ZONING ORDINANCE
OF
BENTON COUNTY, MISSISSIPPI

Table of Contents

PREAMBLE 8

ARTICLE I: TITLE AND PURPOSE 9
SECTION 100 – TITLE 9
SECTION 101 – PURPOSE 9

ARTICLE II: INTERPRETATION AND DEFINITIONS 10
SECTION 200 – RULES FOR WORDS AND PHRASES 10
SECTION 201 – DEFINITIONS 10

ARTICLE III: ESTABLISHMENT OF ZONING DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP 31
SECTION 300 – ZONING DISTRICTS 31
SECTION 301 – OFFICIAL ZONING MAP 31
SECTION 302 – REPLACEMENT OF OFFICIAL ZONING MAP 32
SECTION 303 – RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES 32

ARTICLE IV: GENERAL REGULATIONS 33
SECTION 400 – APPLICATION OF REGULATIONS 33
SECTION 401 – DIMENSIONAL CONTROLS 34
SECTION 402 – PUBLIC/QUASI-PUBLIC FACILITIES AND UTILITIES 34
SECTION 403 – DIMENSIONAL REQUIREMENTS FOR PUBLIC/QUASI-PUBLIC FACILITIES AND UTILITIES IN ALL DISTRICTS 34
SECTION 404 – BUFFER YARDS/SCREENING STANDARDS 35
SECTION 405 – HOME OCCUPATIONS 39
SECTION 406 – PORTABLE STORAGE UNITS 40
SECTION 407 – STREET ACCESS REQUIRED 40
SECTION 408 – COMPLIANCE WITH THE STATE DEPARTMENT OF HEALTH 41
SECTION 409 – PLOT PLAN REQUIRED 41
SECTION 410 – SURFACE MINING 41
SECTION 411 – MAINTENANCE AND LIABILITY OF DEDICATED OPEN SPACE, SCREENS AND BUFFERS 41
SECTION 412 – SKIRTING REQUIREMENTS FOR CERTAIN STRUCTURES 41
SECTION 413 – MATERIALS AND GROWTH CONSTITUTING PUBLIC HEALTH AND/OR SAFETY HAZARD PROHIBITED 41
SECTION 414 – PARKING AND STORAGE OF VEHICLES REQUIRING LICENSES 42
SECTION 415 – LIVESTOCK AND WILD ANIMALS PROHIBITED IN PLATTED RESIDENTIAL SUBDIVISIONS 42
SECTION 416 – SUBSISTENCE ANIMAL AND POULTRY FARMING 42
SECTION 417 – DENSITY ALSO CONTROLLED IN OTHER ORDINANCES 42

ARTICLE V: RURAL DISTRICT (A-1) 43
SECTION 500 – PURPOSE OF THIS DISTRICT 43
SECTION 501 – LAND USES PERMITTED OUTRIGHT 43
SECTION 502 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 43
SECTION 503 – PROHIBITED USES 44
SECTION 504 – DIMENSIONAL REQUIREMENTS 44
SECTION 505 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 44

ARTICLE VI: AGRICULTURAL DISTRICT (A-2) 45
SECTION 600 – PURPOSE OF THIS DISTRICT 45
SECTION 601 – LAND USES PERMITTED 45
SECTION 602 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 45
SECTION 603 – DIMENSIONAL REQUIREMENTS 45
SECTION 604 – COMPLIANCE OTHER COUNTY REGULATIONS 46

ARTICLE VII: RESIDENTIAL ESTATE DISTRICT (RE) 47
SECTION 700 – PURPOSE OF THIS DISTRICT 47
SECTION 701 – LAND USES PERMITTED 47
SECTION 702 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 47
SECTION 703 – DIMENSIONAL REQUIREMENTS 48
SECTION 704 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 48

ARTICLE VIII: RESIDENTIAL LOW DENSITY DISTRICT (R-1) 49
SECTION 800 – PURPOSE OF THIS DISTRICT 49
SECTION 801 – LAND USES PERMITTED 49
SECTION 802 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 49
SECTION 803 – DIMENSIONAL REQUIREMENTS 49
SECTION 804 – REQUIRED OPEN SPACE RESERVATION FOR CLUSTERING 50
SECTION 805 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 51

ARTICLE IX: RESIDENTIAL MEDIUM DENSITY DISTRICT (R-2) 52
SECTION 900 – PURPOSE OF THIS DISTRICT 52
SECTION 901 – LAND USES PERMITTED 52
SECTION 902 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 52
SECTION 903 – DIMENSIONAL REQUIREMENTS 52
SECTION 904 – REQUIRED OPEN SPACE RESERVATION FOR CLUSTERING 53
SECTION 905 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 54

ARTICLE X: RESIDENTIAL HIGH DENSITY DISTRICT (R-3) 55
SECTION 1000 – PURPOSE OF THIS DISTRICT 55
SECTION 1001 – LAND USES PERMITTED 55
SECTION 1002 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 55
SECTION 1003 – DIMENSIONAL REQUIREMENTS 56

SECTION 1004 – REQUIRED OPEN SPACE RESERVATION 56
SECTION 1005 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 57

ARTICLE XI: COMMERCIAL LOW DENSITY DISTRICT (C-1) 58
SECTION 1100 – PURPOSE OF THIS DISTRICT 58
SECTION 1101 – LAND USES PERMITTED 58
SECTION 1102 – CONDITIONAL USES AND STRUCTURES AS PROVIDED UNDER SECTION 1905 58
SECTION 1103 – DIMENSIONAL REQUIREMENTS 59
SECTION 1104 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 60

ARTICLE XII: COMMERCIAL MEDIUM DENSITY DISTRICT (C-2) 61
SECTION 1200 – PURPOSE OF THIS DISTRICT 61
SECTION 1201 – LAND USES PERMITTED 61
SECTION 1202 – CONDITIONAL USES AND STRUCTURES AS PROVIDED UNDER SECTION 1905 62
SECTION 1203 – DIMENSIONAL REQUIREMENTS 62
SECTION 1204 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 64

ARTICLE XIII: COMMERCIAL HIGH DENSITY DISTRICT (C-3) 65
SECTION 1300 – PURPOSE OF THIS DISTRICT 65
SECTION 1301 – LAND USES PERMITTED 65
SECTION 1302 – CONDITIONAL USES AND STRUCTURES AS PROVIDED UNDER SECTION 1905 65
SECTION 1303 – DIMENSIONAL REQUIREMENTS 66
SECTION 1304 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 67

ARTICLE XIV: LIGHT INDUSTRIAL DISTRICT (I-1) 68
SECTION 1400 – PURPOSE OF THIS DISTRICT 68
SECTION 1401 – LAND USES PERMITTED 68
SECTION 1402 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 69
SECTION 1403 – DIMENSIONAL REQUIREMENTS 69
SECTION 1404 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 70

ARTICLE XV: HEAVY INDUSTRIAL DISTRICT (I-2) 71
SECTION 1500 – PURPOSE OF THIS DISTRICT 71
SECTION 1501 – LAND USES PERMITTED 71
SECTION 1502 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 71
SECTION 1503 – DIMENSIONAL REQUIREMENTS 72
SECTION 1504 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 73
ARTICLE XVI: SPECIAL USE DISTRICT (S-1) 74
SECTION 1600 – PURPOSE OF THIS DISTRICT 74
SECTION 1601 – LAND USES PERMITTED 74
SECTION 1602 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905 75
SECTION 1603 – DIMENSIONAL REQUIREMENTS 75

SECTION 1604 – COMPLIANCE WITH OTHER COUNTY REGULATIONS 76

ARTICLE XVII: OFF-STREET PARKING REQUIREMENTS 77
SECTION 1700 – PURPOSE OF THIS ARTICLE 77
SECTION 1701 – OFF-STREET PARKING 77

ARTICLE XVIII: NONCONFORMITIES 81
SECTION 1800 – PURPOSE OF THIS ARTICLE 81
SECTION 1801 – TYPES OF NONCONFORMITIES 81
SECTION 1802 – REGULATIONS CONCERNING NONCONFORMING UNDEVELOPED LOTS OF RECORD 82
SECTION 1803 – REGULATIONS CONCERNING NONCONFORMING STRUCTURES 82
SECTION 1804 – REGULATIONS CONCERNING NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY) 83
SECTION 1805 – REGULATIONS CONCERNING NONCONFORMING USES OF MAJOR STRUCTURES OR OF MAJOR STRUCTURES AND LAND IN COMBINATION 83

ARTICLE XIX: ADMINISTRATION AND ENFORCEMENT 85
SECTION 1900 – PURPOSE OF THIS ARTICLE 85
SECTION 1901 – DUTIES, POWERS, AND LIMITATION OF POWERS OF THE ZONING ADMINISTRATOR IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE 85
SECTION 1902 –DUTIES OF THE BENTON COUNTY PLANNING COMMISSION 87
SECTION 1903 – DUTIES OF THE BOARD OF SUPERVISORS IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE 87
SECTION 1904 – DIMENSIONAL VARIANCES 88
SECTION 1905 – CONDITIONAL USES (SPECIAL EXCEPTIONS) 89
SECTION 1906 – AMENDMENTS TO THE ZONING ORDINANCE TEXT OR THE OFFICIAL ZONING MAP (REZONING) 90
SECTION 1907 – PUBLIC HEARING NOTICES AND PROCEDURES 91
SECTION 1908 – FEES 94
SECTION 1909 – APPEALS 95
SECTION 1910 – ORDINANCE ENFORCEMENT 95

ARTICLE XX: MISCELLANEOUS PROVISIONS 96
SECTION 2000 – PURPOSE OF THIS ARTICLE 96
SECTION 2001 – OMISSION CLAUSE 96
SECTION 2002 – SEPARABILITY AND VALIDITY CLAUSE 96
SECTION 2003 – REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF 96
SECTION 2004 – REFERENCES INCLUDE SUBSEQUENT REVISIONS, AMENDMENTS OR ENACTMENTS 96
SECTION 2005 – FAILURE TO ENFORCE ORDINANCE 96
SECTION 2006 – EFFECTIVE DATE OF ORDINANCE 97

SECTION 2007 – ADOPTION CLAUSE 97

ZONING REGULATIONS
BENTON COUNTY,
MISSISSIPPI

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR BENTON COUNTY, MISSISSIPPI, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT THEREWITH.

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, empower the Benton 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, Section 17-1-11 of the **Mississippi Code of 1972**, annotated, as amended, states that "the governing authority of each municipality and county may provide for the preparation, adoption, amendment, extension and carrying out of a comprehensive plan---;" and

WHEREAS, the Board of Supervisors have adopted by resolution a Comprehensive Plan, following public hearings relative to same; and

WHEREAS, 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 BENTON COUNTY, MISSISSIPPI, THAT THIS ORDINANCE SHALL GOVERN THE USE OF ALL LAND WITHIN THE BOUNDARIES OF BENTON COUNTY, MISSISSIPPI.

ARTICLE I: TITLE AND PURPOSE

SECTION 100 – TITLE

The Ordinance shall be known as the "Zoning Ordinance of Benton County, Mississippi," and may be so cited, and further reference elsewhere as "Zoning Ordinance," and herein as "the Ordinance" or "this Ordinance" shall imply the same wording and meaning as the full title.

SECTION 101 – PURPOSE

The purpose of this Ordinance is to preserve and promote the public health, safety, morals, and general welfare of the citizens of Benton County and of the public generally through the regulation of: the location, height, number of stories of buildings and other structures; the density and distribution of population, size of yards and other open spaces; and the use of buildings, structures, and land for commercial, industrial, residential and other purposes.

ARTICLE II: INTERPRETATION AND DEFINITIONS

SECTION 200 – RULES FOR WORDS AND PHRASES

For the purpose of this Ordinance, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory; the word "may" is permissive; the word "used" includes "designed" and "intended or arranged to be used or occupied"; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.

SECTION 201 – DEFINITIONS

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

Accessory Structure or Use: Any detached structure or use which is subordinate or incidental to the main building or dominant use of the lot or premises, excluding driveways, sidewalks and fences. Accessory structures shall not be over two stories in height.

Adult Entertainment Use (or Activity or Establishment): An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, or similar establishment which regularly features or depicts behavior which is characterized by the exposure of "specified anatomical areas" (as defined by this Ordinance), or where any employee, operator or owner exposes his/her "specified anatomical area" for viewing of patrons. Such adult entertainment uses may further be defined as follows:

Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of "specified sexual activities" (as defined by this Ordinance) or "specified anatomical areas."

Adult Bookstore: An establishment which has as a substantial portion of its stock-in- trade and offers for sale for any form of consideration any one or more of the following:

A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slide or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas," or

B. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult Cabaret: A nightclub, bar, restaurant, theater, or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified anatomical areas" or by "specified sexual activities."

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

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

Alley: A public or private right-of-way primarily designed to serve as a secondary access to the sides or rear of those properties for which principal frontage is on some other street; alleys are intended to provide access for refuse collection, loading/unloading and for fire protection.

Apartment: A dwelling unit located in a multiple family structure for occupancy by one family only, either rented or leased to the occupants. See also "Condominium."

Arterial Street/Highway: An arterial road or arterial thoroughfare is a high-capacity urban road. The primary function of an arterial road is to deliver traffic from collector roads between urban centers at the highest level of service possible. See "Street."

Assisted Living: Assisted refers to a type of physical assistance rather than monetary assistance. In assisted living facilities, residents live independently in apartment or condominium style accommodation, and may be assisted by the provision of meals, housekeeping, security and social programs. Additional planned care, such as bathing, dressing and assistance with medication may also be provided.

Automobile and Metal Salvage: A commercial venture which collects automobile parts and vehicles or other metal and/or recyclable materials and refuse items for salvage and/or sale, including junkyards.

Bar: A structure or part or a structure used primarily for the sale or dispensing of liquor by the drink.

Basement: A story wholly or partially underground. For the purpose of height regulation, a basement shall be counted as a story when more than one-half of its height is above the average grade level.

Bed and Breakfast Service: See "Inn"

Boarding House (Lodging or Rooming House): A building other than a hotel or motel, where, for compensation and by prearrangement for definite periods, meals and/or lodging are provided for three or more but not exceeding twelve persons (other than family members) on a weekly or monthly basis.

Buffer Area: An area so planned which acts as a buffer or separation area between two or more uses or structures not compatible due to design, function, use or operation.

Buffer Yard/Strip: A strip of land, identified on a site plan or by the zoning ordinance, which acts to separate two or more incompatible uses and/or districts. Normally, the area is landscaped and kept in open space use ad is maintained by the property owner.

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

Building: Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, equipment, goods, or materials. The term "building" shall be construed as if followed by the words "or part thereof."

Building, Fully-Enclosed: A building having walls on all sides.

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

Building Official: The individual designated by the Benton County Board of Supervisors to administer and enforce the specified duties of this Zoning Ordinance.

Building Permit: A permit issued by the County official designated by the Benton County Board of Supervisors authorizing the construction, placement or structural alteration of a specific building on a specific lot.

Building, Portable: Any building that is portable in nature, without any wheels, and built on a chassis or frame designed and constructed to be used without a permanent foundation.

Building Setback Line: See "Setback Line."

Building, Structural Alteration of: Any change or rearrangement in the supporting members, including walls, beams, columns, or girders of a building.

Business: An operation, enterprise or entity offering services and/or products for sale or for the exchange of consideration as a means of livelihood or gain.

Canopy: A roof-like structure which is not enclosed by walls on all sides and may or may not project from a building.

Carport: A roofed structure providing space for the parking or storage of motor vehicles and shall be open on at least two sides.

Cemetery: Property used for the interring of the dead. All cemeteries are considered public/quasi-public facilities, subject to the regulations of Section 402.

Certificate of Occupancy: A certificate issued by the County official designated by the Benton County Board of Supervisors to ensure that new or altered buildings or structures are in conformance with the provisions of the Zoning Ordinance and any other Federal, State, and County laws (such as water, sewer, and other necessary infrastructure is in place) and to have a record on the point.

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

Child Care Facility: A place which provides shelter and personal care for six (6) or more children who are not related to the operator, whether such place be organized or operated for profit or not.

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

Church: A building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel, funeral building, religious educational institution or parochial school or day care center.

Clustered Development: A development pattern for residential subdivisions that permits a reduction in lot area, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space, allowing for greater flexibility of development.

Collector Street: A collector street is a low-to-moderate-capacity street which serves to move traffic from local streets to arterial roads. Unlike arterials, collector streets are designed to provide access to residential properties. Also see "Street."

Commercial: Of or pertaining to a trade or commerce in general.

Community Facilities Plan: One of the elements of a Comprehensive Plan. Section 17-1-1 of the **Mississippi Code of 1972**, Annotated, As Amended, defines the term as follows: "a community facilities plan (serves as) a basis for a capital improvements program including, but not limited to, the following: housing; schools; parks and recreation; public buildings and facilities; and utilities and drainage."

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; architectural cohesiveness; and such environmental effects such as noise, vibration, glare, air pollution, light pollution, or radiation.

Commercial Feedlot: A confined area or structure, pen, or corral, used to fatten livestock prior to final shipment.

Commercial Poultry Farm: Breed, raising, and feeding of chickens, ducks, turkeys, geese, or other fowl of 100 or more for sale of eggs, meat, feathers, or other commercial uses.

