

Appendix A

Zoning*

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***Editor's note**—Ord. No. 2010-09-743, adopted Sept. 7, 2010, amended app. A in its entirety to read as herein set out. Former app. A, §§ 101—1404, pertained to similar subject matter, and derived from: Ord. No. 83-138, enacted on May 2, 1972 and May 18, 1972; Ord. No. 92-04-425, adopted April 21, 1992; Ord. No. 95-09-497, §§ I—XII, adopted Sept. 19, 1995; Ord. No. 01-06-608, § I, adopted June 19, 2001; Ord. No. 02-07-627, adopted July 2, 2002; Ord. No. 03-10-639, § I, adopted Oct. 7, 2003; Ord. No. 05-05-660, adopted May 17, 2005; Ord. No. 05-05-661, adopted May 17, 2005; Ord. No. 05-05-662, adopted May 17, 2005; Ord. No. 06-08-676, adopted Aug. 1, 2006; Ord. No. 2006-12-678, adopted Dec. 5, 2006; Ord. No. 2008-01-700, adopted Jan. 2, 2008; and Ord. No. 2010-06-736, §§ 1, 2, adopted June 22, 2010. Amendments to the appendix are indicated by parenthetical history notes following amended provisions. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

Cross references—Administration, ch. 2; alcoholic beverages, ch. 3; animals and fowl, ch. 4; buildings and building regulations, ch. 5; floodplain management, ch. 7; licenses and business regulations, ch. 8; mobile homes, ch. 9; subdivision regulations, app. B; cable television, app. C.

State law reference—Zoning, Miss. Code Ann. 1972, § 17-1-1 et seq.

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ARTICLE I. GENERAL PROVISIONS**Sec. 101. Short title.**

This appendix shall be known and may be cited as the "Batesville Zoning Ordinance".
(Ord. No. 2010-09-743, 9-7-10)

Sec. 102. Authority.

This appendix is adopted pursuant to the authority contained in Miss. Code Ann. 1972, § 17-1-2, and following.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 103. Jurisdiction.

This appendix shall be effective throughout the city limits.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 104. Effective date.

The provisions in this ordinance were originally adopted on April 21, 1992.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 105. Relationship to land-use plan.

It is the intention of the board that this ordinance implement the planning policies adopted by the board for the city as reflected in the Land-Use Plan of 2010. While the board reaffirms its commitment that this appendix and any amendment to it be in conformity with adopted planning policies. The board hereby expresses its intent that neither this ordinance, nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 106. No use or sale of land or buildings except in conformity with appendix provisions.

(a) Subject to the section regarding nonconforming uses, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this appendix.

(b) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 107. Fees.

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the city's budget or as established by resolution of the city filed in the office of the city clerk.

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

(Ord. No. 2010-09-743, 9-7-10)

Sec. 108. Severability.

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

(Ord. No. 2010-09-743, 9-7-10)

Sec. 109. Conflict with other ordinances.

Should any provision of this ordinance be found to be in conflict with any other ordinance of the City of Batesville, the more restrictive shall apply.

(Ord. No. 2010-09-743, 9-7-10)

ARTICLE II. DEFINITIONS**Sec. 201. Definitions.**

The following words, terms and phrases, when used in this appendix, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building or use: An accessory building is a building located on the same lot as the principal building. An accessory use is a use customarily incidental and subordinate to the principal use of the property. By way of illustration, an accessory use may include, but is not limited to, the following:

- (1) A children's playhouse, garden house, and private greenhouse;
- (2) A civil defense shelter, serving not more than two (2) families;
- (3) A garage, shed or building for domestic storage;

- (4) Incinerators incidental to residential use;
- (5) Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by district zoning regulations;
- (6) A nonpaying guesthouse or rooms for guests within an "accessory building" located at a residence, provided such facilities are used for the occasional housing of guests or occupants of the principal building, provided such facilities meet building code requirements for human occupancy, and not for permanent occupancy by others as housekeeping units;
- (7) Off-street motor vehicle parking areas and loading and unloading facilities.

Adult day care: A facility which offers social, recreational and health-related services to individuals in a protective setting who cannot be left alone during the day because of health care and social need, confusion or disability.

Agriculture: The use of land for agricultural purposes. This includes necessary buildings and structures which should be used for agriculture, including, but not limited to, farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry; and the necessary accessory uses for parking, treating or storing the produce; provided, however, that the operation of any such accessory uses should be secondary to that of the normal agriculture activities. Buildings occupied as residences shall not be considered to be used for agricultural purposes.

Antenna: Equipment designed to transmit or receive electronic signal.

Base flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

Boarding house: A residential use consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

Building: A structure designed to be used as a place of occupancy, storage or shelter.

Building, accessory: A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

Building, principal: The primary building on a lot or a building that houses a principal use.

Certify: Whenever this appendix requires that some agency certify the existence of some fact or circumstance to the city, the city may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of

illustration, and without limiting the foregoing, the city may accept certification by telephone from some agency when the circumstances warrant it, or the city may require that the certification be in the form of a letter or other document.

Child care facility: A place which provides shelter or personal care for six (6) or more children who are not related within the third degree computed according to civil law to the operator and who are under six (6) years of age for four (4) or more hours of any part of the twenty-four-hour day. There shall be two (2) classifications of child care facilities being: a) family day care houses; and b) day care centers, defined as follows:

- (1) *Family day care home:* An occupied residence in which day care is regularly provided for no less than six (6) children, nor more than fifteen (15) children who are not related within the third degree computed according to the civil law to the operator and who are under the age of six (6) for four (4) or more hours of any part of the twenty-four-hour day.
- (2) *Day care center:* Any facility which regularly receives six (6) or more children for day care who are not related within the third degree computed according to the civil law to the operator and who are under the age of six (6) for four (4) or more hours of any part of the twenty-four-hour day. An occupied residence which cares for sixteen (16) or more children shall be a day care center.
- (3) *Child care home:* A home for not more than nine (9) orphaned, abandoned, dependent, abused, or neglected children, together with not more than two (2) adults who supervise such children, all of whom live together as a single housekeeping unit.
- (4) *Child care institution:* An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children.

Circulation area: That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

City: The City of Batesville.

