 years old
- E. Accessory Buildings
- F. Home Occupations
- G. Cemetery
- H. Church
- I. Parks and Recreation
- J. Public Building
- K. School
- L. Agricultural Production
- M. Forestry uses
- N. Livestock, Horse and Dairy
- O. Riding Academy or Commercial Stable
- P. Greenhouse or Nursery
- Q. Lumberyard
- R. Nursery School



406.3. CONDITIONAL USES

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- A. Lodge, Club, Golf Course
- B. Utility Substation or Treatment Facility
- C. Wireless Communications Structure/Tower
- D. Veterinarians and Kennels
- E. Automobile Service and Repair Station
- F. Bank
- G. Barber or Beauty Shop
- H. Convenience Store
- I. Grocery and Food Markets
- J. Restaurant, Sit Down
- K. Asphalt or Concrete Plant
- L. Billboards
- M. Recreational Vehicle Park
- N. Surface mining or extraction of coal, sand, dirt, gravel, oil or gas
- O. Plumbing Shop
- P. Cannabis Cultivation or Processing Facility as regulated by State Law
- Q. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

406.4. BULK REGULATIONS FOR RESIDENTIAL USES

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Minimum Lot Area:	3 acres
Minimum Lot Width:	200 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	50 feet
Maximum Height:	35 feet
Maximum Density:	0.33 du/ac
Maximum Lot Coverage:	30%

406.5. BULK REGULATIONS FOR AGRICULTURAL OR OTHER USES

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Minimum Lot Area:	5 acres
Minimum Lot Width:	250 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	30%

406.6. BULK REGULATIONS FOR COMMERCIAL USES

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Minimum Lot Area :	1.5 acres*
Minimum Lot Width:	100 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	20 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	45%

\* A minimum lot area of 1 acre is allowed for commercial uses only when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.

## SECTION 407. "AR - 1" AGRICULTURAL RESIDENTIAL DISTRICT

### 407.1 GENERAL DESCRIPTION

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Both Agricultural Residential Districts are intended to be more residential in character than rural agriculture and farmland. While some agricultural uses are still allowed, the primary use shall be residential. This particular district is intended to protect existing residential areas where there is a mixture of single family residential and agricultural uses.

As with other rural areas of the County, the lack of central water and sewer available services restricts dense developments from this district. The existing low population density shall be protected and further encouraged by future development.

### 407.2 PERMITTED USES

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- A. Single Family Detached Residential
- B. Modular Homes, either new or less than 5 years old, which replaces an existing modular home that has not been abandoned and has not been removed from the parcel.
- C. Manufactured Homes, either new or less than 5 years old, which replaces an existing manufactured home that has not been abandoned and has not been removed from the parcel.
- D. Accessory Buildings
- E. Church
- F. Parks and Recreation
- G. Public Building
- H. School
- I. Agricultural Production
- J. Forestry uses
- K. Livestock, Horse and Dairy
- L. Home Occupations
- M. Nursery School

### 407.3 CONDITIONAL USES

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- A. Two Family Dwelling, Duplex
- B. Modular Homes or Manufactured Homes, either new or less than 5 years old, for purposes of a medical or hardship as noted in Section 505.16
- C. Modular or Manufactured Homes, either new or less than 5 years old, in certain, existing platted subdivisions as noted in Section 505.16.
- D. Lodge, Club, Golf Course
- E. Wireless Communications Structure/Tower

F. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

#### 407.4 BULK REGULATIONS FOR RESIDENTIAL USES

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Minimum Lot Area:	1.5 acres*
Minimum Lot Width:	150 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	50 feet
Maximum Height:	35 feet
Maximum Density:	0.66 du/ac
Maximum Lot Coverage:	30%

\* A minimum lot area of 1 acre is allowed when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.

#### 407.5 BULK REGULATIONS FOR AGRICULTURAL OR OTHER USES

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Minimum Lot Area:	5 acres
Minimum Lot Width:	250 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	30%

## SECTION 408. "R-1" RURAL RESIDENTIAL DISTRICT

### 408.1 GENERAL DESCRIPTION

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The Rural Residential District is intended to further the character of the incorporated areas of Tate County while also maintaining a low population density. This zone is primarily conventional single family homes and represents a permanent investment in the County. This character shall be protected and encouraged around existing municipalities and around significant unincorporated communities.

Central water and sewer services may or may not be available in these areas. Even though there is the potential for service around existing municipalities, existing service is limited, therefore a low population density shall be preserved and encouraged.

### 408.2 PERMITTED USES

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- A. Single Family Detached Residential
- B. Accessory Buildings
- C. Church
- D. Parks and Recreation
- E. Public Building
- F. School
- G. Home Occupations
- H. Nursery School
- I. Agricultural Production
- J. Forestry Uses
- K. Livestock, Horse and Dairy

### 408.3 CONDITIONAL USES

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- A. Two Family Dwelling, Duplex
- B. Townhouse Dwelling, not to exceed three dwelling units
- C. Manufactured or Modular Homes, either new or less than 5 years old, for purposes of a medical hardship as noted in Section 505.16.
- D. Manufactured or Modular Homes, either new or less than 5 years old, if an existing manufactured or modular home is damaged by natural disaster or accidental fire as noted in Section 505.16.
- E. Cemetery
- F. Lodge, Club, Golf Course
- G. Wireless Communications Structure/Tower

H. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

#### 408.4. BULK REGULATIONS FOR RESIDENTIAL USES

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Minimum Lot Area :	1.5 acre *
Minimum Lot Width:	150 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	50 feet
Maximum Height:	35 feet
Maximum Density:	1.0 du/ac
Maximum Lot Coverage:	30%

\* A minimum lot area of 1 acre is allowed when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.

#### 408.5. BULK REGULATIONS FOR AGRICULTURAL USES

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Minimum Lot Area:	10 acres
Minimum Lot Width:	250 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	30%

## SECTION 409. "R-2" LOW-MEDIUM DENSITY RESIDENTIAL DISTRICT

### 409.1 GENERAL DESCRIPTION

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The Low-Medium Density Residential District is also intended to further the residential character of the incorporated areas of Tate County at a residential density similar to this same character. The residential character shall reflect a permanent investment in the County such as conventional single family homes. This district is more intended for residential subdivisions than individual lots which is more characteristic of the previous residential zoning districts.

Due to the intent and allowed density, this district is confined to areas immediately adjacent to municipalities with available water and sewer services or near municipalities where other public service options are available.