Comprehensive Plan: In accordance with Section 17-1-1 of the **Mississippi Code of 1972**, Annotated, As Amended, "comprehensive plan" shall be defined as "a statement of public policy for the physical development of the entire municipality---adopted by resolution of the governing body, consisting of the following elements at a minimum: (I)Goals and Objectives---; (ii) a Land Use Plan---; (iii) a Transportation Plan---; and (iv) a Community Facilities Plan.

Conditional Use (Special Exception): A land use which would not generally be appropriate in a particular zoning district, but which, with certain restrictions or conditions, would in the judgment of the Board of Supervisors promote the public health, safety, morals, or general welfare of the County and would not adversely affect adjacent properties. A change of use permit granted by the Board of Supervisors for the initiation of a conditional use (with the necessary restrictions included) will not change the zoning of the property involved and will allow such use to continue as long as the specific use granted by the conditional use remains the same. Also referred to as a "Special Exception."

Condominium: A condominium is 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 of all real estate and designated common improvements. Condominium unit means the elements of a condominium which are not owned in common with the owners of other condominiums in the project. Condominium project means the entire parcel of real property divided, or to be divided into condominiums, including all structures therein.

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

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

Convenience Store: A store of not more than 3,000 square feet of retail sales area, not counting storage, which deals in grocery items of a convenience nature. Also, commonly referred to as a "drive-in" grocery store.

Country Club: A land area and buildings containing recreational facilities, clubhouse and the usual accessory uses, open only to members and their guests for a membership fee. Country clubs are regulated as public/quasi-public facilities and are subject to the provisions of Section 402 of this Ordinance.

County: Benton County, Mississippi.

Country Store: A Neighborhood type retail service establishment or general store of not more than 2,000 square feet and filling station.

Coverage: That part of a lot covered by buildings.

Daycare Center: See Childcare Center

Density: The intensity of land use and also the maximum intensity of use of a minimum lot or land area physically possible observing all yard, height, and lot or land area coverage provisions of this Zoning Ordinance, **exclusive of any publicly dedicated rights-of-way**.

Developer: Any person, individual, firm, partnership, association, corporation, trust, or any other group or combination acting as a unit, who undertakes the subdivision and development of land as defined herein. Developer may include owner or builder even though the persons and their interest may vary at different project stages. Developer shall also include any successor in interest to the original developer as to the ownership of the development roads, common areas and unsold lots prior to the completion of the roads and common areas in accordance with the applicable specifications. Note: Wherever the term Developer appears herein, the Developer's legally appointed agent may be substituted. See also Subdivider.

Development: The improvement or use of land for purposes and activities governed by the Benton County zoning ordinance, including, but not limited to, residential, commercial, industrial and/or manufacturing activities and uses.

Development Plan: A drawing or set of drawings depicting the ultimate layout and proposed land uses for a large tract of land, usually involving varying lot sizes and/or different proposed land uses. A development plan of a subdivision may be considered the "sketch plat" if a subdivision is to be constructed in phases. A development plan is sometimes referred to as a "master plan"; however, since the Comprehensive Plan for the County may also be called a "Master Plan," the term Master Plan is not used in this Ordinance.

Dimensional Variance: The authority to depart from the literal application of the zoning ordinance because of a practical difficulty resulting from the physical characteristics of the land. See "Variance."

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

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

Drainage Channel: A watercourse with a definite bed and banks which conduct and confine the normal continuous and intermittent flow of water.

Drive-In Restaurant: See Restaurant, Drive-In

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

Driveway Approach: As approved by the County, a constructed area or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street.

Dwelling: Any building, or portion thereof, or manufactured home, which is designed and used for human habitation.

Dwelling, Single-Family: A site-built residential building designed for occupancy by one family. For the purposes of this ordinance, single-family dwelling does not refer to Mobile, Manufactured, Modular, Panelized or Pre-Cut homes.

Dwelling, Two-Family (Duplex): A residential building designed to be occupied by two families living independently of each other.

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

Dwelling, Patio (or House or Home): A single-family dwelling unit that is constructed nearer the lot line on one side (but not directly on either lot line) of a lot than the other side.

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

Dwelling, Zero Lot Line: A detached single-family dwelling on a separate lot with open space setbacks on three sides. In order to be considered a true "zero lot line dwelling" the dwelling must rest directly against a lot line on one side of the lot; otherwise, it shall be considered a patio home.

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

Employee (Staff): Any person who is regularly on the premises of a business or industrial establishment for productive use on a part-time or full-time basis. For the purposes of this Ordinance the maximum number of employees on the premises of an establishment at one time shall constitute the number of employees.

Facilities and Utilities, Public/Quasi-Public: Any building, structure, system, use, or combination of uses, which is customarily and ordinarily provided by either public or private agencies, groups, societies, corporations, or organizations, whose purpose is the provision of necessary and desirable goods and/or services for the general public health, safety, and welfare. Such uses shall include, but not be limited to:

A. Churches and other religious institutions.
B. Schools, including all private, public or parochial schools, excluding institutions of higher learning which shall be zoned “Special Use” districts only.
C. All governmental buildings (including municipal buildings and buildings erected by Local, State or Federal governments) and major governmental facilities, such as water pumping stations, sewage treatment plants, sanitary landfills and the like. (Note: Public recreation and open space facilities are a land use permitted outright in any district, and such facilities are not subject to the regulations of Section 402 as conditional uses.)
D. All hospitals, whether public or private.
E. Convalescent homes, nursing homes or assisted living facilities.
F. Civic organization buildings and major facilities.
G. Buildings and facilities erected by charitable organizations (e.g., American Red Cross, Salvation Army, etc.); (Note: When such facilities are erected as emergency measures, they shall be exempt from the Special Exception provisions of this Ordinance, including public hearing requirements).
H. Country clubs and other major recreational facilities constructed by private groups.
I. All cemeteries.
J. Major facilities associated with privately-owned utilities (electrical, natural gas, telephone) including but not limited to electrical substations, telephone communications centers, microwave towers, cellular telephone antennas, natural gas pumping facilities and similar significant uses.

Factory-Built Dwelling or Home: A dwelling unit manufactured in part or whole within a factory to include Manufactured Home, Mobile Home, Modular Home, Panelized Home, and Pre-Cut Home.

Family: One person living alone, or two or more persons living together as a single, housekeeping unit, whether related to each other legally or not, as distinguished from a group occupying a boarding house, lodging house, hotel, motel, dormitory or similar dwelling for group use.

Farm: An area of more than 10 acres located outside a recorded subdivision which is used for the growing of the usual farm products such as vegetables, fruit, trees, hay, cotton, and grain, and their storage on the area, as well as the raising thereon of the usual farm poultry and farm animals, such as horses, mules, cattle, sheep, and swine, and including dairy farms. The term "farming" includes the operating of such an area for one or more of the above uses with the necessary accessory uses for treating or storing the produce provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities,

Farm (Continued): and provided further that farming does not include the extraction of minerals, the feeding of collected garbage or offal to swine or other animals or intensive livestock raising, such as commercial feed lots, large batteries of rabbit hutches, or poultry lots or coops.

Farm Building or Structure: Any building or structure upon a farm having no dwelling facilities and constituting a necessary accessory building or structure for treating, processing, storing, and assembling of farm produce or products associated with farm production, and/or the storage and maintenance of tools and/or implements involved in normal farming activities conducted on the farm.

Flea Market: Market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floor Area: The sum of the gross horizontal area of all floors of a building, excluding all porches, balconies, garages or carports, measured from the interior face of the exterior walls, or from the centerline of a wall separating two buildings.

Food Truck (or Mobile Vendor): A vehicle equipped with facilities for cooking and selling food or from which food is sold. The vehicle shall remain on wheels at all times.

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

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

Future Land Use Plan: See "Land Use Plan."

Garage (Private): The term "garage" shall mean a private garage, which is a portion of a main building enclosed on at least three sides or accessory building enclosed on at least three sides (i.e., detached from the main building) and used primarily for the storage of privately owned automobiles.

Garage, Mechanical (Repair Shop): A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping of motor-driven vehicles and the storage of such vehicles; also include selling, renting, or leasing of motor-driven vehicles in conjunction with repair work.

Garage, Storage: A building or portion thereof, other than a private garage, used exclusively for the parking or storage of motor-driven vehicles, with no other facilities provided except facilities for washing. Also referred to as a parking garage.

Gasoline Service Station: Any area of land, including the structures thereon, that is primarily used for the retail sale of gasoline, diesel fuel, oil or automobile accessories and incidental services including facilities for lubricating, washing (either automatic or by hand) and cleaning, or otherwise servicing automobiles and light trucks. This term does not include the painting or major repair of vehicles.

Goals and Objectives: One of the elements of a Comprehensive Plan. Section 17-1-1 (c)(ii) of the **Mississippi Code of 1972**, Annotated, As Amended, defines the term as follows: "goals and objectives (are a list of policies, adopted by the governing authorities) for the long-range (twenty to twenty-five years) development of the county or municipality. Required goals and objectives shall address, at a minimum, residential, commercial, and industrial development; parks, open space and recreation, street or road improvements; public schools and community facilities."

Grade or Grade Level: The finished elevation of land after completion of site preparations for construction.

Grandfather Clause: The section of the zoning ordinance which allows existing non-conforming uses, buildings, structures, and lots to continue until they are removed by any means.

Homeowners Association: A non-profit organization (corporate or otherwise) operating under recorded land agreements through which each property owner is automatically subject to a charge for a proportionate share of expenses for maintaining common open space, other activities and facilities.

Home Occupation: Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit or an accessory building.

Hospital: A public or quasi-public institution where sick or injured persons are given medical care and in the course of same are housed overnight, fed and provided nursing and related services.

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

Hotel or Motel: A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which at least a portion of the rooms are directly accessible from a public or private right-of-way, from a parking lot for a space or from the exterior of the building. As such, it is open to the public in contradiction to a boarding house or apartment.

Independent Living: Residents of independent living facilities are totally independent. However, limited services may be provided on an as-needed basis.

Industry, Heavy: Those industrial uses which are not fully enclosed and/or which generate substantial amounts of noise, vibration, odors or possess other objectionable characteristics.

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

Industry, "Wet-Type": Those heavy industrial uses which require the discharge of by-products or processed waste water through the sewer system. Such industrial uses shall be permitted as a conditional use only in the Heavy Industrial Districts (I-2).

Inn (or "Bed and Breakfast Inn"): An establishment operated in conjunction with a private dwelling where lodging is available or lodging and food are available for up to twenty (20) persons for compensation.

Internal Building Space: The required minimum space between principal or accessory buildings on the same lot.

Junk Yards: A place where waste and discharged or salvaged materials are bought, sold, exchanged, baled, packed, stored, disassembled or handled, including auto wrecking yards, used lumber yards, house dismantling yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but excluding places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition or salvaged materials incidental to manufacturing operations.

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

Landscaping: The addition of lawns, trees, plants, and other natural or decorative features to land, including lakes and watercourses. Landscape treatment can include walks or patios.

Land Use Plan: One of the elements of a Comprehensive Plan, usually developed concurrently with the Transportation/ Transportation Plan. Section 17-1-1 (c)(ii) of the **Mississippi Code of 1972**, Annotated, As Amended, defines the term as follows: "a land use plan designates in map or policy form the proposed general distribution and extent of the use of land for residences, commerce, industry, recreation, and open space, public/ quasi-public facilities and lands. Background information shall be provided concerning the specific meaning of land use categories depicted in the plan in terms of the following: residential densities; intensity of commercial uses; industrial and public/quasi-public uses; and any other information needed to adequately define the meaning of such land use codes. Projections of population and economic growth for the area encompassed by the plan may be the basis for quantitative recommendations for each land use category."

Liquor Store: A store that sells alcoholic beverages as defined in MCA Section 67-1-5 for consumption off-premises.

Livestock: Those animals which are normally considered as farm animals, such as cattle, goats, sheep, horses, ponies, mules, emus, llamas, swine (as defined in this ordinance), chickens, turkeys, ducks, geese, and other similar animals.

Loft-Style Apartment: A dwelling unit located in an upper story of a business or commercial building such as an upper story converted to quarters for living.

Lot: A contiguous piece of land at least sufficient size to meet the minimum requirements for use, coverage, and area and to provide such yards and other open spaces as specified in the Zoning Ordinance of Benton County, Mississippi.

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

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

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

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

Lot Frontage: The front of a lot shall be construed to be that dimension of a lot abutting on a street. For the purpose of determining yard requirements on corner lots or double frontage lots, all sides of such lots abutting on public streets shall be considered lot frontage, and yards shall be provided as indicated in this Ordinance.

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

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

Lot Line, Front: In the case of an interior lot, the property boundary line separating said lot from the street. In the case of a corner lot or double frontage lot, the line separating said lot from the street on which the building will face, as determined from the application for a building permit.

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

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

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

Manufacturing Use: A facility at which goods are made from secondary materials (previously prepared or refined materials) or raw materials (unrefined materials) through the use of machinery and labor and often employing assembly line techniques. In the case of "light" manufacturing uses, most goods are produced from secondary materials, except for processing, packaging, or canning of food products, and little or no water is used in the manufacturing process. In the case of "heavy" manufacturing, goods are often produced from raw materials and may involve the use of large amounts of water.

Manufactured Home: These are homes built entirely in a factory under a Federal building code administered by the U.S. Department of Housing and Urban Development (HUD). The Federal Manufactured Home Construction and Safety Standards (commonly known as the HUD Code) went into effect June 15, 1976. Manufactured homes may be single or multi-section and are transported to a site and installed. Such homes shall be considered Factory Built Homes for the purpose of this Ordinance.

Manufactured Home Park: A site or parcel of land under single management that has been planned and improved for the rental or lease of lots for one or more manufactured homes and the provision of services for manufactured homes for transient and/or non-transient use.

Manufactured Home Subdivision: A manufactured home subdivision is a tract of land in which spaces or lots for manufactured homes are for sale and in which the purchaser receives fee simple title to the space or lot.

Manufactured Home Space or Lot: A plot of ground within a manufactured home subdivision designed for and designated as (on an approved site plan) the location of one manufactured home, and which has water, sewer and electricity at the space.

Manufactured Home Stand or "Pad": The paved runners or paved parking area in each manufactured home space upon which the manufactured home is placed, together with the paved patio and paved off-street vehicular parking area.

Mobile Home: This is the term used for factory-built homes produced prior to June 15, 1976. Such homes shall be considered Factory Built Homes for the purpose of this Ordinance. No Mobile Home produced prior to June 15, 1976 will be allowed to be brought into Benton County.

Modular Homes: Factory assembled movable dwelling, other than a single-wide or double-wide manufactures home, designed and constructed by components to be transported by flatbed truck, built with a pitched, shingled roof, intended for permanent occupancy, with the necessary service connection for required utilities. Dwelling shall be certified by its manufacturer as being constructed in accordance with national recognized building code such as the International Building Code.

Mortuary: See "Funeral Home."

Motel: See “Hotel.”

Multiple Family Dwelling: See “Dwelling, Multiple Family.”

Multi-Level Care: Multi-level care refers to many types of care. These can be intermediate, extended, dementia, Alzheimer, palliative, recovery and respite. This is often referred to as Residential Care.

Nonconformities: Any land, lot, building, structure or parts thereof existing prior to the enactment of this Ordinance, which subsequent to the enactment of this Ordinance or amendment thereto, does not conform with the use regulations and/or dimensional regulations of the district in which it is situated, and/or does not comply with any other requirements herein. (See Section 1801 of this Ordinance for definitions of the various types of nonconformities, including (1) nonconforming undeveloped lots of record,” (2) nonconforming structures, and (3) nonconforming uses).

Nursery, Child Care: See “Child Care Facility.”

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

Nursing Homes: See “Convalescent Home.”

Open Space or “Common Open Space”: A parcel or parcels of land not occupied by dwellings or residential structures, accessory structures and yards, which may consist of jogging trails, tennis courts, a golf course, swimming pool, parks, playgrounds, associated recreational buildings and other such uses as approved by the Board of Supervisors, and which is permanently maintained in a suitable state for the shared enjoyment by the owners and/or occupants of individual dwelling units or residential structures within a particular development (such as a clustered development, conventional residential subdivision, or an apartment complex).

Office: A room, group of rooms or building in which commercial activities primarily involving the provision of services rather than the sale of commodities are conducted.

Office Park: A development on a tract of land, either subdivided or on a single large lot, containing a number of separate office buildings, supporting uses and open space designed, planned, constructed and managed on an integrated and coordinated basis.

Panelized Homes: These are factory-built homes in which panels - a whole wall with windows, doors, wiring and outside siding - are transported to the site and assembled. The homes must meet state or local building codes where they are sited. Such homes shall be considered Factory Built Homes for the purpose of this Ordinance.

Parcel: A contiguous quantity of land recorded as property owned by an individual or entity, often synonymous with lot.

Parking Space: For the purposes of this Ordinance, the term "parking space" shall refer only to parking places not located on a public street. Each parking space shall be sufficient in size to store one full-size automobile, or 200 square feet in area for each such space, exclusive of the necessary maneuvering space providing access to each parking space, unless otherwise approved as part of the site plan review Process.

Patio House or Patio Home: See "dwelling, patio (or house or home)."

Planning Commission: The Benton County Planning Commission, appointed by the Board of Supervisors.

Planting Screen: Densely planted vegetation used to visually shield or obscure abutting or nearby structures or uses from other uses or structures.