Combination use: A use consisting of a combination on one (1) lot, two (2) or more principal uses separately listed in the "Table of Permissible Uses". (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. In addition, when two (2) or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

Conditional use permit: A permit issued by the city that authorizes the recipient to make use of property in accordance with the requirements of this appendix as well as any additional requirements imposed by the city.

Convenience store: A one-story, retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages,

and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). It is designed to attract and depends upon a large volume of stop and go traffic.

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

Driveway: That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Duplex: See Residence, duplex.

Dwelling unit: An enclosure containing sleeping, kitchen and bathroom facilities designed for and used, or held ready for use, as a permanent residence by one (1) family.

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

Family: One (1) or more persons living together as a single housekeeping unit.

Floodplain: Any land area susceptible to be inundated by water from the base flood. As used in this appendix the term refers to that area designated as subject to flooding from the base flood (100-year flood) on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. As used in this appendix, the term refers to that area designated as a floodway on the "Flood Boundary and Floodway Map", prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.

Gross floor area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

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

Halfway house: A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, eleven (11) of whom live together as a single housekeeping unit.

Handicapped or infirm home: A residence within a single dwelling unit for at least six (6) but not more than nine (9) persons who are physically or mentally handicapped or infirm,

together with not more than two (2) persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Handicapped or infirm institution: An institutional facility housing and providing care or assistance for more than nine (9) persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

Home occupation: A commercial activity in a residential district that: (i) is conducted by a person on the same lot where such person resides, and (ii) is not an accessory use; (iii) can be conducted without any significantly adverse impact on the surrounding neighborhood. Without limiting the generality of the foregoing, a use shall be regarded as having a significant adverse impact on the surrounding neighborhood if:

- (1) Goods, stock in trade or other commodities are displayed;
- (2) Any on-premises retail sales occur;
- (3) More than one person not a resident on the premises is employed in connection with the purported home occupation;
- (4) Heavy equipment or chemicals are stored on site for use off site or in conjunction with a business;
- (5) It created objectionable noise, fumes, odor, dust or electrical interference, or
- (6) More than twenty-five (25) percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than five hundred (500) square feet of gross floor area (whichever is less), is used for home occupation purposes.
- (7) The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing criteria and requirements:
 - a. The office or studio of a physician;
 - b. Dentist;
 - c. Artist;
 - d. Musician;
 - e. Lawyer;
 - f. Architect;
 - g. Engineer;
 - h. Teacher or similar professional;
 - i. Workshops, greenhouses or kilns; or
 - j. Dressmaking or hairdressing studios.

Intermediate care home: A facility maintained for the purpose of providing accommodations for not more than seven (7) occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermediate care institution: An institutional facility maintained for the purpose of providing accommodations for more than seven (7) persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Kennel: A commercial operation that: (i) provides food, shelter, and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian); or (ii) engages in the breeding of animals for sale.

Licensed motor vehicle dealer: Someone who engages in the retail sale and/or rental of motor vehicles and holds a valid and current state license and city privilege license to do so.

Lot: A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to, or a lesser interest in, a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition or a private road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained, or the road so created, is such as effectively to prevent the use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot.

Lot area: The total area circumscribed by the boundaries of a lot, except that: (1) when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to, and thirty (30) feet from, the center of the traveled portion of the street; and (ii) in a residential district, when a private road that serves more than three (3) dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

Low volume traffic generation: Uses such as furniture stores, carpet stores, major appliance stores, etc., that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller items.

Manufactured home: A structure defined by, and constructed in accordance with, the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 USCS 5401 et seq.), and manufactured after June 14, 1976.

Mayor and board of aldermen permit (MBAP): A permit issued by the mayor and board of aldermen that authorizes the recipient to make use of property located in the downtown

business district in accordance with the requirements of [the ordinance from which this definition is derived] as well as any additional requirements imposed by the mayor and board of aldermen. No public hearing is required before this permit may be issued.

Mobile home: Means a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 USCS 5401 et seq.). It is a structure that is transportable in one (1) or more sections, that, in the traveling mode, is eight (8) body feet or more in width and thirty-two (32) body feet or more in length, or, when erected on-site, is two hundred fifty-six (256) or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes any plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the commissioner and complies with the standards established under this appendix.

Mobile home park: A residential use in which more than one (1) mobile home is located on a single lot.

Modular home: A structure which is: (i) transportable in one (1) or more sections; (ii) designed to be used as a dwelling when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems with the home; (iii) certified by its manufacturers as being constructed in accordance with a nationally recognized building code; and (iv) designed to be permanently installed at its final destination on an approved foundation constructed in compliance with a nationally recognized building code. The term "modular home" does not include manufactured housing as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974.

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

Nonconforming project: Any structure development or undertaking that is incomplete at the effective date of this appendix and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

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

Nursing care home: A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine (9) persons.

Nursing care institution: An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine (9) persons.

Parking area aisles: A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking space: A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.

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

Planned residential development: A development constructed on a tract of at least five (5) acres under single ownership planned and developed as an integral unit, and consisting of single-family detached residences combined with either two-family residences or multifamily residences, or both.

Planned unit development (PUD): A development constructed on a tract of at least five (5) acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land within a PUD district.

Planning jurisdiction: The area within the city limits of the City of Batesville.

Receive-only earth station: An antenna and attendant processing equipment for reception of electronic signals from satellites.

Residence, duplex: A two-family residential use in which the dwelling units share a common wall (including without limitation, the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, multifamily: A residential use consisting of a building, containing three (3) or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch).

Residence, multifamily apartments: A multifamily residential use other than a multifamily conversion or multifamily townhouse.

Residence, multifamily conversion: A multifamily residence containing not more than four (4) dwelling units and results from the conversion of a single building containing at least two thousand (2,000) square feet of ground floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Residence, multifamily townhouses: A multifamily residential use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one (1) other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Residence, primary with accessory apartment: A residential use having the external appearance of a single-family residence, but in which there is located a second dwelling unit that comprises not more than twenty-five (25) percent of the gross floor area of the building, nor more than a total of seven hundred fifty (750) square feet.

Residence, single-family detached one (1) dwelling unit per lot: A residential use consisting of a single detached building containing one (1) dwelling unit and located on a lot containing no other dwelling unit.