### 409.2 PERMITTED USES

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- A. Single Family Detached Residential
- B. Accessory Buildings
- C. Church
- D. Parks and Recreation
- E. Public Building
- F. School
- G. Home Occupations
- H. Nursery School
- I. Agricultural Production
- J. Forestry Uses
- K. Livestock, Horse and Dairy

### 409.3 CONDITIONAL USES

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- A. Cemetery
- B. Lodge, Club, Golf Course
- C. Wireless Communications Structure/Tower
- D. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

### 409.4. BULK REGULATIONS FOR RESIDENTIAL USES

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Minimum Lot Area:	15,000 square feet
Minimum Lot Width:	100 feet
Minimum Front Setback:	35 feet

Minimum Side Setback:	10 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	2.5 du/ac
Maximum Lot Coverage:	30%

#### 409.5. BULK REGULATIONS FOR OTHER USES

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Minimum Lot Area:	1.5 acres
Minimum Lot Width:	250 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	30%

#### 409.6. BULK REGULATIONS FOR AGRICULTURAL USES

---

Minimum Lot Area:	10 acres
Minimum Lot Width:	250 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	30%



## SECTION 410. "C-C" COMMUNITY COMMERCIAL MIX

### 410.1 GENERAL DESCRIPTION

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This district is intended to allow a mixture of community commercial and office uses and single family detached residential uses to coexist in a land use pattern that has been in place throughout the history of smaller communities. Community commercial uses shall include establishments less than 10,000 square feet of gross area offering products for sale at retail. The purpose of this district is to serve rural areas of the county by supplying everyday household needs and community services. All commercial and office uses shall reflect the character of the neighborhood and shall be sensitive to surrounding land uses. Each C-C district within the County has different physical conditions and traffic demands. Therefore, individual C-C districts may differ in appropriate character and appropriate commercial and office uses that should be allowed. No use permitted in this district shall be dangerous, offensive, or detrimental by reason of the emission of dust, gas, smoke, noise, fumes, glare, odor, vibration, or constitute a fire hazard.

\*All commercial uses regardless of zoning district or use status shall undergo site plan review and approval by the County Planner, the Planning Commission and the Board of Supervisors. See Article VI, Section 605 for requirements.

\*\*Community commercial uses shall incorporate screening and buffering techniques around the perimeter of the property line in order to minimize potential negative effects on adjacent property owners. See Article VI, Section 605 for requirements.

### 410.2 PERMITTED USES

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- A. Single Family Detached Residential
- B. Modular Homes, either new or less than 5 years old, which replaces an existing modular home that has not been abandoned and has not been removed from the parcel.
- C. Manufactured Homes, either new or less than 5 years old, which replaces an existing manufactured home that has not been abandoned and has not been removed from the parcel.
- D. Accessory Buildings
- E. Home Occupations
- F. Business and Professional Offices of all Types
- G. Church
- H. Hospital
- I. Museum
- J. Day Care
- K. Nursery School
- L. Parks and Recreation

- M. Public Building
- N. School
- O. Greenhouse or Nursery
- P. Veterinarian and Kennels
- Q. Bank
- R. Barber or Beauty Shop
- S. Restaurant, Sit-Down

#### 410.3 CONDITIONAL USES

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- A. Two Family Dwelling, Duplex
- B. Townhouse Dwelling, Not to exceed four dwelling units per parcel
- C. Cemetery
- D. Automobile Service and Repair Station
- E. New and Used Car Sales
- F. Wireless Communications Structure/Tower
- G. Mini Storage – Warehouse
- H. Lumberyard
- I. Plumbing Shop
- J. Convenience Store
- K. Dry Cleaning, Drop-off
- L. Grocery and Food Market
- M. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

#### 410.4. BULK REGULATIONS FOR COMMERCIAL USES

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Minimum Lot Area:	1.5 acres*
Minimum Lot Width:	100 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	20 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	45%

\* A minimum lot area of 1 acre is allowed when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.

410.5. BULK REGULATIONS FOR SINGLE FAMILY RESIDENTIAL

---

Minimum Lot Area:	1.5 acre *
Minimum Lot Width:	150 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	30 feet
Minimum Rear Setback:	50 feet
Maximum Height:	35 feet
Maximum Density:	1.0 du/ac
Maximum Lot Coverage:	30%

\* A minimum lot area of 1 acre is allowed when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.

## SECTION 411. "C-1" GENERAL COMMERCIAL

### 411.1 GENERAL DESCRIPTION

---

The purpose of this district is to provide retail stores and personal services for the convenience of people of Tate County, and those traveling through the County. It is also the intent of this district that commercial uses permitted in C-1 districts be limited to those in which services performed and merchandise offered for sale be conducted or displayed entirely within fully-enclosed buildings as defined by this Ordinance.

Uses permitted by Conditional Use in C-1 districts are those which generally have outdoor storage and sells and generate more vehicular traffic than those permitted outright, such convenience stores, service stations, and fast food restaurants. These "convenience" type commercial uses need to be evaluated on a case-by-case basis, since some may not be appropriate for location in a C-1 district without some attachment of conditions, such as rear parking, screening, special traffic control measures, etc.

\*All commercial uses regardless of zoning district or use status shall undergo site plan review and approval by the County Planner, the Planning Commission and the Board of Supervisors. See Article VI, Section 605 for requirements.

\*\*All commercial uses shall incorporate screening and buffering techniques around the perimeter of the property line in order to minimize potential negative effects on adjacent property owners. See Article VI, Section 605 for requirements.

### 411.2 PERMITTED USES

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- A. Business and professional offices of all types
- B. Bank
- C. Church
- D. Hospital
- E. Museum
- F. Day Care
- G. Nursery School
- H. Parks and Recreation
- I. Public Building
- J. School
- K. Greenhouse or Nursery
- L. Veterinarian and Kennels
- M. Convenience Store
- N. Dry Cleaning, Drop-off

- O. Grocery and Food Market
- P. Restaurant, Sit-Down and Fast-Food
- Q. Hotels and Motels
- R. Bowling alleys, skating rinks, motion picture theaters and similar indoor recreational or entertainment enterprises conducted entirely within fully-enclosed buildings
- S. Mortuaries and Funeral Homes
- T. Medical Cannabis Dispensary, Research or Testing Facility as regulated by State Law

#### 411.3 CONDITIONAL USES

---

- A. Cemetery
- B. Gas Station
- C. Automobile Service and Repair Station
- D. New and Used Car Sales
- E. Wireless Communications Structure/Tower
- F. Mini Storage – Warehouse
- G. Lumberyard
- H. Plumbing Shop
- I. Farm Supply
- J. Recreational Vehicle Parks
- K. Heavy equipment sales and service
- L. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

#### 411.4. BULK REGULATIONS FOR COMMERCIAL USES

---

Minimum Lot Area:	1.5 acres*
Minimum Lot Width:	100 feet
Minimum Front Setback:	100 feet
Minimum Side Setback:	20 feet
Minimum Rear Setback:	30 feet
Maximum Height:	35 feet
Maximum Density:	N/A
Maximum Lot Coverage:	45%

\* A minimum lot area of 1 acre is allowed when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.