Plat: A map or drawings showing the lot and street arrangements or other features or details of the area being subdivided.

Plot Plan: A drawing indicating the location and layout of a proposed building or structure.

Portable Building: See "Building, Portable."

Portable Storage Unit: A structure to be used, or intended to be used, for the private noncommercial, nonindustrial storage uses by the property owner prior to the construction of a residence on the property.

Pre-Cut Homes: This is the name for factory-built housing in which building materials are factory-cut to design specifications, transported to the site and assembled. Pre-cut homes include kit, log and dome homes. These homes must meet local, state or regional building codes. Such homes shall be considered Factory Built Homes for the purpose of this Ordinance.

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

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

Public/Quasi-Public Facilities and Utilities: See "Facilities and Utilities, Public/Quasi-Public."

Recreational Vehicle (RV): See "Transient Trailer"

Residential Care: Residential Care refers to both multi-level Care and/or Professional Nursing Care (24 hour care).

Rest Home: See "Convalescent Home."

Restaurant: A commercial establishment where food and beverages are prepared, served and consumed primarily within the principal building, but not including "drive-in restaurants" as defined herein. Restaurants may offer some "carry-out" services where food and beverages are consumed off the premises. This definition is not intended to exclude restaurants which provide food and beverages to customers at "drive-through windows," where customers in motor vehicles merely pick up food and beverages at such windows and consume same usually off the premises.

Restaurant, Drive-In: A commercial establishment where food and beverages are prepared and where all or a significant portion of the consumption takes place outside of the building, often in a motor vehicle parked for "curb-service" (with two-way speakers) on the site.

Roadside Stand: A temporary structure with a floor area of not more than 400 square feet, enclosed, or partially enclosed, and so designed and constructed that the structure is easily portable.

Salvage Yard: See "Junk Yard."

Schools: The term "school" as used in this Ordinance shall include public, private, and parochial institutions of learning, including trade or industrial schools" (i.e., those schools offering training to students in skills required for the practice of trades and industry), but excluding Institutions of Higher Learning (colleges and universities), which shall be zoned as "Special Use" Districts only.

Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms or other features. Sometimes used in conjunction with a buffer yard.

Secondary Dwelling: Any structure used for residential purposes beyond the first such structure on a lot.

Service Station: See "Gasoline Service Station."

Setback: The area between the street right-of-way line and the building setback line.

Setback Line or Building Setback Line: A line delineating the minimum allowable distance between the street right-of-way and the front of a structure within which no building or other structure shall be placed. The minimum distance is prescribed by this Ordinance. The building setback line is parallel to or concentric with the street right-of-way line.

Shopping Center: A group, consisting of three or more commercial establishments, planned, developed and managed as a unit, with adequate off-street parking facilities provided on the property and related in its location, size, and type of stores to the trade area or neighborhood which the unit serves.

Side Street: A street bordering the side of a lot and intersecting the street on which a structure on the lot faces, as determined by the Zoning Administrator; in the case of buildings (as opposed to other types of "structures"), the street which the building faces shall be determined by the principal entrance to the building.

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

Specialty Shop: A store that specializes in a particular line of merchandise, such as baked goods, candy, clothing, hardware, clothing, antiques, bicycles, etc.

Special Exception: See "Conditional Use."

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

Start of Construction: This is the first placement or construction of a structure such as the paving of a slab, placement of footings or land preparation such as excavation, filling, and pad work.

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

Street: A way for vehicular traffic, whether designated a street, highway, thoroughfare, parkway, throughway road, roadway, avenue, boulevard, land, place or however otherwise designated.

Street Right-of-Way Line: The legal property boundary line delineating the street right-of-way and the abutting property.

Strip Development: Commercial development, usually one store deep, that fronts on a major street.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, and billboards, but shall not include "Transient Trailers (Travel Trailers)" as defined herein. The term structure shall be construed as if followed by the words "or part thereof." The term "structure" is not intended to include driveways, patios, parking lots, or utilities (i.e., utility lines running to a structure).

Structural Alteration of a Building: See "Building, Structural Alteration of."

Subdivider: Any person, firm, partnership, corporation or other entity acting as a unit, who, having an interest in land, causes it, directly or indirectly, to be divided into a subdivision.

Subdivision: The division or re-division of land into three (3) or more lots, tracts, sites or parcels for the purpose of transfer of ownership, or for development, whether immediate or in the future, by means of an appropriately recorded legal instrument.

Subdivision Lot: A distinct parcel of land depicted in a subdivision plat restricted to the placement of a single residential dwelling structure.

Subsidized Care: Subsidized and funded are interchangeable terms. This usually refers to beds, rooms, or suites that are partially paid for by the government.

Subsistence Animal Farming: The breeding, raising, and feeding of livestock including horses, cattle, sheep, goats, mules, hogs, etc. for one's personal use.

Subsistence Poultry Farming: The breeding, raising, and feeding of chickens, ducks, turkeys, geese, or other fowl for one's personal use.

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

Surface Mining or Mining: Extraction of minerals, including dirt, soil, sand, gravel or other materials from the ground or water or from waste or stock piles or from pits or banks or natural occurrences by methods including but not limited to, strip, drift, open pit, contour or auger mining, dredging, placering, quarrying and leaching and activities related thereto, which will alter the surface.

Theater, Motion Picture: A building or part of a building devoted primarily to the showing of motion pictures on a paid admission basis.

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

Through Lot: See "Lot, Double Frontage."

Townhouse: A single-family dwelling constructed in a series or group of attached units with property lines separating each unit.

Townhouse Subdivision: A subdivision in which the developer proposes to partition land into individual lots and construct townhouses wherein both the dwellings and the lots will be individually owned by the residents.

Trailer: Archaic term sometimes applied to mobile or manufactured homes.

Transient Trailer (Travel Trailer): A portable or mobile living unit used for temporary human occupancy away from the place or residence of the occupants. No such equipment shall be used for living, sleeping, or housekeeping purposes for more than 90 days within a period of one year when parked in a residentially zoned area or in any other location not approved for such use. All such equipment shall be fully licensed and ready for highway use. For the purposes of this Ordinance, such transient trailers shall be considered a vehicle and not a structure. The term transient trailer" or "travel trailer" shall include pick-up truck campers," "motor homes," "camping trailers" and "recreational vehicles." See: "Recreational Vehicle"

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

Transportation Plan: One of the elements of a Comprehensive Plan. Section 17-1-1 (c) (ii) of the **Mississippi Code of 1972**, Annotated, As Amended. (iii) A transportation plan depicting in map form the proposed functional classifications for all existing and proposed streets, roads and highways for the area encompassed by the land use plan and for the same time period as that covered by the land use plan. Functional classifications shall consist of arterial, collector and local streets, roads and highways, and these classifications shall be defined on the plan as to minimum right-of-way and surface width requirements; these requirements shall be based upon traffic projections. All other forms of transportation pertinent to the local jurisdiction shall be addressed as appropriate. The transportation plan shall be a basis for a capital improvements program.

Truck Stop: Any area of land, including the structures thereon, that is used for the servicing of heavy trucks (i.e., tractor-trailer combinations designed for transporting large cargoes), and which may offer food and beverages in addition to lodging.

Undeveloped Lot: A vacant lot or parcel of land.

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

Use, Accessory: See "Accessory Use."

Utility: See "Facilities and Utilities, Public/Quasi-Public."

Vape (or Electronic Cigarette) Shop: A shop selling electronic cigarettes, personal vaporizers, electronic nicotine delivery systems or other vaping products.

Variance: A relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. However, financial hardship shall not be considered justification for granting a variance. The criteria for issuance of a variance are listed under Section 1904 of this Ordinance. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use not permitted shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district.

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

Veterinary Hospital: See "Hospital, Veterinary."

Wild Animals: Reptiles and any animal which by its nature is wild and untamed.

Yard (or "Minimum Yard" or "Setback"): The required open space between any main building or portion thereof and the adjoining lot lines, which shall remain unoccupied and unobstructed by any portion of a structure, except as otherwise specifically provided herein. In measuring a lot for the purpose of determining the minimum front, side or rear yard, the shortest horizontal distance between the lot line and the nearest vertical structure shall be used.

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

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

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

Zoning Administrator: The official charged by the Board of Supervisors with the administration and enforcement of this Zoning Ordinance, or their duly authorized representative.

Zoning Commission: See "Planning/Zoning Commission."

Zoning District: See "District."

ARTICLE III: ESTABLISHMENT OF ZONING DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP

SECTION 300 – ZONING DISTRICTS

For the purpose of promoting public health, safety, morals, or general welfare, Benton County, Mississippi, is hereby divided into the following zoning districts:

A-1 Rural District
A-2 Agricultural District
RE Residential Estate District
R-1 Residential Low Density District
R-2 Residential Medium Density District
R-3 Residential High Density District
C-1 Commercial Low Density District
C-2 Commercial Medium Density District
C-3 Commercial High Density District
I-1 Light Industrial District
I-2 Heavy Industrial District
S-1 Special Use District

SECTION 301 – OFFICIAL ZONING MAP

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

301.01 Map Certified: The Official Zoning Map shall be identified by the signature of the Board President, attested by the Chancery Clerk, and shall bear the seal of the County under the following words:

> "This is to certify that this is the Official Zoning Map of Benton County, Mississippi, as adopted by the Board of Supervisors on _____."

301.02 Location of Official Zoning Map: Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be prepared or printed, the Official Zoning Map bearing the certificate specified under Section 301.01 and located in the Office of the Chancery Clerk of Benton County shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in Benton County.

301.03 Public Inspection of Map: The Official Zoning Map shall be available for public inspection as provided by law during normal business hours of the County Courthouse of Benton County.

301.04 Map Amendment: If, in accordance with the provisions of this Ordinance and Statutes of the State of Mississippi, changes are made in the zoning district boundaries or other matters

portrayed on the Official Zoning Map, such changes shall be made within thirty (30) days after the amendment has been approved by the Board of Supervisors.

Since the Official Zoning Map is part of this Ordinance, any amendments to the Official Zoning Map shall be accomplished in accordance with state statutes relating to passage of ordinances. Therefore, before the Official Map may be amended, an "Ordinance of Rezoning" shall be drafted and passed by the Board of Supervisors in accordance with state law. An unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 1910.

SECTION 302 – REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Supervisors may, by ordinance, designate a new Official Zoning Map which shall replace the prior zoning map. The new Official Zoning Map may correct drafting errors or other omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Board President, attested by the Chancery Clerk, and shall bear the seal of the County under the following words:

"This is to certify that this Official Zoning Map replaces the Official Zoning Map adopted as part of the Zoning Ordinance of Benton County, Mississippi, on _____." (Last date changed by Ordinance)

SECTION 303 – RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

A. Boundaries indicated as approximately following the center lines of roads, highways, or alleys shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following County limits shall be construed as following such County limits.

D. Where the boundary of a district follows a railroad right-of-way, such boundary shall be deemed to be located on the right-of-way line to which it is closest.

E. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.

F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Section 303, the Board of Supervisors shall interpret the district boundaries.

G. Where a district boundary line divides a lot which was in a single ownership at the time of passage or amendment of this Ordinance, the Board of Supervisors may permit, as a conditional use, the extension of the district line into the remaining portion of the lot.

H. Boundaries indicated as parallel to or extensions of features indicated in Section 303, Subsections (A) through (G) above shall be so construed.

ARTICLE IV: GENERAL REGULATIONS

SECTION 400 – APPLICATION OF REGULATIONS

400.01 Compliance Required: No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformance with all of the regulations specified for the district in which it is located. Furthermore, no person shall use or occupy a building, structure or land within Benton County for an activity which requires a federal, State of Mississippi and/or County license until said license is obtained from the appropriate authorities.

400.02 Nonconformities Defined: "Nonconformities" shall consist of any land, lot, building, structure, or parts thereof, or the various uses to which those items are or were put, and which lawfully existed prior to the enactment of this Ordinance; but which subsequently do not comply with the provisions of this Ordinance and the requirements of the district wherein located. The regulations pertaining to such nonconformities are established in the district regulations and under Article XVIII.

400.03 Permitted Uses Constitute Conforming Uses: Any land use which is permitted as a conditional use in a particular district under the terms of this Ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

400.04 Uses Not Permitted: Any use that is not permitted by right or conditional use is prohibited.

400.05 District Regulations Constitute Minimum Regulations: The regulations established in this Ordinance within each district shall constitute minimum regulations unless otherwise noted.

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

400.07 Pending Applications for Building Permits: Nothing in this Ordinance shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which preliminary site plan or plat approval has been legally granted by Benton County before the enactment of this Ordinance. Construction shall have been started within one (1) year of the effective date of this Ordinance and not discontinued until completion except for reasons beyond the builder's control. All approvals for which start of construction has not begun within one (1) year of the effective date of this Ordinance are hereby revoked and void.

400.08 Interpretation: The provisions of this ordinance shall be read and applied in order to achieve consistency in intent and application with all other Benton County Ordinances. In the event a provision in this ordinance conflicts with any other Benton County regulation or ordinance, the more stringent requirement shall control.

SECTION 401 – DIMENSIONAL CONTROLS

401.01 Reduction of Yards and Lots Below Minimum Requirements Prohibited: No yard or lot of record existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots of record created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

401.02 Determination of Setbacks: In measuring a required front yard (i.e., setback), the minimum horizontal distance between the existing right-of-way line and the main structure shall be used.

401.03 Exceptions to Height Regulations: The height regulations contained in the District Regulations of this Ordinance do not apply to spires, belfries, cupolas, antennas, water tanks, ventilation chimneys, masts, towers, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

401.04 Visibility at Intersections: On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede the vision of motor vehicle operators between a height of two and one-half (2.5) and ten (10) feet above the center line grades of the intersecting streets and within a triangular area bounded by the right- of-way lines for a distance of twenty-five (25) feet from the intersection and a straight line connecting said points twenty-five (25) feet back from the intersection of said right-of-way lines.

SECTION 402 – PUBLIC/QUASI-PUBLIC FACILITIES AND UTILITIES

All public and quasi-public facilities and utilities, as defined under Article II of this Ordinance, may be located in any district in the County, provided:

A. That all applicable requirements of federal, state and county laws shall be met.

B. That all such proposed uses shall be subject to the procedures stated under Section 1905 relative to Conditional Uses (Special Exceptions),

No public or quasi-public facility or utility shall be located in a residential district or other district where such land use would adversely affect the surrounding area.

SECTION 403 – DIMENSIONAL REQUIREMENTS FOR PUBLIC/QUASI-PUBLIC FACILITIES AND UTILITIES IN ALL DISTRICTS

Developers of churches, schools, hospitals, civic organizational buildings, country clubs, and other public/quasi-public facilities or utilities in any district shall comply with the following dimensional requirements:

403.01 Maximum Building Height: 35 feet, unless greater height is specifically approved by the Board of Supervisors based upon the required site plan review. Radio, water, cellular phone, and other communication towers may exceed 35 foot height restrictions based upon site plan review. Cellular towers/antennas shall be built as high as practical in order to allow other cellular providers the option of co-locating on an existing tower rather than building additional towers/antennas.

403.02 Minimum Lot Area, Lot Width and Yards: Minimum lot areas, lot widths and minimum yards for all public/quasi-public uses shall be based upon the proposed use, subject to approval of a site plan submitted in accordance with this Ordinance.

SECTION 404 – BUFFER YARDS/SCREENING STANDARDS

404.01 Purpose and Intent: The purpose and intent of the Buffer/Screening Standards is to maintain many of the environmental features and amenities of the County for present and future generations. Adherence to these regulations will improve the appearance and compatibility of land uses and other development within the County through the installation and maintenance of plantings and fencing for screening and aesthetic effects, thereby serving to protect and preserve the appearance, character, value and safety of the total urban area and nearby properties. Attractive, well maintained buffer yards improve the quality of development. They can also alleviate development disputes by reassuring neighboring property owners that the adjacent project will remain relatively unobtrusive. It is intended that these provisions shall constitute minimum requirements.

404.02 Purpose of Buffer Yards and Screens: The purpose of a buffer yard is to provide a space or distance between two (2) incompatible uses. The purpose of screening is to provide an effective visual barrier between an unsightly or distracting activity and adjacent properties or public ways to preserve property values and assure compatibility of uses. It is also the purpose of these provisions to prescribe standards for development and maintenance of plantings, fences, and walls, for conservation and protection of property through provision of barriers against traffic, trespass, noise, heat, glare, and dust, and through improvement of the appearance of individual properties, neighborhoods, and the County. These standards shall apply to all landscaping and screening required by other provisions of the zoning regulations.

404.03 General Standards: Buffer yards and screens require Site Plan Review. Such required site plan shall set forth yards and open spaces, screening walls, or fences and other development and protective requirements considered necessary to create a reasonable transition to and protection of the adjacent property. When the developer needs to ask for a variance from these Buffer Yard Regulations, an alternative Design Plan which shall fulfill the intent of this Ordinance must be submitted to the Planning/Zoning Commission, which will, upon review, make a recommendation regarding the submission. Variances shall not be granted, which are less than the next lowest minimum standard, and only then if the size of the lot is such that a full buffer is not possible. The site plan should show plant succession, drainage patterns, and landscape design in order to determine if the trees/vegetation grow well in this region, and also if they make good visual screens.