Residence, two-family: A residential use consisting of a building containing two (2) dwelling units. If two (2) dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one (1) building.

Residence, two-family apartment: A two-family residential use other than a duplex, two-family conversion or primary residence with accessory apartment.

Residence, two-family conversion: A two-family residence resulting from the conversion of a single building containing at least two thousand (2,000) square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

Road: All private ways used to provide motor vehicle access to: (i) two (2) or more lots; or (ii) two (2) or more distinct areas or buildings in unsubdivided developments.

Rooming house: See Boarding house.

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

Sign, freestanding: A sign is attached to, erected on or supported by some structure (such as a pole, mast, frame or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign", is also a freestanding sign.

Sign, nonconforming: A sign that, on the effective date of this appendix, does not conform to one (1) or more of the regulations set forth in this appendix, particularly article VIII (Signs).

Sign, off-premises: A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

Sign, temporary: A sign that: (i) is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonable short or definite period after the erection of such sign; or (ii) is intended to remain

on the location where it is erected or placed for a period of not more than fifteen (15) days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Silviculture: A branch of forestry dealing with the development and care of forests and woodlands; the art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to meet the diverse needs and values of landowners and society such as wildlife habitat, timber, water resources, restoration, and recreation on a sustainable basis. Examples of Silviculture treatments include but are not limited to thinning, harvesting (logging), planting and pruning of trees.

Special events: Circuses, fairs, carnivals, festivals, or other types of special events that: (i) run for longer than one (1) day but not longer than two (2) weeks; (ii) are intended to or likely to attract substantial crowds; and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Street: A public street or a street with respect to which an offer of dedication has been made.

- (1) *Street, arterial:* A major street in the city's street system that serves as an avenue for the circulation of traffic onto, out, or around the city and carries high volumes of traffic.
- (2) *Street, collector:* A street whose principal function is to carry traffic between minor, local and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve directly or indirectly, more than one hundred (100) dwelling units and is designed to be used or is used to carry more than eight hundred (800) trips per day.
- (3) *Street, cul-de-sac:* A street that terminates in a vehicular turnaround.
- (4) *Street, local:* A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten (10), but not more than twenty-five (25) dwelling units and is expected to or does handle between seventy-five (75) and two hundred (200) trips per day.
- (5) *Street, minor:* A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine (9) dwelling units and is expected to or does handle up to seventy-five (75) trips per day.

Structure: Anything constructed or erected.

Subdivision: The division of a tract of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets.

- (1) *Subdivision, architecturally integrated:* A subdivision in which approval is obtained not only for the division of land into lots, but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated

subdivision shall show the dimensions, height, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in this appendix.

- (2) *Subdivision, major*: Any subdivision other than a minor subdivision.
- (3) *Subdivision, minor*: A subdivision that does not involve any of the following: (i) the creation of more than a total of three (3) lots; (ii) the creation of any new public streets; (iii) the extension of a public water or sewer system; or (iv) the installation of drainage improvements through one (1) or more lots to serve one (1) or more other lots.

Temporary emergency, construction, or repair residence: A residence (which may be a manufactured home or travel trailer) that is: (i) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster; (ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or (iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site (one-year limit).

Tower: Any structure whose principal function is to support an antenna.

Tract: (See Lot). The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one (1) "tract" is subdivided into several "lots".

Travel trailer: A structure that: (i) is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and (ii) is designed for temporary use as sleeping quarters but that does not satisfy one (1) or more of the definitional criteria of a mobile home.

Upper floor housing: A residence on a floor other than the first floor of the structure.

Use: The activity or function that actually takes place or is intended to take place on a lot.

Variance: A grant of permission by the board of adjustment that authorizes the recipient to do that which, according to the strict letter of this appendix, he could not otherwise legally do.

Vehicle accommodation area: That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

Wholesale sales: On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

(Ord. No. 2010-09-743, 9-7-10; Ord. No. 2011-07-760, § 3, 7-5-11; Ord. No. 2016-03-826, § I, 3-1-16; Ord. No. 2016-11-838, § 1, 11-1-16; Ord. No. 2017-11-844, § 1, 11-7-17)

ARTICLE III. ZONING DISTRICTS AND ZONING MAP***DIVISION 1. ZONING DISTRICTS****Sec. 301. Residential districts established.**

The following residential districts are hereby established: Agricultural, R-12, R-9, R-7, RM-3 and M-1. Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible, and disruptive activities that properly belong in nonresidential districts. Other objectives of some of these districts are explained in the remainder of this section:

- (1) *The agricultural district* is designed to accommodate single-family residential development in areas within the city's planning jurisdiction that are not served by public water or sewer facilities and that are not yet appropriate for development at higher densities.
 - (2) *The R-12 and R-9 districts* are designed primarily to accommodate single-family detached residential uses (other than mobile homes) at medium densities in areas served by public water and sewer facilities. Two-family and multifamily residences are allowed in these districts only in the context of planned residential developments.
 - (3) *The R-7 district* is designed to accommodate single-family detached, and two-family.
 - (4) *The RM-3 district* is designed primarily to accommodate higher density multifamily developments.
 - (5) *The M-1 manufactured home district* is designed primarily to accommodate manufactured homes.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 302. Commercial districts established.

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

- (1) The C-1 district is designed to accommodate a wide variety of commercial activities that will result in the most intensive and attractive use of the commercial district.
- (2) *The C-2 (community business) district* is designed to accommodate commercial development on a scale that is less intensive than that permitted in a C-1 district. A lesser intensity of development is achieved through setback, height and minimum lot size requirements that are more restrictive than those applicable to the C-1 district. The types of uses permissible in these districts are generally similar to the types

*State law reference—Zones, Miss. Code Ann. 1972, § 17-1-17.

permissible in a C-1 district, except that additional automobile-oriented businesses (e.g., drive-in banks and restaurants not allowed in the C-I district are permissible in these districts). The C-2 thus may provide transition in some areas between a C-I district and a residential district or may provide for a smaller scale shopping center that primarily serves one (1) neighborhood or area of the city (as opposed to a regional shopping center). The dimensional restrictions in the district are also designed in appropriate areas to encourage the renovation for commercial purposes of buildings that formerly were single-family residences.