## SECTION 412. "M-1" INDUSTRIAL DISTRICT

### 412.1 GENERAL DESCRIPTION

---

The Industrial District is created primarily for use in those areas of the County where it is desirable to locate manufacturing establishments that have minimum obnoxious effects on the surrounding area and the community as a whole. Industrial and manufacturing uses shall be allowed provided that they, in the judgment of the Planning Commission and the Board of Supervisors, are not excessively obnoxious or offensive to neighboring uses by reason of the emission of dust, gas, smoke, noise, fumes, glare, odors, vibrations, or fire hazards.

\*All industrial uses regardless of zoning district or use status shall undergo site plan review and approval by the County Planner, the Planning Commission and the Board of Supervisors. See Article VI, Section 605 for requirements.

\*\*Industrial uses shall incorporate screening and buffering techniques around the perimeter of the property line in order to minimize potential negative effects on adjacent property owners. See Article VI, Section 605 for requirements.

### 412.2 PERMITTED USES

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- A. Accessory Buildings
- B. Church
- C. Museum
- D. Day Care
- E. Nursery School
- F. Parks and Recreation
- G. Public Building
- H. School
- I. Utility Substation or Treatment Facility
- J. Greenhouse or Nursery
- K. Dry Cleaning, Processing Facility
- L. Lumberyard
- M. Cannabis Cultivation, Processing, Disposal, and/or Transportation Facility as regulated by State Code
- N. All Industrial type uses including warehouses except those listed as conditional uses below.

### 412.3 CONDITIONAL USES

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- A. Wireless Communications Structure/Tower
- B. Motor Freight Depot or Terminal

- C. Petroleum Products and Distribution
- D. Stone, Clay, Glass, and Concrete Products
- E. Mining or extraction of coal, sand, dirt, gravel, oil or gas
- F. Asphalt or Concrete Plant
- G. Billboards
- H. Junkyard
- I. Any other use which the Planning Commission determines to meet the standards outlined under Section 606.

#### 412.4. BULK REGULATIONS FOR INDUSTRIAL USES

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Minimum Lot Area:	1.5 acres*
Minimum Lot Width:	100 feet
Minimum Front Setback:	70 feet
Minimum Side Setback:	
Adjacent to Commercial/Industrial:	20 feet
Adjacent to Residential:	30 feet
Minimum Rear Setback:	30 feet
Maximum Height:	45 feet
Maximum Density:	N/A
Maximum Lot Coverage:	40%

\* A minimum lot area of 1 acre is allowed when public water is provided. If public water is not available, a minimum lot area of 1.5 acres is required. Lot size is subject to Tate County Health Department or MS Department of Environmental Quality (DEQ) approval.



## SECTION 413. "FP" FLOOD PRESERVATION

### 413.1 GENERAL DESCRIPTION

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The purpose of this district is to permit compatible uses in areas subject to periodic flooding and to protect these areas from other types of development except where adequate assurance is given that the development will be protected from flooding. District boundaries shall be determined by the 100-year flood area as delineated on the latest revised editions of the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps and Flood Insurance Rate Maps for the County and as shown on the Tate County Zoning Map. Boundaries shall also reflect recorded Flowage Easements from the U.S. Army Corps of Engineers. All structures constructed in this designated area must follow federal and state regulations regarding allowed development in the area. Any structures which are approved to be constructed in this designated area will be required to have a finished floor elevation twelve (12) inches above the abase flood elevation. All applications for development in these flood prone areas shall be submitted in sufficient detail to determine compliance with the regulations of FEMA, U.S. Army Corps of Engineers, and this Ordinance. All applications shall be approved by the County Engineer and the Floodplain Administrator.

A more detailed survey of the property may be conducted by a certified engineer in order to determine if the subject property is actually at an elevation different from the base flood elevation. If the subject property is determined to be outside of the 100-year floodplain, a letter of map revision may be filed with FEMA. Once the letter of map revision has been approved and the FIRM maps revised, the zoning district shall revert from "FP" to the adjacent zoning district as interpreted by the County Planner and the Planning Commission.

### 413.2 PERMITTED USES

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- A. Single Family Detached Residential
- B. Accessory Buildings
- C. Church
- D. Parks and Recreation
- E. Agricultural Production
- F. Forestry uses
- G. Livestock, Horse and Dairy
- H. Riding Academy or Commercial Stable
- I. Greenhouse or Nursery

#### 413.3 CONDITIONAL USES

---

- A. Utility Substation or Treatment Facility
- B. Wireless Communications Structure/Tower
- C. Home Occupations

#### 413.4. BULK REGULATIONS FOR RESIDENTIAL USES

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Same as those listed in Zoning District A – 1.

#### 413.5. BULK REGULATIONS FOR AGRICULTURAL OR OTHER USES

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Same as those listed in Zoning District A – 1.

## SECTION 414. "PD" PLANNED DEVELOPMENT

### 414.1 GENERAL DESCRIPTION

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The Planned Development District is intended to provide for the development of planned communities that offer a range of residential types and possible small community commercial uses. This district will allow more flexibility in terms of density and bulk regulations for planned single family residential subdivisions. If public sewer is not readily available and proposed lot sizes are smaller than the existing zoning district allows, a centralized sewer system is required and lot sizes shall be approved by the County Health Department, County Planner, Planning Commission, and/or Board of Supervisors.

### 414.2 PERMITTED USES

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A list of proposed uses within the Planned Development shall be submitted with the application. Either the entire list or a portion of the list of proposed uses shall be approved by the Planning Commission and the Board of Supervisors.