404.04 Buffer Yard Standards Relating to Abutting Properties: In the table below, when a district abuts a use indicated, a buffer yard and screen shall be provided by the developing use applying for a building permit as listed in Table I:

TABLE I: Buffer Yard and Screen

Use District	Abutting Use District	Minimum in Feet	
		Width	Screen Height
RE	A-1, A-2	20	6
R-1	A-1, A-2, RE	20	6
R-2	A-1, A-2, RE, R-1	20	6
R-3	All Agricultural and Residential Districts	20	6
C-1	All Agricultural and Residential Districts	30	6
C-2	All Agricultural and Residential Districts and C-1	30	6
C-3	All Agricultural and Residential Districts and C-1	30	6
I-1	All Districts except I-2	40	6
I-2	All Districts except I-1	40	6
S-1	All Agricultural and Residential Districts	20	6

404.05 Screening Relative to Abutting Properties: In the table above, when a district abuts a use indicated, screening shall be provided as listed. Screening/fencing may consist of architectural and/or vegetative materials as follows:

A. Architectural Screening: A screen/fence of wood, masonry, stone, concrete or metal may be placed along the property line or along the inner perimeter of the buffer yard so as to provide visual screening at minimum height requirements, at the time of issuance of the Certificate of Occupancy.

B. Vegetative Screening: Trees and other vegetation as needed, shall be planted so as to provide year round visual screening at heights required by Table I. If screening is exclusively vegetation, minimum height requirements shall be met at the time of installation. Earthen berms are considered a part of vegetative screening.

C. Combination of materials: Whenever two or more alternative types of landscaping, fences, or walls are prescribed, they may be provided singly or in any combination.

404.06 Installation: All buffer yards and screening shall be installed in a sound workman-like manner and according to accepted good planting procedures with the quality of plant material as herein described. All screening elements of buffer yards shall be installed so as to meet all other applicable ordinances and code requirements. Buffer yards shall require protection from encroachment. (Encroachment is defined as any protrusion of a vehicle outside of a parking space, display area or access way into a buffer yard.)

In the event that plants are destroyed or die of natural causes, such materials shall be replaced within six (6) months. Failure of the owner of the property to maintain the buffer yard in good condition, as set forth above, shall subject him to the penalties as set forth in this Ordinance.

No buffer yard shall be abandoned, paved or otherwise employed for purposes other than screening.

404.07 Visibility at Intersections: See Section 401.04

404.08 Intersection of Driveway and public ROW and/or Private Street: In any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impair or block vision between a height of two and one half (2.5) and ten (10) feet above the center line grades of any intersecting street/driveways in the area bounded by the street lines/driveway lines of such corner and a line joining points along said street lines fifteen (15) feet from the point of intersection.

404.09 Credit for Existing Plant Material: If the owner can demonstrate that healthy plant material exists on a site prior to its development for the purposes of buffer yard, the application of the above landscape standards may be adjusted by the Planning/Zoning Commission to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this Ordinance.

404.10 Planned District Standards: Fences, walls or vegetative screening shall be provided at the perimeter of planned developments where necessary to screen improvements, glare, uses or other influences having an adverse impact either on the planned development or on adjacent property. Such screening shall be of sufficient height as determined by the topography to improve the impact of such adverse elements on the first floor of any use located either within or adjacent to the planned development.

404.11 Zone Screening Standards: A screen (wall, fence, or landscaping) not less than six (6) feet in height shall be erected between commercially zoned property and abutting residentially zoned property at the time that any building or structure is erected on the commercial property. The height of the screening shall be the vertical distance measured from the top of the screen to the lowest point to grade within three (3) feet of such screen on the commercially zoned property. The screening shall be constructed on or immediately adjacent to the line dividing the residential and commercial properties. A new screen shall not be required where there is an existing screen, which substantially conforms to this section on the abutting residential property. If the existing screen on abutting residential property is the only screen that conforms to this section, and if it is removed, a new screen shall be required.

404.12 Fencing and Landscape Standards: The screen required herein shall consist of a solid fence or wall not less than six (6) feet in height, but shall not extend within fifteen (15) feet of any street or driveway opening onto a street. The screening shall be placed along the property lines or in case of screening along a street, fifteen (15) feet from the street ROW with landscaping (trees, shrubs, grass, and other planting) between the screening and the pavement. A louvered fence shall be considered solid if it blocks direct vision. Planting of a type approved by the Site Plan review process may also be required in addition to, or in lieu of, fencing. Existing screening which complies with minimum standards may be used to meet the requirements of this Ordinance.

404.13 Exceptions to Screen Requirements: The landscaping and screening requirements set forth in other provisions of the zoning regulations shall be subject to the following exceptions:

A. Equivalent Screening of Abutting Lot. Prescribed fences, walls, or dense landscaping need not be provided along a lot line if a building, fence, wall or dense landscaping of at least equivalent height, opacity, and maintenance exists immediately abutting and on the opposite side of said lot line.

B. Height Within Required Minimum Yard. Required fences, walls, or dense landscaping need not be higher than three and one-half (3.5) feet in that portion of any required minimum yard which lies within ten (10) feet of any street line.

C. Lot Too Small to Accommodate a Full Buffer. Property owner may be allowed to substitute a berm or landscaped wall for all or part of the transitional yard requirements. The solid fence or wall should be constructed of materials that are compatible with the principal building.

404.14 Maintenance of Screens: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences and walls shall be permanently maintained in good condition and, whenever necessary, repaired or replaced. The owner shall be responsible for the maintenance of all buffer yards which shall be maintained in good condition so as to present a clean and orderly appearance.

404.15 Permits: Whenever a buffer yard or planting strip is required, it shall be completed prior to issuance of any certificate of occupancy and shall thereafter be maintained with permanent plant materials to provide a screen to abutting properties. They will reduce the possibility of traffic hazards as much as possible. Parking facilities must be designed to require vehicles leaving parking stalls to maneuver on the site to exit onto streets head first.

404.16 Design Standards for Screens, Buffers, Berms, and Walls: The purpose of these standards is to screen parking areas from view, to improve the appearance of parking areas near streets, to break the views of large expanses of pavement, to enhance property values and protect investments, to reduce erosion and storm water run-off problems, to provide shade, to reduce glare, to encourage the saving of large trees and to reduce fumes and dust.

A. Screens and buffers are not required along abutting bridge embankments, railroad tracks, slopes and retaining walls and where permanent landscaping is already provided.

B. Masonry walls, sight proof fencing, or dense landscaping are required between commercial parking lots in side and rear yards abutting parcels that are residentially zoned or contain dwellings. These walls or fencing must be at least six feet high and may be combined with landscaping.

C. Landscaped buffer strips are required between streets and parking lots or other driving surfaces except those serving single family and duplex dwellings. Interior parking islands are encouraged to be planted with trees and other shrubbery. If earthen berms are used, the berms must be used in conjunction with vegetation. Commercial establishments over one story tall must combine architectural screening with vegetative/landscaping screening.

SECTION 405 – HOME OCCUPATIONS

Home occupations, as defined under Article II of this Ordinance, shall be subject to the following limitations and such conditions as may be determined by the Board of Supervisors for the protection of the health, safety and welfare of the citizens of Benton County:

405.01 Display and Storage: No storage or display of materials, goods, supplies, or equipment related to the operation of a home occupation shall be visible from the outside of any structure located on the premises.

405.02 Maximum Area: Not more than twenty-five percent (25%) of the floor area of the dwelling shall be used for the conduction of the home occupation. Any accessory building used in connection with the home occupation shall not exceed twenty-five percent (25%) of the floor area of the principal dwelling.

405.03 Traffic and Parking Restrictions: No traffic shall be generated by such home occupations in greater volumes than would normally be expected in a residential neighborhood (as determined by the Zoning Administrator), and any need for parking generated by the conduction of such home occupations shall be met off the street and other than in a required yard. Furthermore, an ample amount of such off-street parking shall be provided as determined by the Zoning Administrator at the time of the application for a building permit or change of use permit.

405.04 Exterior Lighting: There shall be no exterior lighting which would indicate that the dwelling and/or accessory building is being utilized in whole or in part of any purpose other than residential.

405.05 Signs Relating to Home Occupations: The maximum size for all home occupation signs is two (2) square feet. Home occupation signs shall be affixed to the house no more than six (6) feet above floor level and may not be illuminated.

405.06 Other Provisions: No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, or odors detectable to the normal senses outside of the dwelling unit or accessory building in which the occupation is conducted.

405.07 Privilege Licenses: Existing and new home occupations are required to have a privilege license in accordance with state law.

405.08 Permits: A building permit (if construction is necessary in connection with proposed home occupation) or a change of use permit (if no construction is necessary) must be obtained from the Building Official prior to the initiation of a home occupation.

SECTION 406 – PORTABLE STORAGE UNITS

406.01 Allowed Locations: A Portable Storage Unit (PSU) may be located in any residential zoning district. This section does not regulate the placement or use of a PSU in non-residential districts.

406.02 Maximum Size of Allowed PSU and Other Limitations: The total square footage for a PSU on any site in a residential district shall not exceed one hundred thirty (130) square feet in area. Only one (1) PSU is allowed on any site at any given time.

406.03 Maintenance and Security of PSU: The provider of any PSU shall be responsible for ensuring that the PSU is in good condition and free from evidence of deterioration. The owner of any site on which a PSU is placed shall be responsible for keeping the PSU locked when not being loaded or unloaded and must ensure that no hazardous substances are stored or kept within the PSU.

406.04 Setback Requirements: A PSU must be located on the driveway serving the dwelling unit, and must be a minimum of ten (10) feet from the curb of the public street.

406.05 Maximum Duration of Placement of PSU: No PSU shall remain at an allowed location in excess of one hundred and twenty (120) calendar days.

For a PSU located upon property upon which Benton County has issued a valid building permit, the maximum duration for placement of such PSU shall be one hundred and twenty (120) days, at which time an extension shall be subject to review by the Zoning Administrator. An extension may be granted based on a determination of need in order to complete construction.

In the event of a natural disaster, fire, or other accidental event, then a PSU may remain at a location for the period of time to effect repairs, not to exceed 12 months.

406.06 Penalty for Violation: Any violations under this section are subject to the penalties as outlined under Section 1910.

SECTION 407 – STREET ACCESS REQUIRED

Every building or structure hereafter constructed, moved, or structurally altered shall have direct access to a public (dedicated) street or to an approved private street or parking area, and shall be so located as to provide safe access for fire protection.

SECTION 408 – COMPLIANCE WITH THE STATE DEPARTMENT OF HEALTH

Minimum lot size in each zoning district does not constitute approval by the State Health Department for an on-site wastewater disposal system.

SECTION 409 – PLOT PLAN REQUIRED

Every building or structure subject to Benton County building codes hereafter constructed, moved, or structurally altered shall have a plot plan submitted to the Benton County Zoning Administrator.

SECTION 410 – SURFACE MINING

Extraction of minerals, including dirt, soil, sand and gravel in conjunction with construction activities at a construction site for development of land is not considered to be a surface mining operation which would be subject to the procedures stated under Section 1905 relative to Conditional Uses (Special Exceptions). All surface mining operations shall comply with appropriate MDEQ regulations.

SECTION 411 – MAINTENANCE AND LIABILITY OF DEDICATED OPEN SPACE, SCREENS AND BUFFERS

Authority granted by Benton County for the development of any property shall not be construed as nor constitute an obligation on the part of Benton County either for maintenance or liability in the operation and use of common open space, screens or buffers located on the property.

SECTION 412 – SKIRTING REQUIREMENTS FOR CERTAIN STRUCTURES

The owner of any manufactured home, modular home or any other dwelling with a crawl space located, re-located or constructed in Benton County on or after the effective date of this amendment shall be responsible for installing skirting around the base of the structure, thereby completely covering all sides of the structure from the finished grade to the bottom of the structure. Skirting shall be brick, masonry material, lattice material, or a product approved by the Benton County Building Official. In the case of a manufactured home a product which is specifically designed for the purpose of skirting manufactured homes may be used.

SECTION 413 – MATERIALS AND GROWTH CONSTITUTING PUBLIC HEALTH AND/OR SAFETY HAZARD PROHIBITED

No rubbish, salvage materials, junk or hazardous waste materials, including inoperable vehicles and parts and any combustible matter, shall be openly stored, allowed to accumulate or kept in the open and no weeds or other growth shall be allowed to go uncut within any District when the same shall be determined by the appropriate County Official (Fire Coordinator, Building Official, or other authorized County employee) or health official to constitute a menace to the public health and/or safety.

SECTION 414 – PARKING AND STORAGE OF VEHICLES REQUIRING LICENSES

Vehicles that are wrecked, dismantled, partially dismantled, inoperable, abandoned or discarded and are not capable of being legally (that is, if the vehicle does not have a current license plate affixed to the vehicle) driven upon the roads, streets or highways of Benton County shall not be parked or stored on any residentially zoned property where it can be seen from public right of way or adjoining property, nor shall such vehicles be parked on public streets or roads in any zone.

SECTION 415 – LIVESTOCK AND WILD ANIMALS PROHIBITED IN PLATTED RESIDENTIAL SUBDIVISIONS

Livestock and wild animals shall not be kept, harbored, raised or permitted to run at large on any property in platted residential subdivisions that are zoned R-1, R-2, or R-3.

SECTION 416 – SUBSISTENCE ANIMAL AND POULTRY FARMING

Subsistence Animal Farming may occur on any appropriately zoned lot, but shall not occur on tracts less than one (1) acre and there shall be a maximum of five (5) animals per acre for tracts less than ten (10) acres. There shall be a minimum of 625 square feet of pen area dedicated to each animal. There shall be a minimum setback of 75 feet from all property lines to pens, corrals, barns, or other structures housing animals. All runoff must be contained on-site.

Subsistence Poultry Farming may occur on any appropriately zoned lot, but there shall be no more than 25 fowl per acre on tracts less than two (2) acres and there shall be no more than 50 fowl per acre on lots larger than two (2) acres but less than ten (10) acres. There shall be a minimum setback of 75 feet from all property lines to pens, corrals, barns, or other structures housing animals. All runoff must be contained on-site. Free range poultry shall only be allowed on tracts larger than 2 acres.

SECTION 417 – DENSITY ALSO CONTROLLED IN OTHER ORDINANCES

The densities and lot areas as defined in this ordinance are to be considered *maximum* densities and *minimum* lot areas. Other ordinances adopted by the Benton County Board of Supervisors may place additional restrictions on the density of development, especially for conditional uses in A-1, and all uses in R-1, R-2, and R-3. As such, maximum densities and minimum lot areas as provided in this ordinance may not be achievable.

ARTICLE V: RURAL DISTRICT (A-1)

SECTION 500 – PURPOSE OF THIS DISTRICT

The purpose of this district is to preserve areas for non-intensive agricultural uses and to permit a wide variety of other uses in rural sections of the County. It is the intent of this Ordinance that such districts be located primarily in those areas of Benton County that are not served by a public or any other approved sewer system. However, **each residential, commercial, industrial or public/quasi-public land use in this district shall have an on-site wastewater disposal system approved by the State Health Department and permitted by the County** Development of subdivisions in this district is allowed with access to adequate infrastructure and/or Health Department approved on-site wastewater treatment facilities. Areas zoned A-1 that are located near the more urbanized areas of the county and have adequate water and sewer facilities may be considered for rezoning to higher density zones.

SECTION 501 – LAND USES PERMITTED OUTRIGHT

A. Any Single-family detached or factory-built dwelling. (Manufactured homes must have been constructed no more than twenty years previous to the date they are to be placed.)

B. Accessory buildings and structures associated with the use of the land.

C. Breeding, raising, and feeding of grazing livestock including horses, cattle, sheep, goats, mules, etc., except for feedlots as defined by this Ordinance.

D. Subsistence hog farming.

E. Breeding, raising and feeding of chickens, ducks, turkeys, geese, or other fowl except for commercial poultry farms.

F. Forestry and horticultural uses including row crops.

G. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities or utilities subject to the provisions of Section 402 of this Ordinance

SECTION 502 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Manufactured Homes constructed between June 15, 1976 and twenty years and one day previous to the day they are placed
B. C-1 and C-2 Commercial uses.

C. Single Family Residential subdivisions.

D. I-1 Industrial uses.

E. Sale of fireworks.

F. Public or quasi-public facilities and utilities in compliance with Section 402 and other regulations of this Ordinance.
G. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of same.

SECTION 503 – PROHIBITED USES

A. Commercial Feedlots.

B. Commercial Poultry Farms.

C. Junk/Salvage Yards.

D. I-2 Industrial uses

E. Manufactured Housing Subdivisions and Parks.

SECTION 504 – DIMENSIONAL REQUIREMENTS

504.01 Maximum Building Height: 35 feet unless greater height is specifically approved by the Board of Supervisors at the time a site plan is approved. There shall be no height limitations for barns and agricultural storage buildings provided they do not contain space intended for human occupancy.

504.02 Maximum Density: One (1) unit per gross acre.

504.04 Minimum Lot Width and Yards: No minimum lot widths or yards are required for A-1 zones for uses permitted outright. However, all uses permitted as conditional uses shall require Site Plan Review.