- (3) *The C-3 (highway service)* is designed to accommodate commercial activities that draw business primarily from and provide services primarily to (the interstate highway).
- (4) There is hereby created the Downtown Business District (DBD) zone and it is designed to accommodate a wide variety of commercial activities, events, and uses (particularly those that are pedestrian-oriented) considered to be suitable for the public areas, that will result in the most intensive and attractive use of the Downtown Business District.

(Ord. No. 2010-09-743, 9-7-10; Ord. No. 2016-07-832, §§ 1, 2, 7-5-16; Ord. No. 2016-11-838, §§ 2, 3, 11-1-16)

Sec. 303. Manufacturing districts established.

The following districts are hereby established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment: I-1 and I-2.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 304. Planned and overlay districts established.

(a) *Planned unit development district established.* The purpose of the planned unit development district is to provide for the development of planned total communities that provide a full range of residential types as well as certain commercial, office or light industrial uses designed to serve the inhabitants of the districts consistent with the comprehensive plan. For the purposes of this appendix a planned unit development shall be a tract of land at least five (5) acres in area, under single, corporation, firm, partnership or association ownership, planned and developed as an integrated unit in a single development operation or a programmed series of development operations and according to an approved preliminary site plan.

(b) *Mixed use district established.* The purpose of this district is to allow the optional development and redevelopment of land in Batesville consistent with the design principles of traditional neighborhoods as set forth in the district requirements.

(c) *Planned commercial district established.* The purpose of this district is to provide for modern, attractive, and efficient retail, personal, and professional commercial facilities with access needs which demand location along major arterial roadways.

(d) *Floodplain and floodway districts.* The floodplain and floodway districts are hereby established as overlay districts; meaning that these districts are overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the applicable overlay district. (Ord. No. 2010-09-743, 9-7-10)

Secs. 305—315. Reserved.

DIVISION 2. ZONING MAP

Sec. 316. Official zoning map.

(a) There shall be a map known and designated as the official zoning map, which shall show the boundaries of all zoning districts within the city's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the planning department or shall be stored in electronic format.

(b) The official zoning map dated April 21, 1992, is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with the requirements of this appendix.

(c) Should the official zoning map be lost, destroyed or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made or in electronic format. No further city authorization or action is required so long as no district boundaries are changed in this process.
(Ord. No. 2010-09-743, 9-7-10; Ord. No. 2016-07-832, § 3)

Sec. 317. Amendments to official zoning map.

(a) Amendments to the official zoning map are accomplished using the same procedures that apply to other amendments to this appendix, as set forth in article XIII.

(b) The administrator shall update the official zoning map as soon as possible after amendments to it are adopted by the city. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the official zoning map.

(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

(Ord. No. 2010-09-743, 9-7-10)

ARTICLE IV. PERMISSIBLE USES**Sec. 401. Table of permissible uses.**

(a) The table of permissible uses (following this section) should be read in close conjunction with the definition of terms set forth in article II and the other interpretative provisions set forth in this article. As used in this table "P" shall stand for permitted uses, "C" for conditional uses and "MBAP" for Mayor and Board of Aldermen Permit use.

(b) All planned and overlay districts shall be established in accordance with the terms and conditions set forth for each individual planned or overlay district.

TABLE OF PERMISSIBLE USES

<i>Uses and Description</i>	<i>A</i>	<i>R-12</i>	<i>R-9</i>	<i>R-7</i>	<i>RM-3</i>	<i>M-1</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>	<i>DBD</i>
1.000 Residential												
1.100 Single-Family Residences												
1.110 Single-family detached, one dwelling-unit per lot												
1.111 Site-built	P	P	P	P	P	P	P	P				
1.112 Modular structures	C	C			C							
1.113 Manufactured Home	C					P						
1.120 Single-family detached, more than one dwelling unit per lot												
1.121 Site-built	C	C	C	C	C	C	C	C				
1.122 Modular structures	C	C	C	C								
1.123 Manufactured home park						P						
1.200 Two-Family Residences												
1.210 Two-family conversion				C	P	P	P	P				
1.220 Primary residence with accessory apartment			C	C	C	C	C	C				
1.230 Duplex					P	C	C	C				
1.240 Two-family apartment					P	C	C	C				
1.300 Multifamily Residences												
1.310 Multifamily conversion					P	C	C	C				
1.320 Multifamily town-homes					P	C	C	C				
1.330 Multifamily apartment					P	C	C	C				
1.400 Homes Emphasizing Special Services, Treatments or Supervision												
1.410 Homes for handicapped or infirm					P	C	C	C				
1.420 Nursing care, intermediate care homes					P	C	C	C				

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Uses and Description	A	R-12	R-9	R-7	RM-3	M-1	C-1	C-2	C-3	I-1	I-2	DBD
1.430 Child care homes					P	C	C	C				
1.440 Halfway houses					C	C	C	C				
1.500 Miscellaneous, Rooms for Rent Situations												
1.510 Rooming houses, boarding houses					P		C	C				
1.530 Hotels, motels and similar businesses or institutions providing overnight accommodations							C	P	P			
1.600 Temporary Emergency, Construction and Repair Residences	P	P	P	P	P		P	P	P	P	P	
1.700 Home Occupations	P	P	P	P	P		P	P				
1.8 Bed and Breakfast Home	P	P	P									
1.900 Upper Floor Housing					P		C	C	C			MBAP
2.000 Sales and Rental of Goods, Merchandise and Equipment												
2.100 No Storage or Display of Goods Outside Fully Enclosed Building												
2.110 High volume traffic generation												
2.111 Miscellaneous							P	P	P			MBAP
2.112 Convenience stores							C	P	P			
2.120 Low volume traffic generation							P	P	P			MBAP
2.130 Wholesale sales								P	P			
2.200 Storage and Display of Goods Outside Fully Enclosed Building Allowed¹												
2.210 High-volume traffic generation								P	P	P	P	
2.220 Low volume traffic generation								P	P	P	P	
2.230 Wholesale sales								P	P	P	P	
2.240 Sales from temporary or portable buildings, tents or other structures								C	C	C	C	MBAP
3.000 Office, Clerical, Research and Services Not Primarily Related to Goods or Merchandise												
3.100 All Operations Conducted Entirely Within Fully Enclosed Building												
3.110 Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, physicians, other professions, insurance and stock brokers							P	P	P			MBAP
3.120 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use							P	P	P	P	P	MBAP