### 414.3 CONFORMANCE TO THE COMPREHENSIVE PLAN

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All Planned Developments must correspond and conform to the Comprehensive Plan.

### 414.4 PROCEDURE

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- A. Concept Plan Review:** Prior to the development of a preliminary site plan, the applicant shall meet with the County Planner to discuss a Concept Plan and the general development proposal. The Concept Plan shall include a land use plan graphically showing the site layout, proposed uses, and any important or related development data and also a general plan for public facilities such as the location of streets, pedestrian paths, utilities, community facilities, etc.
- B. Preliminary Site Plan Submittal and Rezoning:** Any land for which this district is requested shall be rezoned and reflect the new zoning of a "PD" District. The application for rezoning to a "PD" District shall be accompanied by a Site Plan and if necessary, a text document including, but not limited to, the following information:
  - 1. Plan must include requirements listed under Article VI, Section 605
  - 2. Proposed land uses and population densities, including setbacks, building coverage, building heights, and any other development regulations
  - 3. Proposed circulation pattern
  - 4. Proposed open space, parks and recreation
  - 5. Site Development components, showing proposed building locations/envelopes for non-residential uses, community facilities, and any other significant structures

6. Landscape Plan showing proposed plant materials and bufferyards against adjacent uses
7. Delineation of development phases and a proposed timetable
8. Traffic Impact Study may be required by the Planning Commission or County Engineer that reflects the future traffic conditions with the development of this site plan
9. Proposed means of dedication of common open space areas and organizational arrangements for the ownership, maintenance and preservation of common open space
10. Relationship to and conformance with the Tate County Comprehensive Plan and land uses in the surrounding area to the proposed Planned Development

The property shall be considered rezoned once the Planning Commission and Board of Supervisors have approved the preliminary site plan and accompanying documents.

**C. Subdivision Approval:** Once the site plan has been approved and rezoning is granted by the Board of Supervisors, the applicant must still conform to the Tate County Subdivision Regulations and seek subdivision approval through the Preliminary and Final Plat procedures for each phase of the subdivision.

**D. Changes and Amendments to the Site Plan:** The said property is approved for the “PD” District based on the submitted site plan. Minor changes may be approved administratively if the requested changes do not affect the intensity, character, or size of the development. However, significant changes and alterations to the site plan require additional Planning Commission approval; significant changes may include but are not limited to:

1. Major alterations to the circulation pattern
2. Major alterations to the mixture of land uses within the development
3. Increase in development density
4. Reduction of open space and recreation area
5. Reduction of bufferyards
6. Any other modifications that change the intent of the original site plan for development and any other alterations that do not reflect the goals of the Tate County Comprehensive Plan.

**E. Timeline for Planned Development Status:**

If Commercial uses were approved in the application, at least 25% of the dwellings or 100 residential units, whichever is smaller, must be constructed before the approved commercial uses are allowed to begin construction.

If construction of the planned development has not started within two (2) years, the Board of Supervisors may consider rezoning the site to its previous classification. The applicant may request an extension of no more than one (1) year at a time. The request shall be submitted in writing to the Planning Commission and shall show good cause of why the applicant cannot adhere to the approved timeline.

414.4 BULK REGULATIONS

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Minimum Planned Development Area: 5 acres

Minimum Individual Lot Area:

Single family attached and Townhomes:	4,000 square feet
Single family detached:	8,000 square feet
Two family or Duplex:	12,000 square feet
Multi Family:	1 acre

Minimum Individual Lot Width:

Single family attached and Townhomes:	40 feet
Single family detached:	70 feet
Two family or Duplex:	90 feet
Multi Family:	70 feet

Minimum Individual Front Setback:

Single family attached and Townhomes:	25 feet
Single family detached:	25 feet
Two family or Duplex:	25 feet
Multifamily and apartments:	50 feet

Minimum Individual Side Setback:

Single family detached:	10 feet
Single family attached:	5/0 feet
Two family or Duplex:	10 feet

Buildings with multiple dwelling units: 30 feet

Minimum Individual Rear Setback: 30 feet

Density:

Single family detached: 4.0 du/ac

Two family or Duplex: 7.0 du/ac

Single family attached and Townhomes: 8.0 du/ac

Multifamily and apartments: 12.0 du/ac

Minimum Required Open Space: 15% of total area

Maximum Building Height:

Single family detached and Duplex: 35 feet

Single family attached and Multifamily: 45 feet

Bufferyards shall be required

\* Due to the lack of central water and sewer systems in the County, lot sizes this small are only allowed where developers can offer centralized systems or where the property is located close enough to a municipality where services may be tapped into.

## ARTICLE V: SUPPLEMENTARY REGULATIONS

### SECTION 501. HOME OCCUPATIONS

#### 501.1 EXISTING HOME OCCUPATIONS

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Any home occupation in existence at the effective date of this Ordinance shall be considered “grandfathered in” and allowed to continue.

#### 501.2 MAXIMUM AREA

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The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

#### 501.3 VISIBLE EVIDENCE

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There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.

#### 501.4 RESERVED

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#### 501.5 RESERVED

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#### 501.6 TRAFFIC VOLUMES

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No traffic shall be generated by such home occupation in greater volumes than would normally be expected in residential neighborhoods.

#### 501.7 EQUIPMENT AND PROCESSES

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No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.

#### 501.8 LICENSE REQUIRED

---

Any occupation conducted within a dwelling unit that requires a license shall be deemed a home occupation.

## SECTION 502. TEMPORARY USES

### 502.1 TEMPORARY USE PERMIT

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In any district, subject to the conditions stated below, the Building Official may issue a permit for a temporary use. Application for a Temporary Use Permit shall be made to the Building Official and shall contain the following information:

- A. Sufficient information necessary to accurately portray the property to be used, rented, or leased for a temporary use;
- B. A description of the proposed use; and
- C. Sufficient information to determine the yard requirements, setbacks, sanitary facilities, and availability of parking space to serve the proposed use.

### 502.2 LIST OF TEMPORARY USES

---

The following uses are deemed to be temporary uses and shall be subject to the regulations which follow:

- A. Temporary building or yard for construction office, material or equipment, provided such use is adjacent to the construction site and is adequately equipped with sanitary facilities and removed when construction is completed. A permit shall be valid for the duration of building construction but every temporary use shall be removed when construction is completed or discontinued for more than thirty (30) days.
- B. A temporary use permit may be issued for the temporary occupancy of a recreational vehicle as the temporary residence so long as a building permit for a permanent residential dwelling has been filed with the Building Official on the site of which the recreational vehicle is temporarily parked.
- C. A temporary use permit may be issued for a real estate sales office in any new approved subdivision. Such permit shall be valid for not more than one (1) year, but may be renewed for a maximum of two (2) one (1) year extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the permit, whichever occurs first.