503.05 Minimum Yard/Setback:

A. Front yard: 30 feet.
B. Side yards: 10 feet.
C. Rear yard: 10 feet

504.06 Buffer and Screening Requirements: Abutting Use Districts: Not Applicable
Min Width: N/A Min Height: N/A

SECTION 505 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE VI: AGRICULTURAL DISTRICT (A-2)

SECTION 600 – PURPOSE OF THIS DISTRICT

The purpose of this district is to preserve areas for agricultural uses and to permit a wide variety of other uses in rural sections of the County. It is the intent of this Ordinance that such districts be located primarily in those areas of Benton County that are not served by a public or any other approved sewer system. However, each residential, commercial, industrial or public/quasi-public land use in this district shall have an on-site wastewater disposal system approved by the State Health Department and permitted by the county. Development of subdivisions in this district is allowed with access to adequate infrastructure and/or Health Department approved on-site wastewater treatment facilities. Areas zoned A-2 that are located near the more urbanized areas of the County may be considered a transitional area and may be considered for rezoning.

SECTION 601 – LAND USES PERMITTED

A. All uses permitted outright in A-1 Agricultural General district.

SECTION 602 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Any conditional uses permitted in A-1 Agricultural District.

B. Industrial uses, including light and heavy uses as defined by this Ordinance.

C. Single-Family Residential Subdivisions.

D. Manufactured Housing Subdivisions.

E. Commercial Feedlots.

F. Commercial Poultry Farms.

G. Junk/Salvage Yards.

SECTION 603 – DIMENSIONAL REQUIREMENTS

603.01 Maximum Building Height: 35 feet. There shall be no height limitations for barns and agricultural storage buildings provided they do not contain space intended for human occupancy.

603.02 Minimum Lot Area: One (1) acre for conditional uses.

603.03 Minimum Lot Width and Yards: No minimum lot widths or yards are required for A-2 zones for uses permitted outright. However, all uses permitted as conditional uses shall require Site Plan Review.

603.04 Minimum Yard/Setback:

A. Front yard: 30 feet.

B. Side yards: 10 feet.

C. Rear yard: 10 feet.

604.05 Buffer and Screening Requirements: Abutting Use Districts: Not Applicable
Min Width: N/A Min Height: N/A

SECTION 604 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE VII: RESIDENTIAL ESTATE DISTRICT (RE)

SECTION 700 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide for large lot, low-density residential development. Residential Estate Districts may be located in areas that do or do not have public or any other approved sewerage. It is also the purpose of this district to protect the rural character and natural resources of Benton County while also protecting property of residents living in existing Residential Estate subdivisions or other large lot developments.

SECTION 701 – LAND USES PERMITTED

A. Single-family detached dwellings with only one dwelling per lot.

B. Accessory uses and structures associated with the use of land for residential purposes.

C. Public or private recreational or open space facilities, excluding country clubs and the like, which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 402 of this Code.

D. Breeding, raising, and feeding of grazing livestock including horses, cattle, sheep, goats, mules, etc., except for commercial feedlots as defined by this Ordinance.

E. Breeding, raising and feeding of chickens, ducks, turkeys, geese, or other fowl except for commercial poultry farms.

SECTION 702 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Child care facilities.

B. Inns or “bed and breakfast inns.”

C. Private conference centers.

D. All office-type uses.

E. Use of manufactured home may be allowed in the following hardship, temporary or emergency situations:

1. Cases in which a manufactured home is needed in order for a person or family member to take care of another family member by reason of advanced age, physical disability, medical or mental problems/hardships so long as the condition exists.

2. Cases in which a property owner wishes to build his home on a lot while temporarily living in a manufactured home. A one year limit is required on each such conditional use.

3. Cases in which an owner wishes to rebuild his home damaged by fire or natural disaster while temporarily living in a manufactured home. A one year time limit is required on each such conditional use.

4. Cases where emergency housing is needed. A one year time limit is required on each such conditional use.

F. Public or quasi-public facilities and utilities in conformance with Section 402 and other regulations of this Code.

G. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 703 – DIMENSIONAL REQUIREMENTS

703.01 Maximum Building Height: 35 feet.

703.02 Minimum Lot Area: One (1) acre.

703.03 Minimum Lot Width: 100 feet.

703.04 Minimum Yard/Setback:

A. Front yard: 30 feet.

B. Side yards: 10 feet.

C. Rear yard: 25 feet.

703.05 Buffer and Screening Requirements: Abutting Use Districts: A-1 and A-2
Min Width: 20 ft. Min Height: 6 ft.

SECTION 704 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE VIII: RESIDENTIAL LOW DENSITY DISTRICT (R-1)

SECTION 800 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide areas for the development of low density, single-family detached dwellings and related compatible uses in relatively spacious surroundings which provide ample, usable open space for leisure time activities. No new single-family residential subdivisions, shall be developed in R-1 districts after the effective date of this Ordinance without public or any other approved sewerage. It is the further intent that development support and protect the rural character and natural resources of Benton County while providing for limited low-density residential development that is consistent with the principles emphasized in the Benton County Comprehensive Plan. The clustering of development is allowed in this district, with the provision that land be set aside for open space.

SECTION 801 – LAND USES PERMITTED

A. Single-family detached dwellings with only one dwelling per lot.

B. Accessory uses and structures associated with the use of the land for residential purposes.

C. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 402 of this Ordinance.

SECTION 802 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Inns or "bed and breakfast inns."

B. Public or quasi-public facilities and utilities in conformance with Section 402 and other regulations of this Ordinance.

C. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 803 – DIMENSIONAL REQUIREMENTS

803.01 Maximum Building Height: 35 feet.

803.02 Minimum Lot Area:

With Clustering:	20,000 square feet, 15% open space required.
Without Clustering:	33,500 square feet.

803.03 Maximum Overall Density: 1.3 units per gross acre.

803.04 Minimum Lot Width: 80 feet.

803.04 Minimum Yards/Setback:

A. Front yard: 30 feet.

B. Side yards: 8 feet, except where a larger side yard is required to meet buffer yard standards as set forth in Section 404.

C. Rear yard: 25 feet.

803.06 Buffer and Screening Requirements: Abutting Use Districts: A-1, A-2, RE
Min Width: 20 ft. Min Height: 6 ft.

SECTION 804 – REQUIRED OPEN SPACE RESERVATION FOR CLUSTERING

Where a developer proposes a clustered R-1 subdivision, the developer shall provide common open space amounting to fifteen percent (15%) of the total gross area of the subdivision. Such common open space shall consist of land reserved exclusively for the recreational use of the residents of the R-1 subdivision. The Development Plan shall indicate the location and area (in acres) to be so reserved or dedicated for open space or recreational facilities.

804.01 Maximum Amount of Common Open Space Covered by Water: No more than fifty percent (50%) of the required amount of open space may be covered by lakes or ponds.

804.02 Steep Slopes: In reviewing the preliminary subdivision plat for a proposed clustered R-1 subdivision, the Board of Supervisors shall determine if any land containing slopes of twelve percent (12%) or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope of land. The Board of Supervisors shall decide whether or not any steep slope land should be approved for use in meeting the requirements of this Section.

804.03 Physical Improvements: Common open space shall be suitably improved for the intended use, but open space containing natural features worthy of preservation may be left unimproved if such unimproved areas are approved by the Board of Supervisors as part of the preliminary subdivision plat review process. All open space improvements shall be shown on the sketch subdivision plat or development plan (precise locations and dimensions and proposed use). Open space improvements may include pedestrian or bicycle trails, tennis courts, recreational buildings, swimming pools, parks and playgrounds or similar facilities.

804.04 Staged Development of a Clustered R-1 Subdivision: If a clustered R-1 subdivision is to be developed in stages or parts, fifteen percent (15%) of each part must be reserved for open space. However, in order to provide usable open space, the amount reserved shall not be less than one (1) acre. Thus, if a developer proposes to ultimately develop 20 acres of land for homes and the first phase will only contain five acres, the developer must reserve at least one (1) acre for open space for the first part - even though 15% of 5 acres is only 0.75 acres. If the second part consists of 15 acres, the developer shall reserve 15% of the second part of 2.25 acres, in addition to the one acre reserved for the first phase; thus, the total open space reserved for the 20 acre tract developed in two phases would be 3.25 acres.

804.05 Maintenance/Liability in the Operation and Use of Common Open Space and Recreational Areas: Authority granted by Benton County for the development of a clustered R-1 subdivision shall not be construed as nor constitute an obligation of the part of Benton County either for maintenance or liability in the operation and use of common open space and recreational facilities located in the subdivision.

At the time the application for the final subdivision plat is submitted for the clustered R-1 subdivision, the developer shall submit with his application for final plat approval a legal instrument or instruments which state that the responsibility for liability insurance, taxes, and maintenance of open space and other common facilities shall rest with the owners of the several lots or parcels of land located within the R-1 subdivision. In order to insure the integrity of the open space so that it will remain genuinely open, the legal instrument(s) shall specify that the open space restrictions are permanent, not just for a period of years.

SECTION 805 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE IX: RESIDENTIAL MEDIUM DENSITY DISTRICT (R-2)

SECTION 900 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide areas for the development of medium density residential uses in relatively spacious surroundings. Any area zoned R-2 Residential Medium Density shall have public or any other approved sewerage. The clustering of development is allowed in this district, with the provision that land be set aside for open space.

SECTION 901 – LAND USES PERMITTED

A. Single-family detached dwellings with only one dwelling per lot.

B. Accessory uses and structures associated with the use of the land for residential purposes.

C. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 402 of this Code.

SECTION 902 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Modular homes with only one dwelling per lot.

B. Duplexes.

C. Public or quasi-public facilities and utilities in compliance with Section 402 and other regulations of this Code.

D. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 903 – DIMENSIONAL REQUIREMENTS

903.01 Maximum Building Height: 35 feet.

903.02 Minimum Lot Area:

With Clustering: 7,500 square feet, 15% open space required.
Without Clustering: 13,000 square feet.

903.03 Maximum Overall Density: 3.3 units per gross acre.

903.03 Minimum Lot Width: 60 feet.

903.04 Minimum Yards/Setback:

A. Front yard: 20 feet.

B. Side yards: 5 feet, except where a larger side yard is required to meet buffer yard standards as set forth in Section 404.

C. Rear yard: 20 feet.

903.05 Buffer and Screening Requirements: Abutting Use Districts: A-1, A-2, RE, R-1
Min Width: 20 ft. Min Height: 6 ft.

SECTION 904 – REQUIRED OPEN SPACE RESERVATION FOR CLUSTERING

Where a developer proposes a clustered R-2 subdivision, the developer shall provide common open space amounting to fifteen percent (15%) of the total gross area of the subdivision. Such common open space shall consist of land reserved exclusively for the recreational use of the residents of the R-2 subdivision. The Development Plan shall indicate the location and area (in acres) to be so reserved or dedicated for open space or recreational facilities.

904.01 Maximum Amount of Common Open Space Covered by Water: No more than fifty percent (50%) of the required amount of open space may be covered by lakes or ponds.

904.02 Steep Slopes: In reviewing the preliminary subdivision plat for a proposed clustered R-2 subdivision, the Board of Supervisors shall determine if any land containing slopes of twelve percent (12%) or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope of land. The Board of Supervisors shall decide whether or not any steep slope land should be approved for use in meeting the requirements of this Section.

904.03 Physical Improvements: Common open space shall be suitably improved for the intended use, but open space containing natural features worthy of preservation may be left unimproved if such unimproved areas are approved by the Board of Supervisors as part of the preliminary subdivision plat review process. All open space improvements shall be shown on the sketch subdivision plat or development plan (precise locations and dimensions and proposed use). Open space improvements may include pedestrian or bicycle trails, tennis courts, recreational buildings and swimming pools or similar facilities.

904.04 Staged Development of a Clustered R-2 Subdivision: If a clustered R-2 subdivision is to be developed in stages or parts, fifteen percent (15%) of each part must be reserved for open space. However, in order to provide usable open space, the amount reserved shall not be less than one (1) acre. Thus, if a developer proposes to ultimately develop 20 acres of land for homes and the first phase will only contain four acres, the developer must reserve at least one (1) acre for open space for the first part - even though 15% of 4 acres is only 0.6 acres. If the second part consists of 16 acres, the developer shall reserve 15% of the second part, 2.4 acres, in addition to the one acre reserved for the first phase; thus, the total open space reserved for the 20 acre tract developed in two phases would be 3.4 acres.

904.05 Maintenance/Liability in the Operation and Use of Common Open Space and Recreational Areas: Authority granted by Benton County for the development of a clustered R-2 subdivision shall not be construed as nor constitute an obligation of the part of Benton County either for maintenance or liability in the operation and use of common open space and recreational facilities located in the subdivision.

At the time the application for the final subdivision plat is submitted for the clustered R-2 subdivision, the developer shall submit with his application for final plat approval a legal instrument or instruments which state that the responsibility for liability insurance, taxes, and maintenance of open space and other common facilities shall rest with the owners of the several lots or parcels of land located within the R-2 subdivision. In order to insure the integrity of the open space so that it will remain genuinely open, the legal instrument(s) shall specify that the open space restrictions are permanent, not just for a period of years.

SECTION 905 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE X: RESIDENTIAL HIGH DENSITY DISTRICT (R-3)

SECTION 1000 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide areas for the development of higher density multiple family (i.e., three or more) residential uses with adequate, usable open space to prevent overcrowding. It is the intent of this Ordinance that these districts be carefully located only in areas where the infrastructure of the County (i.e., the road/highway system, storm drainage and water and sanitary sewer systems) is adequate to serve such higher density housing. The use of this district is appropriate as a transition between low density (R-1) or medium density (R-2) residential districts and higher intensity uses, such as commercial uses or light industrial (I-1) uses, that are not compatible with lower density residential environment. All apartment developments shall front upon at least one road or highway that is classified as an arterial or approved collector street.

SECTION 1001 – LAND USES PERMITTED

A. Any use permitted in R-2, subject to R-2 regulations.

B. Two-unit townhouses (i.e., townhouses that are part of a townhouse subdivision in which the occupant owns both the individual townhouse unit and the lot on which the townhouse is constructed; property lines between such townhouses extend through the center of party walls separating the individual single-family dwellings).

C. Multiple family dwellings including apartments as defined in Article II.

D. Accessory uses or structures in multiple family residential complexes, including laundromats, vending machine centers, recreational buildings, swimming pools, tennis courts, and similar uses and structures incidental to multiple family buildings. Such uses and structures shall be reserved exclusively for use by residents and guests of residents of the multiple family complex.

SECTION 1002 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Child care facilities.

B. Three or four-family townhouses (i.e., townhouses that are part of a townhouse subdivision in which the occupant owns both the individual townhouse unit and the lot on which the townhouse is constructed; property lines between such townhouses extend through the center of party walls separating the individual single-family dwellings).

C. Two, three or four-unit condominiums.

D. Public or quasi-public facilities and utilities in compliance with Section 402 and other regulations of this Ordinance.

E. Extraction of minerals, including sand and gravel, provided that when “open-pit” operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 1003 – DIMENSIONAL REQUIREMENTS

1003.01 Maximum Height: 35 feet unless greater height is specifically approved by the Board of Supervisors at the time the site plan is approved.

1003.02 Minimum Size of Development: Two (2) acres.

1003.03 Maximum Density: 8 dwelling units per gross acre.

1003.04 Minimum Yards/Setbacks:

All yard shall be a landscaped open area with no encroachments permitted including parking lots, patios, swimming pools, or other paved areas except for entrance/exit driveways in Front Yards only.

A. Front yard: 40 feet.

B. Side and rear yards: 25 feet from each side lot line or rear lot line to any building, except where a side or rear lot line abuts an R-1 or R-2 district, in which case the side or rear yard shall be 50 feet from any building to the lot line abutting the R-1 or R-2 district. Furthermore, all yards must meet the buffer yard standards set forth in Section 404.

1003.05 Minimum Space between Buildings: No principal building or accessory building shall be constructed nearer than thirty (30) feet to any other principal building or accessory building.

1003.06 Buffer and Screening Requirements: All Agricultural and Residential Districts
Min Width: 20 ft. Min Height: 6 ft.

SECTION 1004 – REQUIRED OPEN SPACE RESERVATION

A minimum of thirty percent (30%) of the gross site area to be developed for a high-density residential development shall be devoted to open space. In calculating this open space requirement, the front, side and rear yards may be included. Parking lots and driveways, however, may not be included in calculating this required open space. The development plan shall indicate the location and area (in acres) to be so reserved or dedicated for open space or recreational facilities.

1004.01 Maximum Amount of Common Open Space Covered by Water: No more than fifty percent (50%) of the required amount of open space may be covered by lakes or ponds.

1004.02 Steep Slopes: In reviewing the development plan for a proposed high density residential development, the Board of Supervisors shall determine if any land containing slopes of twelve percent (12%) or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope land. The Board of Supervisors shall determine whether or not any steep slope land should be approved for use in meeting the requirements of this Section.

1004.03 Physical Improvements: Common open space shall be suitably improved for the intended use, but open space containing natural features worthy of preservation may be left unimproved if such unimproved areas are approved by the Board of Supervisors as part of the site plan review process. Open space improvements may include pedestrian or bicycle trails, tennis courts, recreational buildings and swimming pools or similar facilities.

1004.04 Maintenance/Liability in the Operation and Use of Common Open Space Areas: Authority granted by Benton County for the development of an high density residential development shall not be construed as, nor constitute, an obligation on the part of Benton County either for maintenance or liability in the operation and use of common open space and recreational facilities located in the property.