Beauty Salons

<i>Uses and Description</i>	<i>A</i>	<i>R-12</i>	<i>R-9</i>	<i>R-7</i>	<i>RM-3</i>	<i>M-1</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>	<i>DBD</i>
3.130 Office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area							P	P	P			MBAP
3.140 Tattoo and Body Piercing Parlors									C			
3.200 Operations Conducted Within or Outside a Fully Enclosed Building												
3.210 Operations designed to attract and serve customers or clients on the premises									P	P	P	
3.220 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use									P	P	P	
3.230 Banks with drive-in							P	P	P			MBAP
4.000 Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment												
4.100 All Operations Conducted Entirely Within a Fully Enclosed Building												
4.110 Majority of dollar volume of business done with walk-in trade							C	C	P	P	P	MBAP
4.120 Majority of dollar volume of business not done with walk-in trade									C	P	P	
4.200 Operations conducted within or outside a fully enclosed building											P	
5.000 Education, Cultural, Religious, Philanthropic, Social, Fraternal Uses												
5.100 Schools and Day Care												
5.110 Elementary and secondary (including as associated grounds, athletic and other facilities)	P	P	P	P	P							
5.120 Trade or vocational schools	P	C					C	C	C	C	C	
5.130 Colleges, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	C	C	C	C	C				C	C	C	
5.200 Churches, Synagogues and Temples (including associated residential structures for religious personnel and associated buildings, but not including elementary schools or secondary school buildings)	P	P	P	P	P		C	P				MBAP

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<i>Uses and Description</i>	<i>A</i>	<i>R-12</i>	<i>R-9</i>	<i>R-7</i>	<i>RM-3</i>	<i>M-1</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>	<i>DBD</i>
5.300 Libraries, Museums, Art Galleries, Art Centers and Similar Uses (including associated educational and instructional activities, nonprofit)												
5.310 Located within a building designed and previously occupied as a residence or within a building having a gross floor area not exceeding 3,500 square feet	C	C	C	C	C		P	P	P			MBAP
5.320 Located within any permissible structure	P	C					P	P	P			
5.400 Social, Fraternal Clubs and Lodges, Union Halls and Similar Use	P	C					P	P	P			MBAP
6.000 Recreation, Amusement, Entertainment												
6.100 Activity Conducted Entirely Within Building or Substantial Structure												
6.110 Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses							P	P	P			MBAP
6.120 Movie theaters												
6.121 Seating capacity of not more than 300							P	P	P			MBAP
6.122 Unlimited seating capacity							C	C	P			
6.130 Coliseums, stadiums and all other facilities listed in the classification designed to seat or accommodate simultaneously more than 1,000 people										C	C	
6.200 Activity Conducted Primarily Outside Enclosed Buildings or Structures												
6.210 Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, etc. not constructed pursuant to a permit authorizing the construction of some residential development	P	P	C	C	C							
6.220 Publicly owned and operated outdoor recreational facilities -such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc. not constructed pursuant to a permit authorizing the construction of another use such as a school	P	P	C	C	C							

<i>Uses and Description</i>	<i>A</i>	<i>R-12</i>	<i>R-9</i>	<i>R-7</i>	<i>RM-3</i>	<i>M-1</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>	<i>DBD</i>
6.230 Golf driving ranges not accessory to golf courses, par 3 golf courses, miniature golf courses, skate board parks, water slides and similar uses	P							C				
6.240 Horseback riding stables (not constructed pursuant to permit authorizing residential developmental non-profit)	P	C	C	C								
6.250 Automobile and motorcycle racing tracks										C	C	
6.26 Drive-in movie theaters									C	C	C	
6.27 Fire arms shooting range	C											
7.000 Institutional Residence or Care of Confinement Facilities												
7.100 Hospitals, Clinics, other Medical, including Mental Health, Treatment Facilities (in excess of 10,000 square feet of floor area)								C	C			
7.200 Nursing Care Institutions, Intermediate Care Institutions, Handicapped or Infirm Institutions, Child Care Institutions, Adult Day Care								C	C			
7.300 Institutions (other than Halfway Houses) where Mentally Ill Persons are Confined								C	C			
7.400 Penal and Correctional Facilities										C	C	
8.000 Restaurants, Bars, Night Clubs												
8.100 No Substantial Carry Out or Delivery Service (no drive-in service or consumption outside fully enclosed structure)							P	P	P			MBAP
8.200 No Substantial Carry Out or Delivery Service, No Drive-In Service (service or consumption outside fully enclosed structure allowed)							P	P	P			MBAP
8.300 Carry Out and Delivery Service (consumption outside-fully enclosed structure)							P	P	P			MBAP
8.400 Carry Out and delivery service, drive in service or consumption outside fully enclosed structure allowed								P	P			MBAP
9.000 Motor Vehicle Sale and Service Operations												

<i>Uses and Description</i>	<i>A</i>	<i>R-12</i>	<i>R-9</i>	<i>R-7</i>	<i>RM-3</i>	<i>M-1</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>	<i>DBD</i>
9.100 Motor Vehicle Display, Sales or Rental by a licensed motor vehicle dealer									P			
9.110 Operation of a third party motor vehicle sales lot on and by the owner of an established commercial parking lot								C	C			
9.200 Sales With Installation of Motor Vehicle Parts or Accessories (e.g., tires, mufflers, etc.)								C	P			
9.300 Motor Vehicle Repair and Maintenance (not including substantial body work)								C	P	P	P	
9.400 Motor Vehicle Painting and Body Work									P	P	P	
9.500 Gas Sales							C	P	P			MBAP
9.600 Car Wash (includes detail shop)								P	P			MBAP
10.000 Storage and Parking												
10.100 Automobile Parking Garages or Parking Lots (located on a lot on which there is another principal use to which the parking is related)							P	P	P			MBAP
10.200 Storage of Goods (not related to sale or use of those goods on the same lot where they are stored)												
10.210 All Storage Within Completely Enclosed Structures								P	P	P	P	
10.220 Storage Inside or Outside Completely Enclosed Structures									C	P	P	
10.300 Parking of Vehicles or Storage of Equipment Outside Enclosed Structures where: (ii) vehicles or equipment are owned and used by the person making use of lot; and (ii) parking or storage is more than a minor and incidental part of the overall use made of the lot									P	P	P	
11.000 Scrap Materials, Salvage Yards, Junkyards, Automobile Graveyards, Wrecker and Towing Service, Storage of Wrecked Vehicles										C	C	
12.000 Services and Enterprises Related to Animals												
12.100 Veterinarian	C							P	P			
12.200 Kennel	C								C			
13.000 Emergency Services												
13.100 Police Stations	P	P	P	P	P		P	P	P	P	P	MBAP
13.200 Fire Stations	P	P	P	P	P		P	P	P	P	P	MBAP
13.300 Rescue Squad, Ambulance Service							C	C	C	C	C	MBAP