## SECTION 503. OFF-STREET PARKING AND LOADING REGULATIONS

### 503.1 INTENT

---

There shall be provided, at the time of erection of any building, or at the time any principal building is enlarged or increased in capacity by or before conversion from one zone, use, or occupancy to another, permanent off-street parking as specified in this ordinance. Parking space maintained in connection with an existing and continuing principal building on the effective date



of this ordinance shall not be counted as serving a new building or addition; nor shall any parking space be substituted for loading space, nor any loading space substituted for a parking space.

#### 503.2 LOCATION

---

Off-street parking shall be located on the same lot in which it serves. If the parking cannot be reasonably provided on the same lot, the Planning Commission may permit parking space to be provided or accommodated on other off-street property, provided such space lies within three hundred (300) feet of the main entrance to such principal use, and the property is located within the same zoning district.

#### 503.3 DESIGN

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A 90 degree parking angle shall be required for all parking lots. If unusual circumstances exist to necessitate a parking angle other than 90 degrees, approval, if given, shall be based upon review of the site plan.

#### 503.4 SIZE AND MANEUVERING ROOM

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Each parking space shall be equal to an area of one hundred eighty (180) square feet. The width shall not be less than nine (9) feet. A minimum of three hundred fifty (350) square feet per parking space shall be used when computing parking area to include maneuvering space. Except for dwellings with one or two dwelling units, all off-street parking facilities shall be so arranged that no automobile shall have to back into any street.

#### 503.5 SURFACING

---

All required parking areas of 5 spaces or more shall be of an asphalt or concrete paved surface, including parking spaces, drives and maneuvering lanes. The surface shall be paved prior to issuance of a certificate of occupancy. This requirement does not apply to a single-family residential structure on a single lot.

#### 503.6 CURBING

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All required parking areas of 5 spaces or more shall be provided with a standard six (6") inch concrete curb or six (6") inch rolled curb. This requirement does not apply to a single-family residential structure on a single lot.

#### 503.7 ACCESS

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Each parking space shall be directly accessible from an adequate access aisle or driveway leading to or from a street.

### 503.8 MAY SERVE AS YARD SPACE

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Parking space may be included as part of the required yard space associated with the permitted use.

### 503.9 PARKING MINIMUMS

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Minimum number of Parking Spaces for all types of uses except residential shall be five (5) parking spaces. For any parking spaces beyond the minimum of five, the following standards be required:

- A. Residential dwellings including manufactured housing:** 2 spaces per dwelling unit
- B. Retail Commercial & Services:** 1 space per 200 square feet of total floor area with sufficient drive and queuing spaces for drive-in restaurants and banks
- C. Motels, Nursing Homes, Hospitals and similar:** 2 spaces per Guest/Patient room 1 space per employee
- D. Public Assembly including Churches, libraries, theater, community centers, stadiums:** 1 space per 3 seats or equivalent thereof
- E. Educational:** 1 space per classroom (or care room for daycares), 1 space per employee including teachers, add 1 space additional per 15 students for High Schools, and add sufficient drive and queuing space for loading and unloading
- F. All others not covered:** 1 space per employee, 1 space per 800 square feet of total floor area Alternative plans for spaces may be approved through site plan review.

### 503.10 HANDICAPPED PARKING

---

In all developments, handicapped parking spaces shall be provided which have a minimum width of twelve (12) feet. The number of handicapped parking spaces will be determined during Site Plan Review.

### 503.11 LOADING SPACE

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On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided, and maintained on the lot, one space at least 500 square feet in area with a clearance of 14 feet in height. For larger uses that may require more area, the loading area shall be scaled to the demand created by the property use.

Where trailer trucks are involved, such loading and unloading space shall be an area twelve (12) feet by fifty (50) feet with a fourteen (14) foot height clearance and shall be designed with appropriate means of truck access to a street or alley as well as adequate maneuvering area.

## SECTION 504. AUTOMOBILE SERVICE AND REPAIR STATIONS & CONVENIENCE STORES

Automobile Service and Repair Stations and Convenience Stores selling gasoline shall be

constructed so that the fuel pumps will be a minimum of 45 feet from the centerline of any existing road and a minimum of 15 feet from any existing right-of-way or proposed right-of-way as indicated on the Tate County Transportation Plan. All bulk fuel storage shall be underground.

**SECTION 505. FACTORY BUILT HOMES**

A factory built homes (manufactured home or modular home), as defined in Article II and permitted in Article IV, shall have the same general appearance as a site-built home when allowed on individual lots provided the following conditions are met:

**505.1 AGE OF FACTORY BUILT HOMES**

---

Any factory built home locating or relocating in Tate County after the August 6, 2021, shall not have a manufacture date older than 5 years from the date of application or the date of the building permit. Proof of the manufactured date must be provided.

**505.2 CERTIFICATION LABEL**

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All factory built homes locating to or relocating within Tate County shall have a certification label, data plate, and/or serial number.

**505.3 INSTALLATION**

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The manufactured home shall be installed on a pier system and secured with tiedown devices in compliance with all applicable requirements of the Building Code. Modular homes must be installed on an approved foundation in compliance with all applicable requirements of the adopted Building Code.

**505.4 TOWING APPARATUS REMOVAL**

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The hitches or towing apparatus, axles and wheels shall be removed.

**505.5 CHARACTER AND APPEARANCE**

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Any factory built home locating to or relocating within Tate County shall blend in character and appearance with the surrounding residential areas in terms of roof design, pitch and materials, exterior and foundation materials, and landscaping.

**505.6 EXTERIOR MATERIALS**

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The home shall be covered with an exterior material customarily used on conventional dwellings. The exterior covering material shall extend to the ground except that, when a solid concrete or masonry perimeter skirting foundation is used, the exterior covering material need not extend below the top of the foundation. Suitable exterior materials include, but shall not be limited to,

clapboards, simulated clapboards, such as, conventional or metal material, but excluding smooth, ribbed or corrugated metal or plastic panels.