At the time the application for the final site plan is submitted for a high density residential development, the developer shall submit with his application for final plat approval a legal instrument or instruments which state that the assumption of liability insurance, taxes and maintenance of open space and other common facilities shall rest with the owners of the complex, a management company or a homeowners association. In order to insure the integrity of the open space so that it will remain genuinely open, the legal instrument(s) shall specify that the open space restrictions are permanent, not just for a period of years.

SECTION 1005 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XI: COMMERCIAL LOW DENSITY DISTRICT (C-1)

SECTION 1100 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide relatively quiet, attractive, and spacious areas for the development of non-retail restricted commercial uses that do not generate substantial volumes of vehicular traffic (i.e., generally, not more than approximately 70 average daily trips per 1,000 square feet of Gross Floor Area according to the National Cooperative Highway Research Program Report #187 or the latest edition of the Institute of Transportation Engineers manual entitled *Trip Generation*.) This district is intended to encourage high quality office park development and to serve as a transition zone between residential uses and higher intensity commercial uses or arterial streets. These districts are appropriate for the fringes of retail districts.

SECTION 1101 – LAND USES PERMITTED

A. Professional offices and clinics of all types.

B. Privately-owned and operated museums, libraries, galleries, and similar facilities.

C. Residential care facilities and ancillary uses commonly associated with any permitted use.

D. Any other use which the Board of Supervisors determine to be of the same character and nature as those specifically permitted above.

E. Office parks.

SECTION 1102 – CONDITIONAL USES AND STRUCTURES AS PROVIDED UNDER SECTION 1905

A. Business-related retail and service establishments not to exceed twenty-five (25%) of the leasable area of any office building or not to exceed 10,000 square feet if freestanding. Permitted uses include, but are not limited to, office supply stores, office equipment dealers, telecommunication equipment sales and service companies, computer stores and services, blueprint and copy services, graphics supply and equipment dealers; private employment agencies; travel agencies; emergency health care clinics; child care facilities; and totally enclosed health club facilities.

B. Restaurants, cafeterias, delicatessens, coffee shops and carry-out food establishments if located within an office building.

C. Educational and technical training facilities of all types except for those which require outdoor space and/ or industrial type structures or those that involve trucking or similarly sized equipment; included are conference center facilities.

D. Condominiums and loft-style apartments that are developed in connection with commercial establishments.

E. Public or quasi-public facilities and utilities in compliance with Section 402 of this Zoning Ordinance.

F. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 1103– DIMENSIONAL REQUIREMENTS

1103.01 Maximum Building Height: 35 feet.

1103.02 Minimum Lot Area: No minimum lot area is required.

1103.03 Minimum Lot Width: 60 feet.

1103.04 Minimum Yards/Setbacks:

A. Front yard: 40 feet. The first ten (10) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain open except for entrance/ exit driveways and shall be landscaped; no parking shall be permitted in driveways.

B. Side yards where NOT abutting an agricultural or residential district or residential use: 10 feet; the first five (5) feet inside this side yard setback (adjacent to the property line) shall be landscaped. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

C. Rear yards where NOT abutting an agricultural or residential district or residential use: 20 feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

D. Side yards and rear yards where abutting any agricultural or residential district or residential use: 20 feet, which shall meet the minimum buffer yard standards set forth in Section 404. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways, parking lots, or other paved areas.

1103.05 Minimum Space between Buildings on the Same Lot: 30 feet. No more than two-thirds (2/3) of the space between such buildings shall be paved; the remaining area shall be landscaped.

1103.06 Buffer and Screening Requirements: Abutting Use Districts: All Agricultural and Residential Districts

Min Width: 30 ft. Min Height: 6 ft.

SECTION 1104 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XII: COMMERCIAL MEDIUM DENSITY DISTRICT (C-2)

SECTION 1200 – PURPOSE OF THIS DISTRICT

The purpose of this district is to promote the development of well-planned shopping centers and independent commercial uses within carefully selected areas of Benton County. The commercial activities permitted in this district include uses of a higher intensity than those first allowed in Commercial Low Density (C-1). Although shopping center uses permitted in this zone require access to an arterial street, such uses are not "highway oriented" like those first allowed in the Commercial High Density District (C-3). Uses first permitted in C-3 Commercial High Density district shall not be permitted in the C-2 district.

It is also the intent of this district that commercial uses permitted in C-2 districts be generally limited to those in which services performed and merchandise offered for sale be conducted or displayed entirely within enclosed structures as defined by this Ordinance.

It is the intent of this Ordinance that shopping centers and independent commercial uses be developed so that pedestrian and vehicular circulation is coordinated with the circulation patterns of adjacent properties in the vicinity that are also affected. In order to facilitate access between adjoining properties and to reduce the number of curb cuts onto arterial streets, the installation of a service drive shall be considered in connection with any independent commercial use (i.e., a commercial use that is not a part of a shopping center) proposed in this district.

SECTION 1201 – LAND USES PERMITTED

A. All uses allowed in C-1 Commercial low density district.

B. Commercial uses in which services performed and merchandise offered for sale are conducted or displayed within enclosed structures, except for the display of small articles (i.e., those that can generally be hand-carried by one or two persons) outside of the commercial use.

C. Convenience stores

D. Shopping centers located on minimum sites of three (3) acres on an existing or proposed arterial street as shown on the adopted Transportation Plan; shopping centers may contain any of the uses permitted outright in C-2 zones.

E. Veterinary clinics and pet shops, excluding outside runs.

F. Any other use which the Board of Supervisors determine to be of the same character and nature as those specifically permitted above.

SECTION 1202– CONDITIONAL USES AND STRUCTURES AS PROVIDED UNDER SECTION 1905

A. Plant nurseries.

B. Building materials sales where some or all such materials are displayed outdoors or are visible from roads or highways.

C. Condominiums and loft-style apartments that are developed in connection with commercial establishments.

D. Country stores.

E. Pawn Shops.

E. Tattoo Parlors.

F. Title loan and check cashing establishments.

G. Recreational Vehicle (RV) developments.

H. Hotels and Motels.

I. Businesses purchasing gold or other precious metals as a primary business.

J. Commercial recreational and entertainment enterprises in which all or part of the activities are conducted out-of-doors, such as golf driving or putting courses, water amusement parks, drive- in theaters, etc.

K. Veterinary clinics and hospitals with outside dog runs.

L. Public or quasi-public facilities and utilities in compliance with 402 and other regulations of this Ordinance.

M. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 1203 – DIMENSIONAL REQUIREMENTS

1203.01 Maximum Building Height: 35 feet, unless greater height is approved by the Board of Supervisors.

1203.02 Minimum Lot Area:

A. Shopping centers: Three (3) acres.

B. Independent commercial uses: 30,000 square feet.

1203.03 Minimum Lot Width:

A. Shopping centers: 200 feet.

B. Independent commercial uses: 100 feet.

1203.04 Minimum Yards/*Setbacks*: The minimum yard requirements for all uses permitted in a C-2 district shall be as follows:

A. Front yard: 40 feet. The first ten (10) feet inside this front yard setback shall remain open except for entrance/ exit driveways and shall be landscaped; no parking shall be permitted in driveways within the first ten (10) feet of the front yard setback.

B. Side yards where not abutting an agricultural or residential district or residential use: fifteen (15) feet; the first five (5) feet inside this side yard setback adjacent to the property line) shall be landscaped. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas. Furthermore, all yards must meet the buffer yard standards set forth in Section 404.

C. Rear yards where not abutting an agricultural or residential district or residential use: twenty (20) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas. Furthermore, all yards must meet the buffer yard standards set forth in Section 404.

D. Side yards and rear yards where abutting any agricultural or residential district or residential use: 20 feet, which shall meet all minimum buffer yard standards set forth in Section 404. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways, parking lots, or other paved areas.

1203.05 Minimum Space between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (2/3) of the space between such buildings shall be paved; the remaining area shall be landscaped.

1203.06 Buffer and Screening Requirements: Abutting Use Districts: All Agricultural, Residential and C-1 Districts

Min Width: 30 ft. Min Height: 6 ft.

SECTION 1204 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XIII: COMMERCIAL HIGH DENSITY DISTRICT (C-3)

SECTION 1300 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide relatively spacious areas for the development of vehicle-oriented commercial activities which typically require direct auto traffic access and visibility from major transportation. This district is intended to encourage those commercial activities which function relatively independent of intensive pedestrian traffic and proximity to other commercial establishments. In accordance with the adopted Goals and Objectives of the Comprehensive Plan of Benton County, the outdoor commercial uses (i.e., those in which all or much of the business is conducted out-of-doors) first permitted outright in this district shall be located well away from all residential uses.

These districts are appropriate for the fringes of retail districts and only along major transportation designated as arterial roads on the adopted Transportation Plan. Uses first permitted in I-1 Light Industrial districts, and I-2 Heavy Industrial districts shall not be permitted in C-3 districts.

SECTION 1301 – LAND USES PERMITTED

A. Any use permitted in the C-2 Commercial Medium Density District, subject to all regulations of that District.

B. Boat and marine sales, rental/lease, and service.

C. Warehousing and storage, provided that all storage is within enclosed structures; such as mini-warehouses.

D. Country stores.

E. Veterinary Clinics and hospitals with outside dog runs.

F. Other similar enterprises or businesses of the same nature which are not more obnoxious or detrimental to the welfare of the particular area than the enterprises permitted above, not to include those uses which are first permitted in the I-1 District.

SECTION 1302 – CONDITIONAL USES AND STRUCTURES AS PROVIDED UNDER SECTION 1905

A. Commercial recreational and entertainment enterprises in which all or part of the activities are conducted out-of-doors, such as golf driving or putting courses, water amusement parks, drive-in theaters, etc.

B. Heavy construction equipment sales and service.

C. Manufactured home and recreational vehicle sales and service.

D. Truck stops.

E. Vehicle sales, rental or lease and vehicle service.

F. Hotels and Motels

G. Sale of fireworks.

H. Public or quasi-public facilities and utilities in compliance with Section 402 and other regulations of this Ordinance.

I. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 1303 – DIMENSIONAL REQUIREMENTS

1303.01 Maximum Building Height: 35 feet, unless greater height is approved by the Board of Supervisors.

1303.02 Minimum Lot Area:

A. Shopping centers: three (3) acres.

B. Independent commercial uses: 10,000 square feet.

1303.03 Minimum Lot Width: 100 feet.

1303.04 Minimum Yards/Setbacks:

A. Front yard: Forty (40) feet. The first ten (10) feet inside this front yard setback shall remain open except for entrance/exit driveways and shall be landscaped; no parking shall be permitted in these driveways.

B. Side yards and rear yards where NOT abutting an agricultural or residential district or residential use: Twenty (20) feet; the first five (5) feet inside this side or rear yard setback (adjacent to the property line) shall be landscaped. Furthermore, all yards must meet the buffer yard standards set forth in Section 404.

D. Side yards and rear yards where abutting an agricultural or residential district or residential use: 20 feet, which shall meet all minimum buffer yard standards set forth in Section 404.

1303.05 Minimum Space between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (2/3) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with standards adopted by Benton County.

1303.06 Buffer and Screening Requirements: Abutting Use Districts: All Agricultural, Residential and C-1 Districts

Min Width: 30 ft. Min Height: 6 ft.

SECTION 1304 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XIV: LIGHT INDUSTRIAL DISTRICT (I-1)

SECTION 1400 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide areas for the exclusive development of light manufacturing and industrial uses within enclosed structures. It is the intent of this Ordinance that I-1 land uses be compatible with abutting districts, such as commercial districts, which will serve as transitional zones between the industrial uses and the lower intensity residential uses. The uses permitted in I-1 districts shall generate no objectionable odor, smoke, fumes, vibration, or excessive noise. Such light industrial and related uses shall be located only in areas directly accessible to major transportation or railroads. It is further the intent of this Ordinance that encroachment by all residential uses be prohibited.

SECTION 1401 – LAND USES PERMITTED

The following land uses shall be permitted in I-1 districts, provided such uses conform to standards established by appropriate Federal and State regulatory agencies:

A. Any uses permitted in C-2 and C-3 districts, subject to all regulations of the C-2 and C-3 Districts.

B. Light or limited manufacturing conducted wholly within completely enclosed buildings, except that the temporary storage of articles, materials, or other matter to be processed, assembled, or otherwise changed may be permitted if adequately screened or buffered. The manufacturing activities conducted in I-1 districts shall, in general, be dependent upon raw materials refined elsewhere. The following light manufacturing uses shall be permitted, provided they are not offensive to neighboring land uses due to the emission of dust, gas, smoke, noise, fumes, odors, vibrations, fire hazards, or other objectionable influences.

C. Processing, canning, packaging and other treatment of food products, including: bakery products, confectionary and related products, fruit and vegetable products, fish, poultry and other meat products, excluding the rendering or refining of fats and oils and the slaughtering of animals.

D. Manufacturing, assembly or other treatment of products from the following secondary materials (previously prepared or refined materials): plastics, glass, paper, precious or semi- precious metals or stones, tobacco, and wood (excluding sawmills).

E. Fabrication of metal products including the manufacture of: machinery (engines and turbines, farm machinery and equipment, etc.); electrical equipment and supplies; transportation equipment (including motor vehicles and parts, aircraft and parts, motorcycles, bicycles and parts, etc.); and other secondary metal manufacturing such as metal cans, cutlery, hand tools, and general hardware, heating apparatus and plumbing fixtures, metal stamping, fabricated wire products, and coating, engraving and allied services.

F. Manufacturing of pottery or similar ceramic products (using only previously prepared or pulverized clay).

G. Manufacturing of professional, scientific, and controlling instruments; photographic or optical goods; watches and clocks.

H. Manufacturing of textile mill products, including broad and narrow woven fabrics and other small wares (cotton, man-made fibers, silk and wool), floor coverings (rugs and carpets), yarns and similar products.

I. Manufacturing of apparel and other finished products made from fabrics, leather, fur and similar materials.

J. Assembly, painting, upholstering and similar activities in connection with automobiles, trucks, farm machinery, mobile homes and related products.

K. Warehousing and storage; such warehousing may include the storage of goods manufactured on the premises as well as goods manufactured off the site, including mini-warehouses.

L. Dwellings for resident watchmen and caretakers employed on the premises of the primary permitted use.

M. Other similar enterprises which are of the same character and nature as those specifically permitted above, but not to include those uses first permitted in the I-2 Heavy Industrial district.

SECTION 1402 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Television and radio transmitters.

B. Public and quasi-public facilities and utilities may be allowed in this district in compliance with Section 402 of this Ordinance and subject to any limitations and restrictions deemed necessary by the Board of Supervisors.

C. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 1403 – DIMENSIONAL REQUIREMENTS

1403.01 Maximum Building Height: 35 feet, unless greater height is approved by the Board of Supervisors.

1403.02 Minimum Lot Area: 20,000 square feet.

1403.03 Minimum Lot Width: 100 feet.

1403.04 Minimum Yards/Setbacks:

A. Front yard: 50 feet. The first ten (10) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain open except for entrance/exit driveways and shall be landscaped; no parking shall be permitted in driveways within the first ten (10) feet of the front yard setback.

B. Side yards where not abutting an agricultural or residential district or residential use: fifteen (15) feet; the first five (5) feet inside this side yard setback (adjacent to the property line) shall be landscaped. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas. Except where a larger yard is required to meet buffer yard standards as set forth in Section 404, then the minimum yard size must meet buffer yard standards.

C. Rear yards where not abutting an agricultural or residential district or residential use: twenty (20) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas. Except where a larger yard is required to meet buffer yard standards as set forth in Section 404, then the minimum yard size must meet buffer yard standards.

D. Side yards and rear yards where abutting an agricultural or residential district or residential use: 30 feet, which shall meet all minimum buffer yard standards set forth in Section 404. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways, parking lots, or other paved areas.

1403.5 Minimum Space between Separate (Detached) Buildings on the Same Lot: 30 feet, No more than two-thirds (2/3) of the space between such buildings shall be landscaped.

1403.6 Buffer and Screening Requirements:	Abutting Use Districts:	All Districts except I-2
	Min Width: 40 ft.	Min Height: 6 ft.

SECTION 1404 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XV: HEAVY INDUSTRIAL DISTRICT (I-2)

SECTION 1500 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide areas for the exclusive development of industrial uses involving manufacturing activities that are conducted out-of-doors or storage of materials out-of-doors. This district also includes manufacturing uses that use large amounts of water to process products or discharge large volumes of wastewater into the sewage system. These industrial uses generally have extensive space requirements and/ or generate substantial amounts of noise, vibration, odors, or possess other objectionable characteristics. It is the intent of this Ordinance that such "heavy" industrial districts be located insofar as possible adjacent only to C-3 or I-1 districts, which shall serve as transitional zones between I-2 districts and residential uses and lower intensity commercial uses. Heavy industrial uses shall be located only in areas directly accessible to major transportation or railroads.

SECTION 1501 – LAND USES PERMITTED

The land uses first permitted in I-2 districts may include those where manufacturing or storage of materials occurs outside of enclosed structures as well as those within enclosed structures, subject to the regulations of this Ordinance and standards established by appropriate Federal and State regulatory agencies. The following uses are permitted outright:

A. Any use permitted in an I-1 district, subject to I-1 regulations.

B. Manufacturing activities conducted entirely or partially out-of-doors, such as cement manufacturing and sawmills.

C. Warehousing uses.

D. Television and radio transmitters.

E. Any other use which the Board of Supervisors determine to be of the same character and nature as those specifically permitted above.