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Uses and Description	A	R-12	R-9	R-7	RM-3	M-1	C-1	C-2	C-3	I-1	I-2	DBD
13.400 Civil Defense Operations							C	C	C	C	C	MBAP
14.000 Agricultural, Silvicultural, Mining, Quarrying Operations												
14.100 Agricultural operations, Farming												
14.110 Excluding livestock	P	P	P	P	P							
14.120 Including livestock	P											
14.200 Silvicultural Operations	P	P	P						P	P	P	
14.300 Mining or Quarrying Operations, including On-Site Sales of Products	C									C	C	
14.2000 Silviculture Operations	C	C	C	C	C	C	C	C	C	C	C	
15.000 Miscellaneous Public and Semi-Public Facilities												
15.100 Post Office							C	C	C			MBAP
15.200 Airport										C	C	
15.300 Sanitary Landfill	C										C	
15.400 Military Reserve, National Guard Centers										C	C	
16.000 Dry Cleaners, Laundromats								P	P			MBAP
17.000 Utility Facilities												
17.100 Neighborhood	C	C	C	C	C		C	C	C	C	C	MBAP
17.200 Community or Regional	C									C	C	MBAP
18.000 Towers and Related Structures												
18.100 Antenna (Up to 15 feet tall)	P	P	P	P	P	P	P	P	P	P	P	MBAP
18.200 Antennas (more than 15' tall), towers, silos & structures not otherwise addressed in this table of permissible uses								C	C	C	C	
19.000 Open Air Markets and Horticultural Sales												
19.100 Open Air Markets (farm and craft markets, flea markets, produce markets)	P	C	C	C	C		C	C	C	C	C	MBAP
19.200 Horticultural Sales with Outdoor Display	P	C							P			
20.000 Funeral Homes								P	P			
21.000 Cemeteries and Crematoriums												
21.100 Cemeteries	C							C	C			
21.200 Crematoriums								C	C			
22.000 Adult and Child Care Facilities												
22.100 Family Day Care Homes	P			C	P			C	C			
22.200 Adult and Child Day Care Centers	C				P			P	P			

<i>Uses and Description</i>	<i>A</i>	<i>R-12</i>	<i>R-9</i>	<i>R-7</i>	<i>RM-3</i>	<i>M-1</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>I-1</i>	<i>I-2</i>	<i>DBD</i>
23.000 Temporary Structures Used in Connection with the Construction of a Permanent Building or for Some Nonrecurring Purpose such as festivals and special events	P	C	C	C	C		P	P	P	P	P	MBAP
24.000 Bus Stations, Train Stations							C	C	C			MBAP
25.000 Commercial Green house Operations												
25.100 No On-Premises Sales Permitted	C	C						P	P	P	P	
25.200 On-Premises Sales Permitted								P	P	P	P	
26.000 Special Events	C						C	C	C	C	C	MBAP
27.000 Off-Premises Signs									C	C	C	
28.000 Civic Center Events								P				
29.000 Ponds, Lakes and other facilities for the purpose of impounding or storing water	C	C	C	C	C	C	C	C	C	C	C	MBAP
30.000 Sexually Oriented Business as defined in Article V of the City of Batesville Code of Ordinances											C	

Notes:

¹ Manufactured home sales and portable buildings shall not be offered for sale within two thousand (2,000) feet of the centerline of U.S. Highway 6.
 (Ord. No. 2010-09-743, 9-7-10; Ord. No. 2011-01-751, 1-4-11; Ord. No. 2011-07-760, §§ 1, 2, 7-5-11; Ord. No. 2016-07-832, §§ 4—6, 7-5-16; Ord. No. 2016-11-838, §§ 5—8, 11-1-16; Ord. No. 2017-11-844, §§ 2, 3, 11-7-17)

Sec. 402. Permissible uses and specific exclusions.

(a) The presumption established by this Code is that all legitimate uses of land are permissible within at least one (1) zoning district in the city's planning jurisdiction. Therefore, because the list of permissible uses set forth in the Table of Permissible Uses cannot be all inclusive; those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) All uses that are not listed in the Table of Permissible Uses, even given the liberal interpretation are prohibited. Nor shall the Table of Permissible Uses be interpreted to allow a use in one (1) zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

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

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

- (2) Stockyards, slaughterhouses, rendering plants.
 - (3) Use of a travel trailer as a temporary or permanent residence except as consistent with the definition of temporary emergency, construction or repair residence. (Situations that do not comply with this subsection on the effective date of this Code are required to conform within one (1) year.)
 - (4) Automotive vehicles, motorhomes or camping trailers without current license plates and current inspection stickers shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.
 - (5) The construction of ponds, lakes, or other facilities for the purpose of impounding and storing water shall be conditional in all districts.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 403. More specific use controls.

Whenever a development could fall within a more than one (1) use classification in the Table of permissible uses, the classification that most closely and most specifically describes the development controls. For example, a small doctor's office or clinic clearly falls within the 3.220 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130, (office or clinics of physicians or dentists with not more than ten thousand (10,000) square feet of gross floor area) more specifically covers this use and therefore is controlling.

(Ord. No. 2010-09-743, 9-7-10)

**ARTICLE V. SUPPLEMENTARY USE REGULATIONS AND SITE PLAN
REQUIREMENTS**

Sec. 501. Planned unit development.

(a) *Purpose.* In a planned unit development, the developer may make use of the land for any purpose authorized in a particular planned unit development zoning district in which the land is located subject to the provisions of this section.