505.7 FOUNDATION MATERIALS

---

Underpinning foundation is required for all manufactured homes to enclose the foundation and crawlspace of the home. Suitable materials include concrete, stone, and masonry. In the case of a conditional use, cement board siding may be allowed. Smooth, ribbed or corrugated metal or plastic panels are not acceptable materials for underpinning. The underpinning foundation should allow for access underneath the manufactured home for maintenance or inspection purposes. The perimeter skirting foundation shall be in place before the final permit is issued.

505.8 RESERVED

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505.9 RESERVED

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505.10 RESERVED

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505.11 PORCHES, STAIRS, OR RAMP

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The factory built home shall have a pre-manufactured or site-built porch or landing with stairs or ramp at each entrance to the home which are secured independently of the home. All porches or landings must be a minimum of 5'x5' for each door or access point. Each porch, landing, stair or ramp shall be installed according to the Building Code along with additional access and safety features such as handrails. Acceptable materials for porches, landings, stairs, and ramps include, but not limited to, wood, concrete, or masonry. Concrete blocks or any other material shall not be stacked and used for access purposes at the entrance of homes. The required porches and landings shall be in place before the final permit is issued.

505.12 ORIENTATION

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The unit must be oriented on the lot so that its long axis is parallel with the street.

505.13 UTILITIES

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

#### 505.14 WIND STANDARDS

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The factory built home shall be designed according to the Department of Housing and Urban Development Wind Zone I standards for sustained winds of 70 miles per hour.

#### 505.15 NON-CONFORMING USES

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Refer to Article III for factory built homes that are classified as non-conforming uses.

#### 505.16 PERMITTED ZONES

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Manufactured homes and modular homes are approved outright in A-1 zone and shall be allowed outright in cases of replacement of existing dwellings for the purposes of upgrade in AR-1 and C-C zones when the existing home has not been abandoned for more than 6 months or has not been removed prior to the submission of a manufactured home permit.

Non-replacement manufactured homes and modular homes shall be allowed to locate in any platted subdivision that currently allows manufactured and modular homes, was in existence prior to the effective date of this Ordinance (April 22, 2022) and is located in an AR-1 zone. The County Planner has the authority of issue such permits to fill any vacant lots with manufactured or modular homes that meet the requirements of this Ordinance until all lots are occupied. However, the plat may not be expanded.

Furthermore, a non-replacement manufactured and/or modular home shall be approved as a conditional use in AR-1 zones, when the applicant proves a medical hardship. Medical hardships are cases in which a family member by reason of advanced age, physical disability, medical or mental problems/hardships so long as the condition exist.

The County Planner has the authority to approve the replacement of Manufactured homes and Modular homes as a conditional use in R-1 zones, that do not otherwise allow factory built homes, when the applicant proves damage of more than 50% of the value of the structure caused by natural disaster or accidental fire of an existing manufactured or modular home.

#### 505.17 INSPECTIONS AND PERMITS

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For more specific requirements in regards to inspections and building permits, refer to the Factory Built Home Requirements inspection checklist, the Factory Built Home Permit Procedure and Article VI.

A temporary electrical permit may be granted for 90 days prior to final inspection and permitting for the sole purpose of installation and testing of electrical systems such as HVAC. A full electrical permit shall only be issued after the final inspection is satisfactorily completed.

## SECTION 506. WIRELESS COMMUNICATIONS

Wireless Communication towers and structures are permitted as a conditional use in the appropriate zoning districts if located on publicly owned and/or leased properties, public/private utility owned properties, or property used for Institutional purposes. These structures may be located on other agricultural or residential land if approved as a Conditional Use provided that it is demonstrated that there are no publicly owned and/or leased properties, public/private utility owned properties, or Institutional Uses which are suitable for such structures. Further, the location, size and design of such facilities shall be such that minimal negative impact results from the facility. All wireless transmission facilities including building, cabinets, support towers and facilities shall be designed and constructed of materials so as to be architecturally compatible with the architectural character of the surrounding area.

Associated appurtenances, including cabinets, cabling and equipment shall be permitted, but shall not include offices, long-term vehicle storage, other outdoor storage or broadcast studios, or any use not needed to send or receive transmissions.

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

### 506.1 ATTACHED ANTENNA ARRAYS

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Within residential zoning districts, attached antenna arrays may be permitted on previously approved or proposed institutional structures, municipally owned structures; public/private utility owned towers, and existing support structures.

Wireless communication facilities (i.e. attached antenna arrays and related equipment) may be permitted on previously approved buildings and support structures, subject to administrative review by the County Planner. Such facilities shall not exceed the height required to accomplish their intended function; however, in no instance shall they extend more than 20 feet above the height of the supporting structure upon which they are proposed to be attached. Additionally, such facilities shall utilize stealth design and be finished in a color compatible with the colors of the supporting structure and designed so as to be as visually unobtrusive as possible.

For the purposes of this Ordinance, attached antenna arrays shall be permitted accessory uses in all zoning districts, subject to administrative approval.

### 506.2 NEW STRUCTURES/TOWERS

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Any application for a new wireless communication support structure shall not be approved, nor building permit issued, unless the applicant obtains a letter from a licensed engineer certifying

that the wireless communication facility equipment planned for the proposed support structure cannot be accommodated on an existing or approved support structure, or other structure due to one or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of existing and approved support structures, and those structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
- B. The planned equipment would result in technical or physical interference with, or from other existing or planned equipment and the interference cannot be prevented at a reasonable cost;
- C. There are no appropriate existing or pending support structures to accommodate the planned equipment;
- D. The existing or proposed support structures would not accommodate the applicant's geographic service requirements.

Any proposed support structure (excepting those utilizing stealth design) shall be structurally designed so as to accommodate a minimum of three (3) sets of fully sectored antenna arrays. A letter from a licensed engineer certifying compliance with this condition shall accompany the conditional use application. In addition, any application for a new support structure must include an affidavit stating that space on the proposed support structure will be made available to future users when technically possible. The applicant shall not charge any unreasonable application fee or rental rate, and may not require any unreasonable construction or maintenance conditions that inhibit the ability of other users to co-locate on the support structure.

### 506.3 SITE PLAN APPROVAL REQUIRED

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Support structures shall be the minimum height needed to comply with these regulations; however, in no instance shall support structures extend beyond 200 feet in height.

The minimum setback requirements for support structures including associated appurtenances shall correspond to the zoning district in which they are located, except that a minimum buffer of 300 feet shall be maintained between any support structure (excepting sites incorporating stealth design) and any residential property line.