SECTION 1502 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Any conditional use listed under I-1 district regulations, subject to I-1 regulations.

B. Primary metal manufacturing, including: blast furnaces, steel works, and the rolling and finishing of ferrous metals; iron and steel foundries; primary smelting and refining of non-ferrous metals; and similar activities.

C. Any manufacturing activity requiring large amounts of water for processing or discharging large amounts of waste or by-products into the sewer system.

D. Mining, quarrying and crude petroleum and natural gas production (including sand and gravel pits and rock-crushing operations). When "open-pit" mining operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide the Board of Supervisors with written proof of same.

E. Salvage yards and auto wrecking yards.

F. Public and quasi-public facilities and utilities may be allowed in this district in compliance with Section 402 of this Ordinance and subject to any limitations and restrictions deemed necessary by the Board of Supervisors.

G. Any other use of a heavy industrial nature which is not otherwise prohibited by law may be initiated in I-2 districts, subject to any limitations and restrictions deemed necessary by the Board of Supervisors.

H. Adult entertainment including adult book stores, adult motion picture-theaters, peep shows, massage parlors bath houses, cabaret, and similar activities provided they are at least 2,500 feet from any church, school, kindergarten, daycare center, funeral home, public park, residence, or youth recreation center and at least 1,000 feet from any other zone.

SECTION 1503 – DIMENSIONAL REQUIREMENTS

1503.01 Maximum Building Height: 35 feet, unless greater height is approved by the Board of Supervisors.

1503.02 Minimum Lot Area: One (1) acre.

1503.03 Minimum Lot Width: 200 feet.

1503.04 Minimum Yards/Setbacks:

A. Front yard: Fifty (50) feet. The first ten (10) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain open except for entrance/exit driveways and shall be landscaped; no parking shall be permitted in driveways within the first ten feet of the front yard setback.

B. Side yards where not abutting an agricultural or residential district or residential use: fifteen (15) feet; the first five (5) feet inside this side yard setback (adjacent to the property line) shall be landscaped. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas. Except where a larger yard is required to meet buffer yard standards as set forth in Section 404, then the minimum yard size must meet buffer yard standards.

C. Rear yards where not abutting an agricultural or residential district or residential use: twenty (20) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas. Except where a larger yard is required to meet buffer yard standards as set forth in Section 404, then the minimum yard size must meet buffer yard standards.

D. Side yards and rear yards where abutting an agricultural residential district or residential use: 30 feet, which shall meet all minimum buffer yard standards set forth in Section 404. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways, parking lots, or other paved areas.

1503.05 Minimum Space between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (2/3) of the space between such buildings shall be paved; the remaining area shall be landscaped.

1503.06 Buffer and Screening Requirements: Abutting Use Districts: All Districts except I-1
Min Width: 40 ft. Min Height: 6 ft.

SECTION 1504 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XVI: SPECIAL USE DISTRICT (S-1)

SECTION 1600 – PURPOSE OF THIS DISTRICT

The purpose of this district is to provide areas for the development of special uses, which, because of their size, institutional nature and/or unique characteristics, do not fit compatibly into other zoning districts of the County. The uses permitted in S-1 districts do not include "public/quasi-public facilities and utilities" as those are defined by this Ordinance.

SECTION 1601 – LAND USES PERMITTED

A. Educational institutions, including large-scale (with campuses generally encompassing 50 acres or more) colleges and universities, religious seminaries, and technical and vocational training facilities. Uses permitted in such S-1 districts include administrative buildings/offices; educational facilities such as classrooms, libraries, laboratories, and gymnasiums; stadiums, auditoriums and coliseums; student or faculty housing; dining or food service facilities; recreational facilities such as golf courses, tennis courts, swimming pools, and similar uses; chapels and places of worship; commercial-type facilities such as bookstores, laundries, hair styling shops and similar enterprises primarily intended for the benefit of students and staff; parking lots intended primarily for staff and students of the institution; and other uses commonly associated with educational institutions. Small-scale educational uses (generally, with campuses encompassing less than 50 acres), including elementary schools and secondary schools, are not included as special uses under this article, but are regulated as public/quasi- public uses under Section 402.

B. Comprehensive elderly retirement facilities, including only those facilities which shall provide for the use of their residents the following:

    1. Residential units of varying size (i.e., number of bedrooms, different square footage depending upon the needs of the individual residents);

    2. Common dining facilities and some or all meals;

    3. Housekeeping and linen service, available if desired by the residents;

    4. Laundry services, available if desired by the residents;

    5. Commercial facilities intended primarily for the benefit of staff;

    6. Residents of the retirement facility, including such facilities as a beauty salon or barber shop, bookstores, and convenience-type commercial uses on site;

    7. Local transportation provided directly by the facility (i.e., not contracted through taxicabs, etc.) for outings for residents;

8. Recreational facilities intended primarily for the benefit of staff and residents, such as a library, meeting/game room, spa or swimming pool, etc.;

9. Security features, such as emergency pull cords in each residential unit;

10. On-site health care services and/or facilities;

11. Dwelling units for resident managers; Hospitals which are not a part of a retirement facility are not included as special uses under this article, but are regulated as public/quasi-public uses under Section 402. Furthermore, retirement facilities do not include nursing homes as defined by this Ordinance; nursing homes are regulated as public/quasi-public uses under Section 402.

C. All airports.

D. State Parks.

E. All National Forest lands.

F. Any other use which the Board of Supervisors determines to be of the same character and nature as those specifically permitted above.

SECTION 1602 – CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 1905

A. Public and quasi-public facilities and utilities may be allowed in these districts in compliance with Section 402 of this Ordinance and subject to any limitations and restrictions deemed necessary by the Board of Supervisors.

B. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required permits and approvals from other governmental entities and provide Benton County Board of Supervisors with written proof of the same.

SECTION 1603 – DIMENSIONAL REQUIREMENTS

1603.01 Maximum Height: 35 feet, unless greater height is approved by the Board of Supervisors.

1603.02 Minimum Lot Area: Minimum lot area shall be determined based upon the required Site Plan Review.

1603.03 Minimum Lot Width: Not regulated.

1603.04 Minimum Yards/Setbacks:

A. Front yard: 50 feet from the front of any proposed building to the right-of-way of any public (i.e., dedicated) street or highway; or 20 feet from the front of any proposed building to the curb or pavement line of any existing or proposed private street (i.e., circulation driveway) on the property of the S-1 use.

B. Side yards and rear yards where not abutting an agricultural or residential district or an existing single-family detached residential use: 20 feet from any property line to any building; the first five (5) feet inside this side or rear yard setback adjacent to the property shall be landscaped in accordance with the standards adopted by the County. Except where a larger yard is required to meet buffer yard standards as set forth in Section 404, then the minimum yard size must meet buffer yard standards.

C. Side yards and rear yards where abutting any single family residential district or existing single-family detached residential use: 20 feet from any property line to any building, which shall meet all minimum buffer yard standards set forth in Section 404.

1603.05 Maximum Buildable Area: Except for required minimum yards, off-street parking and loading requirements, and required distances between buildings, permitted uses may occupy as much of the site in an "S-1" district as is necessary to conduct the permitted activity.

1603.06 Minimum Space between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (2/3) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the standards adopted by the County.

1603.07 Buffer and Screening Requirements: Abutting Use Districts: All Agricultural and Residential Districts

Min Width: 20 ft. Min Height: 6 ft.

SECTION 1604 – COMPLIANCE WITH OTHER COUNTY REGULATIONS

The Developer, owner and contractor proposing a subdivision of land, commercial enterprise, apartment complex, condominium development and other developments as defined herein, and the construction, occupancy and use of any structure must also comply with the applicable requirements contained in any other ordinances adopted by the Benton County Board of Supervisors.

ARTICLE XVII: OFF-STREET PARKING REQUIREMENTS

SECTION 1700 – PURPOSE OF THIS ARTICLE

The purpose of this Article is to establish requirements regarding sufficient space for the off-street parking and, where required, parking lot landscaping. The purpose of these requirements is to reduce or avoid congestion of streets and to provide a more suitable living and working environment. Such space for parking or loading of motor vehicles, provisions for ingress and egress, and required landscaping shall be provided at the time of the erection of any principal structure, or at the time any principal structure is enlarged or increased in capacity by the addition of dwelling units, guest rooms, floor area, or seats. The responsibility for meeting the requirements established by this Ordinance shall be that of whoever establishes the use to which it is appurtenant.

SECTION 1701 – OFF-STREET PARKING

1701.01 General Requirements: Off-street parking and loading space shall be provided in accordance with the following regulations:

A. Provision of Parking Space on the Same Lot with all Residential Uses: Off-street parking space for all residential land uses shall be provided on the same parcel of land as the residential use to which the parking space is an accessory.

B. Non-residential Uses and Off-site Parking: Off-street parking space for all non-residential land uses shall be provided on the same parcel of land as the use to which the parking space is appurtenant. However, that, following site plan review by the Planning/Zoning Commission in accordance with this Ordinance, the Board of Supervisors may authorize in writing an alternative off-site location to the required parking space for such non-residential land uses if:

1. There are practical difficulties preventing the location of parking space on the same parcel; and/or

2. The public safety or the public convenience or both would be better served by the location of the required space on a parcel of land other than with the use to which it is appurtenant.

3. Sufficient parking already exists within a reasonable walking distance.

C. Provision of Access and Maneuver Space for Non-Residential Land Uses: In calculating any required parking area, other than for parking spaces required for single and two- family dwellings, sufficient access and maneuver space shall be provided to permit the parking and removal of any vehicle without moving other vehicles. Furthermore, all parking spaces shall be designed, maintained and regulated so that no parking or maneuvering incidental to parking shall be on any public street, sidewalk, or alley; and exiting will not require backing into a public street.

D. Parking Space Near Fire Hydrants: Under no circumstances shall any parking space be provided within ten (10) feet of a fire hydrant.

1701.02 Schedule of Off-Street Parking Requirements: For the purpose of this Ordinance, an "off-street parking space" shall consist of a space sufficient in size to store one full size automobile with room for opening doors on both sides. When computing parking space requirements on the basis of the number of persons expected to be on the premises of a particular land use, the average number of occupants, practitioners, patrons or employees anticipated to be on the premises shall be used. When the application of the requirements of this Section would result in a fractional space, any such fraction shall be counted as one space. In the case of mixed, compatible subcategories of land use (e.g., as shopping centers containing a grocery store, a furniture store, a motion picture theater, etc.), the parking space required by the schedule below shall equal the sum of the requirements for each of the various uses (subcategories) computed separately. Off-street space for parking and storage of vehicles shall be provided in accordance with the following schedule:

A. Residential Zones R-1, R-2, and R-3: Two spaces per dwelling unit.

B. General Business, Commercial or Service Establishments Catering to the Retail Trade: One parking space for each 350 square feet of gross floor area, except for the following prescribed uses:

1. Hotels and motels: One space for each guest room.

2. Restaurants and similar establishments serving food and beverages: One space for each 200 square feet of gross floor area devoted to patron use.

3. Business and professional offices: One space for each 500 square feet of gross floor area.

4. Furniture and appliance stores: One space for each 600 square feet of gross floor area.

5. Theaters, auditoriums and other commercial places of assembly: One space for each five fixed seats.

6. "Drive-in service" establishments, such as drive-in banking, drive-in "windows" for restaurants, dry-cleaning and laundry establishments and similar uses: In addition to one parking space for every 350 square feet of gross floor area (one space for every 200 square feet of gross floor area in restaurants), each such establishment shall have three standing spaces (i.e., spaces for vehicles waiting in line for service) for each teller window or other facility at which customer service is provided.

7. Motor vehicle repair shops, body shops, etc.: One space for each regular employee, plus two spaces for each vehicle service repair bay. (a service bay may count as one of the spaces.)

8. Motor vehicle sales, machinery sales and equipment sales establishments: Two parking spaces (one customer and one employee) for each 2,000 square feet of area utilized for the display of vehicles, machinery or equipment for sale, whether or not said area is enclosed. (Note: If a motor vehicle sales establishment is combined with a motor vehicle repair shop, body shop or similar use, one space shall be provided for each employee of the establishment, whether mechanic, salesman, or other, plus one space for every 2,000 square feet of sales display area and two spaces for each vehicle service repair bay).

9. Warehouse, Wholesale and Manufacturing Uses Not Catering to the Retail Trade: One parking space for each 1,000 square feet of gross floor area, or one parking space for each employee on the largest shift, whichever is greater; plus one space for each vehicle operating from the premises.

G. Public/Quasi-Public Facilities and Uses: Off-street parking space requirements for public/quasi-public facilities and uses shall be determined based upon a site plan and in accordance with the following schedule of requirements:

1. Churches: One parking space for each five fixed seats in the principal assembly hall or one parking space for every 90 linear inches of pew space, whichever is applicable.

2. Hospitals: One space for each patient bed, plus one space for each employee determined by the number of employees on the largest shift.

3. Rest homes, nursing homes, sanitariums, and convalescent homes: One space for every two patient beds, plus one space for each employee determined by the number of employees on the largest shift.

4. Libraries, art galleries, and museums, both public and private: One space for each 400 square feet of floor area (excluding storage rooms).

5. Other public/quasi-public facilities and uses not listed above: The off-street parking requirements for public/quasi-public uses not listed above shall be determined on the basis of a site plan submitted in accordance with this Ordinance

1701.03 Design Standards for Off-Street Parking: Off-street parking in C-1, C-2, C-3, I-1 and I-2 shall be provided in accordance with the minimum design standards specified in Table 1. With regard to the provision of parking for handicapped persons, developers shall comply with the Federal regulations implementing the Americans with Disabilities Act.

A 90-degree parking angle shall be required for all parking lots unless the developer can demonstrate to the Benton County Planning Commission during required site plan review that there are unusual circumstances, such as an unusual lot shape, that would make it necessary to use a parking angle other than 90-degree. Parking stalls shall be marked by a four-inch white, reflector stripe. Parking stalls shall be a minimum of nine (9) feet wide, measuring center to center of the striped line.

Table 1: Design Standards for Off-Street Parking

Parking Angle	Minimum Stall Width Parallel to Aisle	Minimum Stall Depth Measured at Right Angle to Aisle	Minimum Stall Depth to Interlock	Minimum Aisle Width
45 Degrees	12.7 feet	17.5 feet	15.3 feet	12 feet
60 Degrees	10.4 feet	19 feet	17.5 feet	16 feet
90 Degrees	9 feet	18.5 feet	18.5 feet	26 feet

ARTICLE XVIII: NONCONFORMITIES

SECTION 1800 – PURPOSE OF THIS ARTICLE

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

It is the intent of this Ordinance to permit nonconformities to continue until they are removed. 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 (see definition under Section 1801 below) 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 preliminary site plan or plat approval has been legally granted by Benton County prior to the effective date of adoption or amendment of this Ordinance.

SECTION 1801 – TYPES OF NONCONFORMITIES

Where the definition of a nonconformity has been given in Section 201 and under Section 1800, such nonconformities shall be further defined according to one of the types of nonconformities listed below, or combination thereof, for the purpose of regulation.

1801.01 Nonconforming Undeveloped "Lot of Record": This type of nonconformity is an undeveloped "lot of record" (i.e., part of a subdivision, the map of which has been recorded in the office of the Chancery Clerk of Benton County, Mississippi, or a lot described by metes and bounds, the description of which has been recorded in said office) the dimensions of which, subsequent to the passage of this Ordinance, do not meet the area or width requirements, or both, of the district wherein such lot is located.

1801.02 Nonconforming Structure (Including Buildings): This type of nonconformity includes anything lawfully constructed or erected with a fixed location on the ground (or attached to something having a fixed location on the ground) prior to the passage of this Ordinance, but which subsequently does not comply with the bulk, placement or other dimensional requirements of the zoning district wherein located.

1801.03 Nonconforming Use: This type of nonconformity includes the uses of any land, lot, building, structure, or parts thereof, which lawfully existed prior to the passage of this Ordinance but which subsequently does not comply with all or some part of the use requirements of the zoning district wherein located.

SECTION 1802 – REGULATIONS CONCERNING NONCONFORMING UNDEVELOPED LOTS OF RECORD

1802.01 Erection of Single-Family Dwellings Allowed on Nonconforming Undeveloped (or Vacant) Lots of Record: In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any nonconforming undeveloped (or vacant) lot of record after the effective date of this Ordinance.

1802.02 Erection of Commercial/Industrial Structures Allowed on Nonconforming Undeveloped (or Vacant) Lots of Record: In any district in which such use is permitted, a commercial/industrial structure and customary accessory structure may be erected on any nonconforming undeveloped (or vacant) lot of record after the effective date of this Ordinance.

No lot shall be created on or after the effective date of this Ordinance which does not meet the lot area and lot width requirements of the district wherein the lot is located. However, preliminary plats or conceptual plans approved by the Board of Supervisors prior to the effective date of this Ordinance have been grandfathered.

SECTION 1803 – REGULATIONS CONCERNING NONCONFORMING STRUCTURES

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, such 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 fifty percent (50%) of its replacement cost at the time of destruction, reconstruction efforts shall begin within six (6) month's time, otherwise 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.