(b) *Preliminary site plan required.* The PUD district shall be established only upon application, after public hearing as specified in the amendatory procedures of this ordinance and shall require an approved preliminary site plan which when zoning is granted will govern the development of the land and all development plans thereof.

(c) *Minimum district area.* The minimum area for a PUD district shall be five (5) acres.

(d) *Permitted uses.* A list of permitted uses within each planned unit development must be submitted with the application for establishment of the district and the preliminary site plan and must be approved by the planning commission and governing authority upon application by the owner of the property.

(e) *Procedures.* An application for rezoning to PUD district shall be accompanied by a preliminary site plan and text presenting the following information:

- (1) Proposed land uses and population densities;
- (2) Proposed primary circulation pattern;
- (3) Proposed parks and playgrounds;
- (4) Delineation of the units or phases to be constructed together with a proposed timetable;
- (5) Proposed means of dedication of common open space areas and organizational arrangements for the ownership, maintenance and preservation of common open space;
- (6) Relation to the city comprehensive plan, land uses in the surrounding area and to the general plan of the PUD. Rezoning procedures shall be in accordance with article XIV

of this appendix. Following the initial rezoning procedure, the proposed development shall follow all applicable procedures and requirements governing the subdivision of land. No building permit shall be issued until a final plat of the proposed development, or portion thereof, is approved, filed and recorded. No building permit designed or intended to be used, in whole or in part, for commercial purposes shall be constructed prior to the construction of less than twenty-five (25) percent of the dwelling units proposed in the plan, or construction of one hundred (100) dwelling units, whichever is smaller. If construction of the PUD district is not started within two (2) years of the date of approval, the mayor and board of aldermen may consider rezoning the site to its previous classification.

The applicant, by showing good cause why he cannot adhere to the proposed timetable described in subsection (e)(4), may seek an extension of not more than one (1) year at a time. A request for extension shall be submitted in writing to the planning commission.

(f) *Review standards.* The site plan must provide for and conform entirely to the following standards and requirements:

- (1) In order to encourage ingenuity, imagination, and high quality design, regulations on residential areas will not specify minimum lot area per dwelling unit but will limit density in residential areas to five (5) families per acre in single-family dwellings or twenty (20) families per acre in multifamily dwellings. This will allow clustering of dwellings to provide maximum open space.
- (2) Street widths and improvements, thereof as well as off-street parking facilities must conform to county standards or in lieu of such standards, to requirements established by the governing authority.
- (3) Provisions of water supply, sanitary sewers, stormwater drainage, and connections shall be made to the satisfaction and requirements of the governing authority and the appropriate state authority.
- (4) All improvements are to be installed and maintained by the developer unless other arrangements approved by the governing authority are made.
- (5) The governing authority may require other special improvements as they are required if they are deemed reasonable and essential, and may require that appropriate deed restrictions to be filed enforceable by the governing authority for twenty (20) years.
- (6) A minimum total area of ten (10) percent of the gross residential area shall be set aside as parks and playgrounds. Of this ten (10) percent, a maximum of one-half may be covered with water. A maximum of five (5) percent of the area designated to be parks and playgrounds may be covered with structures to be used in the recreational use of the area. Parks and playgrounds must be suitably improved for its intended use but parks and playgrounds containing natural features clearly worthy of preservation may be left unimproved.

- (7) The developer shall also submit sketches of the plan for the entire project showing the relationship of uses, street patterns, open space and the general character of the proposed development, including a schematic drawing illustrating a typical segment of the development.
 - (8) After approval, filing, and recording of the plan, a building permit may be issued in accordance with the approved plan.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 502. Manufactured home parks.

All manufactured home parks created or established shall be located in zoning districts as permitted by this ordinance and shall conform to the provisions below:

- (1) *General plan required.*
 - a. Parks shall be located on a well drained site, not less than three (3) acres in size, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
 - b. Manufactured home spaces shall be provided consisting of a minimum of four thousand five hundred (4,500) square feet for each space. Anchors or tie downs such as cast in place concrete deadmen, eyelets embedded in concrete, screw augers, or arrowhead anchors shall be placed at each corner of the manufactured home pad and at intervals not to exceed twenty (20) feet. Each device shall be able to sustain a minimum load of four thousand eight hundred (4,800) pounds.
 - c. Manufactured homes shall be so harbored on each space that there shall be at least a twenty-foot clearance between all manufactured homes or other buildings (exclusive of individual storage buildings) within the park or from any property line bounding the park. Individual storage buildings shall not exceed one hundred twenty (120) square feet in area and shall be located no closer than five (5) feet from any manufactured home lot line.
 - d. All manufactured home spaces shall abut upon a paved roadway of not less than twenty (20) feet in width, which shall have unobstructed access to a public street or highway.
 - e. Walkways not less than two (2) feet wide shall be provided in locations where pedestrian traffic is concentrated; for example, to the entrance, to the office and to other important facilities.
 - f. Adequate lights shall be provided to illuminate roadways and walkways for the safe movement of vehicles and pedestrians at night.
 - g. Each park shall provide service buildings to house each toilet, bathing and other sanitation facilities as are in this article more particularly prescribed for dependent manufactured homes.
 - h. An electrical outlet supplying at least one hundred ten (110) volts shall be provided for each manufactured home space.

- (2) *Water supply.* An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and manufactured home spaces within the park to meet the requirements of the park. A master water meter shall be installed according to city specific locations. Water supply for fire protection shall be provided, and constructed in order that all manufactured home spaces are located less than five hundred (500) feet of a fire plug. The water system shall be connected to the municipal water system whenever feasible. If the park water system is not connected to the municipal system, approval must be obtained from the county health department.
- (3) *Sewage and waste disposal.*
- a. Waste from showers, bathtubs, flush toilets, urinals, lavatories, slop sinks and laundries in service buildings and other buildings within the park shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in such manner as will present no health hazard.
 - b. Each manufactured home space shall be provided with a trapped sewer at least four (4) inches in diameter, which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory and kitchen sink of the manufactured home harbored in such space having any or all such facilities. The trapped sewer in each space shall be connected to discharge the manufactured home waste into the public sewer system in compliance with applicable ordinances or into a private sewer disposal plant or septic tank system of such construction and in such manner as will present no health hazard, and as shall be required by the state board of health.
- (4) *Garbage receptacles.* Metal or plastic garbage cans with tight-fitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish.
- (5) *Register of occupants.* It shall be the duty of each licensee to keep a register containing a record of all manufactured home owners and occupants located within the park. The register shall contain the following information:
- a. The name and address of each manufactured home occupant;
 - b. The name and address of the owner of each manufactured home and motor vehicle by which it is towed;
 - c. The make, model, year and license number of each manufactured home and motor vehicle;
 - d. The state, territory or country issuing such licenses;
 - e. The date of arrival and of departure of each manufactured home;
 - f. Whether or not each manufactured home is a dependent or independent manufactured home.
 - g. The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties

necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed by a period of three (3) years following the date of departure of the registrant from the park.