Existing on-site vegetation shall be preserved to the maximum extent practicable, and shall be supplemented as required by the Planning Commission.

Security fencing and/or equipment screening shall be required for any ground mounted equipment associated with a support structure, and approved by the Planning Commission.

Towers shall not be lighted unless required by the Federal Aviation Administration or other Federal or State authority.

All owners of communications facilities in Tate County shall provide a list of the locations and all users of these facilities to the County Planner on or prior to January 1 of each year.

**SECTION 507. BUFFERYARD AND SCREENING REQUIREMENTS**

Where new development is proposed adjacent to existing development or vacant land of a different zoning district, the developing property shall provide a buffer along the adjacent side and rear property lines and this will be shown in the site plan. The required buffer consists of a specified width, landscaping materials, and/or the combination of landscaping and fencing materials depending on the zoning districts involved. If the proposed bufferyard area has existing plant material that will sufficiently screen the proposed use, the County Planner may approve existing landscaping in lieu of removal and planting of new materials. Where a proposed development is adjacent to a road, the road shall not take the place of the required bufferyard.

The County Planner and/or Planning Commission may require additional landscaping along the road right-of-way for screening purposes between residential and non-residential uses as long as the landscaping does not intentionally block the view of the main entrance and signage of the non- residential building.

**507.1 SIZE AND WIDTHS**

- A. If Commercial uses are proposed, adjacent to a residential zoning district, use, or vacant land a bufferyard of twenty (20) feet is required.
- B. If Commercial uses are proposed, adjacent to a non-residential zoning district, use, or vacant land a bufferyard of fifteen (15) feet is required.
- C. If Industrial uses are proposed, adjacent to a residential zoning district, use, or vacant land a bufferyard of thirty (30) feet is required.
- D. If Industrial uses are proposed, adjacent to a non-residential zoning district, use, or vacant land a bufferyard of twenty (20) feet is required.
- E. For all Planned Developments adjacent to a property of any residential or non- residential zoning, use, or vacant land, a bufferyard of twenty (20) feet is required.

**507.2 LANDSCAPING AND MATERIALS**

- A. Fifteen (15) foot buffer** – This buffer shall include a minimum of one (1) deciduous tree (ultimate height of 50+ feet), three (3) evergreen shrubs (ultimate height of 6+ feet) planted on triangular spacing, and one (1) ornamental tree (ultimate height of 15+ feet) for every seventy-five (75) linear feet along the side and rear property lines.
- B. Twenty (20) foot buffer** – This buffer shall include a minimum of one (1) large deciduous tree (ultimate height of 50+ feet) and six (6) evergreen shrubs (ultimate height of 10+ feet) planted on triangular spacing for every seventy-five (75) linear feet along the side and rear



property lines. A six (6) foot solid fence is required for commercial and industrial uses. The landscaped materials shall be located on the side of the solid fence which is adjacent to the less intense zoning district or property use.

- C. Thirty (30) foot buffer** – This buffer shall include a minimum of one (1) large deciduous tree (ultimate height of 50+ feet) for every seventy-five (75) linear feet along the side and rear property lines, six (6) evergreen shrubs (ultimate height of 15+ feet) planted on triangular spacing for every seventy-five (75) linear feet along the side and rear property lines, and a six (6) foot solid fence. The landscaped materials shall be located on the side of the solid fence which is adjacent to the less intense zoning district or property use.

## SECTION 508. BILLBOARDS

### 508.1 CONDITIONAL USE

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Billboards may be approved in Tate County as a Conditional Use in the Agricultural or Industrial zones.

### 508.2 SPACING BETWEEN BILLBOARDS

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No billboards shall be located closer than one mile from an existing billboard on either side of the highway or road. All billboards shall be located at least 2,000 feet from an interchange.

### 508.3 PLACEMENT ON ROOF

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No billboard shall be erected upon or above the roof of any building or structure.

### 508.4 MAXIMUM HEIGHT

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No billboards shall be greater than 40 feet in height above the surrounding grade.

### 508.5 MAXIMUM SIZE

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No billboards shall be greater than 400 square feet in area.

### 508.6 ANIMATION

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No billboard shall be animated or moving.

### 508.7 ILLUMINATION

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No billboards shall be illuminated in a manner that:

- A. Interferes with the safety of aircraft flight in the vicinity of the billboard.
- B. Interferes with the use and enjoyment of the property of adjacent landowners.
- C. Allows the illumination source to be directly visible from any right-of-way or any adjoining property.

## ARTICLE VI: ADMINISTRATION, ENFORCEMENT, AND AMENDMENTS

### SECTION 601. ADMINISTRATIVE

The County Planner appointed by the Board of Supervisors shall enforce this ordinance. The duties of the County Planner shall also include receiving applications and inspecting to assure conformity with this ordinance. Unless the provisions of this ordinance are met, no building permit shall be issued by Tate County, Mississippi.

The Tate County Planning Commission, one member appointed from each Board of Supervisor District, shall review all subdivision plans, rezoning applications, variance applications, and conditional use applications to make recommendations to the Board of Supervisors. The review of these applications shall contain but not be limited to the conformity of this ordinance, community needs, and the future development of Tate County.

### SECTION 602. BUILDING PERMITS

No building or structure shall be erected, structurally altered, or added to, until a building permit has been issued by Tate County except as noted below. No factory built home shall be purchased until a building permit has been issued by Tate County. All building permit applications shall be in accordance with the requirements of this ordinance.

No building permit is required for remodeling or improvement of any existing building in which remodeling or improvement does not alter the basic structure.

Permits are valid for two years from the date of issuance. All permits for construction which has not begun within six (6) months of the date of issuance, or for which work has been abandoned for six (6) month period are declared null and void. An extension may be granted by the Tate County Planning Commission. No refund will be issued for permits declared null and void. Work started without permit is subject to a doubling of the permit fee.

No permits shall be required with reference to land used for agricultural purpose, including forestry activities as defined in Section 95-3-29(2)(c) Mississippi Code of 1972, Annotated, or for the erection, maintenance, repair or extension of farm buildings or farm structures, including forestry buildings and structures (Section 17-1-3 of Mississippi Code).