SECTION 1804 – REGULATIONS CONCERNING NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY)

Where at the time of passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;

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

C. If any such nonconforming use of land ceases for any reason for a period of more than 30 days (except where government action has impeded access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;

D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

SECTION 1805 – REGULATIONS CONCERNING NONCONFORMING USES OF MAJOR STRUCTURES OR OF MAJOR STRUCTURES AND LAND IN COMBINATION

If lawful use involving individual major structures (i.e., those with a replacement cost of $1,000 or more) or of such major structures and land 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 this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

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

D. When a nonconforming use of a structure, or structure and land in combination, 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 structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

E. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to the extent of more than 50 percent of the replacement cost at the time of destruction.

ARTICLE XIX: ADMINISTRATION AND ENFORCEMENT

SECTION 1900 – PURPOSE OF THIS ARTICLE

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

SECTION 1901 – DUTIES, POWERS, AND LIMITATION OF POWERS OF THE ZONING ADMINISTRATOR IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE

1901.01 Duties of the Zoning Administrator:

A. Coordinate all matters relating to this Ordinance with, as appropriate, other County officials.

B. Provide information to the public on matters relating to zoning.

C. Provide application forms to the public on matters relating to zoning.

D. Maintain, or be responsible for, the maintenance of the Official Zoning Map.

E. Receive and take appropriate action on all applications for dimensional variances, conditional use permits (special exceptions), and zoning amendments (rezoning).

F. Receive and take appropriate action on all plot plans submitted in accordance with this Ordinance and the forwarding copies of site plans and associated materials to the proper individuals or bodies.

G. Check construction (or use conversion) performed under zoning-related permits to determine if the work (or use conversion) meets the requirements before issuing a certificate of occupancy.

H. Oversee the preparation and maintenance of a map or other recording process indicating nonconforming uses, structures and undeveloped (or vacant) lots.

I. Clear with other local, County, State, or Federal agencies where such clearance is necessary in connection with zoning matters.

J. Appear before the Board of Supervisors to furnish information helpful to that body in carrying out their assigned functions.

K. Make periodic checks for violations or investigate written complaints of violations of this Ordinance and notify in writing the person(s) responsible for violations of the Ordinance, indicating the nature of the violation and ordering the action necessary to correct it. Notice to such violators shall be by registered or certified mail or shall be delivered personally by the Zoning Administrator. The Zoning Administrator's response to a complainant may be by ordinary mail.

L. Report uncorrected violations to the Board of Supervisors and recommend action to prevent or halt violations of this Ordinance.

M. Advertise public hearings as required by this Ordinance. (Note: The Zoning Administrator may simply notify the Purchasing Clerk that advertisement of a public hearing is needed, and the Purchasing Clerk may actually transmit the required notice to the appropriate newspaper or newspapers).

N. Keep records pertaining to zoning matters.

O. Provide administrative interpretation as provided in Subsection 1901.02.

1901.02 Administrative Interpretation by the Zoning Administrator: In the event there is a question as to the general intent or specific meaning of any provision of the Zoning Ordinance text, or of the boundaries or district designations or other matters relating to the Official Zoning Map, the Zoning Administrator shall have the power to make such administrative decisions and interpretation. Such decisions or interpretations shall be made in writing by the Zoning Administrator.

A. Limitation of Powers: Said administrative interpretation shall in no manner be construed to include, or used in any way which would permit, the granting of a conditional use permit (special exception), dimensional variance, or zoning amendment (either an amendment to the zoning text or a district reclassification that is, the rezoning of any land), the provisions for which use are given elsewhere in this Ordinance.

B. Appeals from the Administrative Interpretation by the Zoning Administrator: Appeals from said administrative interpretation shall be made as provided in Subsection 1909.01 of this Ordinance.

C. Administrative Interpretation by the Zoning Administrator shall not be used in matters which the Zoning Administrator has personal financial interest or personal gain is involved.

SECTION 1902 – DUTIES OF THE BENTON COUNTY PLANNING COMMISSION

1902.01 Composition: The Benton County Planning Commission shall consist of the five (5) members of the Board of Supervisors or their appointed representatives.

1902.02 Qualifications and Term of Office: Each member must be a qualified elector residing within Benton County. Members shall continue to serve until reappointed, removed, replaced or written resignation is submitted to the Board of Supervisors.

1902.03 Meetings: The Planning Commission shall meet at such time and as often as deemed necessary for the accomplishment of the purposes for which it is created.

1902.04 Quorum: No official business of the Commission shall be conducted without a quorum of the majority of the Commission (i.e., three members).

1902.05 Duties and Responsibilities:

A. Prepare and propose a Comprehensive Plan of physical development of the County, as defined by Section 17-1-1 of the Miss. Code Ann.;

B. Prepare and propose a Zoning Ordinance and an official Zoning Map and any changes or amendments thereto:

C. Prepare and propose regulations governing the subdivision of lands and any amendments thereto; and

D. Utilize the services of the Zoning Administrator, County Planner, County Administrator, County Attorney, Road Manager, County Engineer, and other County personnel and resources as they are authorized to assist the Commission.

SECTION 1903 – DUTIES OF THE BOARD OF SUPERVISORS IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE

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

A. Hear appeals from the administrative interpretation by the Zoning Administrator and/or Planning Commission.

B. Final action of applications for dimensional variances, conditional use permits (special exceptions), rezonings and amendments to this Ordinance.

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

SECTION 1904 – DIMENSIONAL VARIANCES

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

1904.01 Requirements for Granting Variances: Any person desiring a dimensional variance from the terms of this Ordinance shall submit a written application (on a form furnished by the Zoning Administrator) demonstrating compliance with all of the following; a variance shall not be granted unless the applicant demonstrates:

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

B. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

C. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same zoning district.

1904.02 Existence of Non-Conforming Uses Not Grounds for Variance: The existence of non-conforming uses of neighboring lands, structures, or buildings in the same zoning district shall not be considered grounds for granting a variance. Furthermore, the existence of permitted or non-conforming use of lands, structures, or buildings in other districts shall not be considered grounds for issuance of a variance.

1904.03 Public Hearing Required: A public hearing shall be held in accordance with Section 1907 of this Ordinance for all proposed dimensional variances.

1904.04 Required Findings: No variance shall be issued until the Board of Supervisors has made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance constitutes the minimum allowable deviation from the dimensional regulations of this Ordinance in order to make possible the responsible use of the land, building or structures. Furthermore, no variance shall be granted until the Board of Supervisors has made a finding that the granting of the dimensional variance will be in harmony with the general purpose and intent of this Ordinance, and that the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

1904.05 Conditions and Safeguards May Be Prescribed with Dimensional Variance: In granting any dimensional variance, the Board of Supervisors may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1910 of this Ordinance.

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

1904.06 Granting of a "Use Variance" Prohibited: Under no circumstances shall the Board of Supervisors issue a variance to allow a use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

SECTION 1905 – CONDITIONAL USES (SPECIAL EXCEPTIONS)

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

1905.01 Requirements for Granting a Conditional Use Permit: Any person desiring a conditional use shall submit a written application (on a form furnished by the Zoning Administrator) indicating the Section in the Ordinance under which the conditional use is sought and stating the grounds on which it is requested. The Board of Supervisors shall not grant a conditional use unless satisfactory provision and arrangement has been made concerning all of the following:

A. Ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

B. Off-street parking and loading areas.

C. Refuse and service areas.

D. Utilities, with reference to locations, availability, and compatibility.

E. Screening and buffering with reference to type, dimensions, and character.

F. Required yards and other open space.

G. General compatibility with adjacent properties and other property in the district.

H. Any other provisions deemed applicable by the Board of Supervisors.

1905.02 Site Plan Required: Every applicant for a conditional use permit shall submit a site plan in accordance with this Ordinance.

1905.03 Public Hearing Required: A public hearing shall be held in accordance with Section 1907 of this Ordinance for all proposed conditional uses.

SECTION 1906 – AMENDMENTS TO THE ZONING ORDINANCE TEXT OR THE OFFICIAL ZONING MAP (REZONING)

1906.01 Type of Amendments/Application Required: Amendments to this Ordinance include: (1) amendments to the text; and (2) amendments to the Official Zoning Map, which is legally a part of this Ordinance. Any person may initiate an amendment to this Ordinance by filing an application with the Zoning Administrator (on a form furnished by him/her).

1906.02 Site Plan Required: If a specific use is identified by the applicant for a rezoning (i.e., a proposed amendment to the Official Zoning Map), then the application for rezoning shall be accompanied by a site plan prepared in accordance with this Ordiance.

1906.03 Criteria for Rezoning: No amendment to the Official Zoning Map shall be approved unless the proposed rezoning meets one of the following criteria:

A. That there was a mistake in the original zoning. "Mistake" in this context shall refer to a clerical or administrative error, such as a mistake of draftsmanship on the Official Zoning Map or incorrectly reflecting the Board of Supervisors' decision in the minutes. "Mistake" does not mean that the Board of Supervisors made a mistake in judgment in their prior zoning, such as not realizing the full import of the zoning classification or mistakenly placing the property in one classification when the evidence indicated that another would have been more appropriate.

B. That the character of the neighborhood has changed to such an extent as to justify reclassification, and that there is a public need for the rezoning.

1906.04 Proposed Rezoning Shall Be Consistent with Adopted Comprehensive Plan: Section 17-1-9 of the **Mississippi Code of 1972**, As Amended, requires that "zoning regulations shall be made in accordance with a comprehensive plan---." Accordingly, no amendment to the Official Zoning Map shall be approved by the Board of Supervisors unless the proposed rezoning is consistent with all four elements of the adopted Comprehensive Plan of the County, including the Goals and Objectives, the Land Use Plan, the Transportation Plan, and the Community Facilities Plan.

1906.05 Public Hearing Required: In accordance with Section 17-1-17 of the **Mississippi Code of 1972**, As Amended, a public hearing shall be held on any proposed amendment to the text of this Ordinance or the Official Zoning Map following at least fifteen (15) days' notice of the hearing in "---an official paper or a paper of general circulation in such municipality ---specifying a time and place of said hearing." The hearing shall be held in accordance with Section 1907 of this Ordinance.

1906.06 Res Judicata: Upon the submission of an application for a rezoning, and a determination by the Board of Supervisors that said application should be denied, the Board of Supervisors shall not accept a subsequent application to re-zone the same property or any part thereof to the same classification until the expiration of one (1) year from the date of the decision of the Board denying said application. This is known as the doctrine of res judicata. However, if the application relates to the same property but seeks zoning to a different classification, the doctrine does not apply; and the Board of Supervisors may consider such a proposed rezoning.

1906.07 When an Ordinance Amending Text or Official Zoning Map is Required and Publication of That Ordinance: No amendment to the Official Zoning Map or the text of this Ordinance shall become effective until an Ordinance amending same has been passed by the Board of Supervisors.

SECTION 1907 – PUBLIC HEARING NOTICES AND PROCEDURES

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

A. All dimensional variances.

B. All conditional uses.

C. All amendments to the text of the Zoning Ordinance or amendments to the Official Zoning Map (i.e., rezoning).

1907.01 Public Hearing Notice in a Newspaper Required: Whenever a public hearing is required by this Ordinance, notice of such hearing shall be given by publishing a notice to all interested persons one time at least fifteen days prior to the date fixed for said hearing, such notice to be published in an official paper or newspaper of general circulation in the County, specifying the date, time and place for said hearing. Such notices shall be published in accordance with the following format or a format determined by the Board of Supervisors:

A. For Dimensional Variances:

NOTICE OF ZONING HEARING

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

(Insert Property Description Here)

APPROVED:

_____

Chancery Clerk
(Chancery Clerk's Signature)

DATE: _____

B. Conditional Use Permits:

NOTICE OF ZONING HEARING

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

(Insert Property Description Here)

APPROVED:

_____

Chancery Clerk
(Chancery Clerk's Signature)

DATE: _____

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

NOTICE OF ZONING HEARING

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

(Insert Property Description Here)

APPROVED:

_____

Chancery Clerk
(Chancery Clerk's Signature)

DATE: _____

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

NOTICE OF ZONING HEARING

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

(Insert Proposed Amendments to the Zoning Ordinance Here)

APPROVED:

_____

Chancery Clerk
(Chancery Clerk's Signature)

DATE: _____

1907.02 Identification of Adjacent Property Owners: The applicant for the rezoning shall furnish to the Zoning Administrator, with the completed application, the names and addresses of all persons owning land 250 feet from the subject property (excluding the rights-of-way of streets or highways).

1907.03 Public Hearings Before the Board of Supervisors: Where public hearings are required by this Ordinance, the Board of Supervisors shall conduct a public hearing at which all interested persons shall be recognized and given an opportunity to speak. A majority vote of a quorum of the members of the Board of Supervisors shall carry a motion to approve or deny an application for a variance, conditional use permit or amendment to the text of this Ordinance or the Official Zoning Map.

1907.04 Changes to an Application for Variance, Conditional Use Permit, or Zoning Ordinance Amendment (Including Rezonings): Any change proposed by an applicant for a variance, conditional use permit, or amendment to this Ordinance (including rezoning applications) at the time of the hearing, except for conditions recommended by the Commission for variances or conditional use permits, shall require a rehearing before the Board of Supervisors with another public notice.

1907.05 Applicant Must Be Represented at Board of Supervisors Meetings: Applicants (or their designated representative) for public hearing before the Board of Supervisors shall be present at public hearing.

SECTION 1908 – FEES

1908.01 Schedule of Fees: The Board of Supervisors shall establish a schedule of fees for the processing of applications for variances, conditional uses and zoning amendments. Said schedule of fees shall be posted in the Building Department of Benton County or other designated County official whose office shall be responsible for their collection.

1908.02 Amendment of Alternation of Fee Schedule: The schedule of fees may be altered or amended only by the Board of Supervisors.

1908.03 Payment Required: No action or processing shall be taken on any application until all applicable fees, charges and expenses have been paid in full.

1908.04 Fees Not Refundable: No fees or other monies paid in conjunction with zoning-related matters shall be refunded, unless ordered by the County Administrator and Board President by written approval and signed.

SECTION 1909 – APPEALS

1909.01 Appeals from Administrative Interpretation of the Zoning Administrator: Any party aggrieved with the administrative interpretation of the Zoning Administrator shall have the right to appeal such interpretation. Such appeals may be made directly to the Board of Supervisors. If an appeal is made to the Board of Supervisors, the party aggrieved shall submit a written request to the Chancery Clerk one week preceding any regularly scheduled meeting of the Board of Supervisors at which the aggrieved party desires to be heard.

All appeals shall be in writing and shall include a copy of the original application for a dimensional variance, special exception or rezoning, together with a statement of the reason for the appeal.

1909.02 Appeals to a Court of Law: An appeal from any action, decision, ruling, judgment or order by the Board of Supervisors may be taken by any person or persons to the Circuit Court of Benton County.

SECTION 1910 – ORDINANCE ENFORCEMENT

In accordance with Section 17-1-27 of the **Mississippi Code of 1972**, As amended, "Any person, firm or corporation who shall knowingly and willfully violate the terms, conditions or provisions of a zoning ordinance adopted under the authority of Sections 17-1-1 through 17-1-25, inclusive, for violation of which no other criminal penalty is prescribed, shall be guilty of a misdemeanor and upon conviction therefor shall be sentenced to pay a fine of not to exceed One Hundred Dollars ($100.00), and in case of continuing violations without reasonable effort on the part of the defendant to correct same, each day the violation continues thereafter shall be a separate offense."

ARTICLE XX: MISCELLANEOUS PROVISIONS

SECTION 2000 – PURPOSE OF THIS ARTICLE

The purpose of this Article is to consolidate all provisions applicable to this Ordinance which are not included under the General Regulations, Zoning District Regulations, or elsewhere herein.

SECTION 2001 – OMISSION CLAUSE

The omission of any specific use, dimension, word, phrase, or other provision from this Ordinance shall not be interpreted as permitting any variation from the general meaning or intent of this Ordinance, as commonly inferred or interpreted. Should occasion arise as to such intent or meaning, the interpretation of the Zoning Administrator shall apply.

SECTION 2002 – SEPARABILITY AND VALIDITY CLAUSE

Should any Section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

SECTION 2003 – REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF

All Ordinances or Codes or parts of Ordinances or Codes adopted heretofore by the Board of Supervisors of Benton County, Mississippi, which are in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 2004 – REFERENCES INCLUDE SUBSEQUENT REVISIONS, AMENDMENTS OR ENACTMENTS

Where any statute, ordinance, or regulation is referred to or incorporated into this Ordinance, that reference shall include any subsequent revisions, amendments or enactments encompassing the same subject matter.

SECTION 2005 – 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 2006 – EFFECTIVE DATE OF ORDINANCE

This Ordinance shall become effective _____

SECTION 2007 – ADOPTION CLAUSE

Adopted this, the_____, at the regular meeting of the Board of Supervisors of the Benton County, Mississippi.

_____
President, Benton County Board of Supervisors

ATTEST

_____
Chancery Clerk, Benton County, Mississippi

I, the undersigned _____, Chancery Clerk of Benton County, Mississippi, hereby certify that the above and foregoing is a true copy of an Ordinance adopted by the Board of Supervisors of Benton 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, Benton County, Mississippi