### SECTION 603. PENALTIES

Any person, firm or corporation that violates any provisions of this Ordinance, of which no other criminal penalty is prescribed, shall upon conviction be fined not to exceed one hundred dollars (\$100). In the case of continuing violations without a reasonable effort on the part of the

defendant to correct same, each day the violation continues thereafter shall be a separate offense.

**SECTION 604. ZONING AMENDMENTS AND CHANGES**

**604.1 PUBLIC NOTICE**

The Board of Supervisors may, by resolutions, amend or change this Ordinance or Zoning Map whenever there is a public necessity but must first give fifteen (15) days public notice, in an official paper or a paper of general circulation in the County, and have a minimum of one (1) public hearing.

**604.2 AMENDMENTS**

The Board of Supervisors may also change or amend the Ordinance or Zoning Map upon an application or petition. This application or petition shall be made and fees paid at the Tate County Planning Commission Office. Then, the application shall be reviewed by the Planning Commission within thirty (30) days and a recommendation shall be made to the Board of Supervisors. After public notice and hearing, the Board of Supervisors may change or amend this Ordinance or Zoning Map in accordance with Mississippi Code 1972 Annotated, Section 17-1-17.

**604.3 PROTEST**

In the case of a protest against such change by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet therefrom or of those directly opposite thereof, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of two-thirds (2/3) of all members of the legislative body of the Board of Supervisors who have not recused themselves or are not otherwise eligible to vote.

**SECTION 605. SITE PLAN REVIEW**

The required site plan should not be confused with subdivision plats as described in the Subdivision Regulations. A site plan is a detailed layout of the existing and/or proposed structures within the site's boundary and graphically portrays how the proposed use will fit within the dimensions and bulk regulations of the site, how the vehicular circulation will function, how the proposed use will be properly buffered, etc.

The County Planner shall review the submitted site plans for any proposed commercial or industrial use regardless of zoning district or if the use is allowed by right. Further site plan review by the County Planning Commission depends on the scale and nature of the proposed use.

## 605.1 SITE PLAN REQUIREMENTS

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1. Name and address of property owner and subject property, if different from primary residence.
2. Vicinity map of surrounding property and roadways.
3. Date, scale, and north arrow.
4. Existing Site Conditions:
  - a. Boundary/property lines and property easements as surveyed by a licensed engineer or surveyor.
  - b. Name and right-of-way width of existing roads. The proposed right-of-way of any future roads adjacent to subject property.
  - c. Adjacent property owner names and zoning of adjacent property.
  - d. General location and dimension of adjacent buildings, if possible.
5. Proposed Site Layout:
  - a. Location, dimensions, and size of the proposed building(s).
  - b. Location and dimensions of the required setbacks, parking spaces, drive aisles and access points to existing roadways.
  - c. Location and dimensions of the required bufferyard and types of materials or plants used to buffer and screen the proposed use from adjacent uses.
  - d. Proposed site drainage plan.
6. Any other information that may be needed for review, evaluation, and approval.

## SECTION 606. CONDITIONAL USES

The Planning Commission may grant a conditional use for the uses provided in and shall impose appropriate conditions and safeguards including a specified period of time for the use to protect the Comprehensive Plan and conserve and protect property values in the surrounding area.

Applications for conditional uses shall be made to the Planning Commission. A Public Hearing shall be held, after at least 15 days notice of the hearing in a newspaper of general circulation specifying the time and place for said hearing. A written application for a conditional use shall be submitted indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested. The applicant shall submit a preliminary site plan or a certified survey of the proposed development which shall be in adequate detail to determine compliance with the provisions of this Section.

Before any conditional use is approved, the Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

- A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- B. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties in the district.
- C. Refuse and service areas, with particular reference to the items in (a) and (b) above.
- D. Utilities, with reference to locations, availability and compatibility.
- E. Screening and buffering with reference to type, dimensions and character.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
- G. Required yards and other open space.
- H. General compatibility with adjacent properties, other property in the district, and the Comprehensive Plan. However, care shall be taken in order to prevent the oversaturation of identical uses resulting in a change in the character of the area.

The Planning Commission shall decide such questions as are involved in determining whether the conditional use should be granted; and to grant the conditional use permit with such safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

The applicant or a majority of the adjacent owners aggrieved by any decision of the Planning Commission regarding the approval or denial of a conditional use may file an appeal within 10 days to the Board of Supervisors. The Board of Supervisors may affirm, reverse, remand or modify the decision as they deem proper. Parties aggrieved by the decision of the Board of Supervisors may seek relief by a Court Record as provided by law.

## SECTION 607. VARIANCES

When strict enforcement of the requirements of this ordinance would cause undue hardship to an individual property, the Planning Commission may modify this ordinance. The hardship must be unique to the individual property and due to no cause of the property owner. The Planning Commission may grant a variance upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

A variance from the terms of this Ordinance shall not be granted by the Planning Commission unless and until:

- A. A written application for a variance is submitted demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  3. That the special conditions and circumstances do not result from the actions of the applicant.
  4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- B. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- C. Notice of public hearing shall be given as required in this Article.
- D. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- E. The Planning Commission shall make findings that the requirements of this Article have or have not been met by the applicant for a variance.
- F. The Planning Commission shall further make a finding that the reasons set forth in the application justify or do not justify the granting of the variance, and that the variance is or is not the minimum variance that will make possible the reasonable use of the land, building, or structure.
- G. The Planning Commission shall further make a finding that the granting of the variance will or will not be in harmony with the general purpose and intent of this Ordinance, and will not or will be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

The County Planner may administratively grant variances that are up to 25% of the total request possible if it is determined that the variance would be granted if heard by the whole Commission, and the delay in construction would be detrimental to the applicant who would have to wait for hearing before the Commission. For example, if the lot required a 15 foot side yard setback and upon inspection it was determined that the house would be less than 15 feet from the side property line, but more than 11.3 feet from the side property line, and, the entire Planning Commission would, in the Planners opinion, probably approve the request, and, the wait for

hearing by the Commission would have a detrimental effect on the applicant, then the Planner could grant the variance. This approval would be followed up with an affirmation by the Commission at its next hearing as prescribed in the process described herein.

Under no circumstances shall the Planning Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

The applicant or a majority of the adjacent owners aggrieved by any decision of the Planning Commission regarding the approval or denial of a variance may appeal within 10 days to the Board of Supervisors. The Board of Supervisors may affirm, reverse, remand or modify the decision as they deem proper. Parties aggrieved by the decision of the Board of Supervisors may seek relief by a Court Record as provided by law.