- (6) *Supervision.* The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this article to which the permittee is subject.
- (7) *License required.*
 - a. It shall be unlawful for any person to maintain or operate a manufactured home park within the limits of the city unless such person shall first obtain a license permit therefore in addition to payment of the privilege tax required therefore by statute.
 - b. Future expansion of any manufactured home park to accommodate additional manufactured homes shall be done in accordance with the provisions of this appendix.
- (8) *Fees.*
 - a. The annual application fee for each manufactured home park shall be twenty dollars (\$20.00).
 - b. The fee for transfer of a license shall be ten dollars (\$10.00).
 - c. Every individual locating a manufactured home in the city, whether in a trailer park or otherwise, must make application with the city, such applications being available at the city hall or from the building official, at a cost of ten dollars (\$10.00).
- (9) *Application.*
 - a. *Application for initial license* shall be filed with and issued by the mayor and board of aldermen. The application shall be in writing, signed by the applicant and shall include the following:
 1. The name and address of the applicant;
 2. The location and legal description of the manufactured home park;
 3. A complete plan of the park in conformity with the requirements of this ordinance;
 4. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the manufactured home park;
 5. The application and all accompanying plans and specifications shall be filed in triplicate with the building official. The building official shall forward such plans and specifications to the planning commission for review and recommendation. The planning commission shall review the plans and specifications for compliance with this article, and all other applicable

ordinances, codes or statutes. Upon finding that the plans and specifications comply with all provisions of this article or other ordinances, codes, or statutes, the planning commission shall, in writing, recommend to the mayor and board of aldermen that the application be approved. Upon receipt of the recommendation from the planning commission, the mayor and board of aldermen may approve the application or take such other action as shall be necessary. Upon completion of the park in accordance with all approved plans and specifications, the mayor and board of aldermen shall issue a license for the operation thereof.

- b. *Application for transfer of license.* Upon application in writing for transfer of a license and payment of the transfer fee, the mayor and board of aldermen shall issue a transfer if the transferee is of good moral character.
 - (10) *Display.* The license shall be conspicuously posted in the office of or on the premises of the manufactured home park at all times.
 - (11) *Revocation.* The mayor and board of aldermen may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violation of any provisions of this article. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 503. Mixed use district.

(a) *General provisions.*

- (1) *Purpose.* The purpose of this section is to allow the optional development and redevelopment of land in Batesville consistent with the design principles of traditional neighborhoods. A traditional neighborhood generally:
 - a. Is compact;
 - b. Is designed for the human scale;
 - c. Provides a mix of uses, including residential, commercial civic, and open space uses in close proximity to one another within the neighborhood;
 - d. Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;
 - e. Incorporates a system of relatively narrow, interconnected streets with sidewalks, bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments;
 - f. Retains existing buildings with historical features or architectural features that enhance the visual character of the community;
 - g. Incorporates significant environmental features into the design;

h. Is consistent with Batesville's General Development plan.

(b) *Applicability.* The traditional neighborhood development ordinance is an alternative set of standards for development within Batesville for new development of fifteen (15) acres or more contiguous to existing development, redevelopment or infill development of ten (10) acres or more.

(c) *Fees.* The mayor and board of aldermen may, by resolution, establish fees for the administration of this ordinance.

(d) *Definitions.* The following definitions shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular. The word "shall" is mandatory and the word "may" is permissive.

Accessory building. A detached subordinate structure, the use of which is incidental to that of the principal structure and located on the same lot.

ADT. Average daily traffic volumes of vehicles on a street.

Affordable housing. Housing in which mortgage, amortization, taxes, insurance, and condominium and association fees, if any, constitute no more than twenty-eight (28) percent of gross household income for a household of the size which may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than thirty (30) percent of gross annual household income for a household of the size that may occupy the unit.

Alley. A public or private way permanently reserved as a secondary means of access to abutting property.

Arterial. A major street for carrying a large volume of through traffic in the area, normally controlled by traffic signs and signals.

Block. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Building height. The limit to the vertical extent of a building. The building height may be prescribed as a maximum number of stories or as a dimension from sidewalk grade to the eave. The height limit shall not apply to attics, raised basements, chimneys, machine rooms, or similar structures.

Building scale. The relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings. Mass is determined by the three-dimensional bulk of a structure: height, width and depth.

Building setback, front. The distance from the street right-of-way line to the closest point of the foundation of a building or projection thereof.

Collector street. A street designed to carry moderate volumes of traffic from local streets to arterial streets or from arterial to arterial.

Common open space. Squares, greens, neighborhood parks, Batesville parks, and linear environmental corridors owned and maintained by Batesville.

Curb radius. The curved edge of streets at an intersection measured at the outer edge of the street curb or of the parking lane.

Lot. A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one (1) main building, together with any accessory buildings, open spaces, and parking spaces required by this ordinance and having its principal frontage upon a street or upon an officially approved place.

Lot line. The property lines bounding the lot.

Lot width. The horizontal distance between side lot lines measured at the front setback.

Net acre. An acre of land excluding street rights-of-way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities.

Principal building. A building in which the primary use of the lot on which the building is located is conducted.

Queuing. The use of one (1) travel lane on local streets with parking (usually an intermittent parking pattern) on both sides.

Secondary dwelling unit. An additional dwelling unit located within the principal dwelling on the lot, in a freestanding building or above a residential garage.

Story. A space in a building between the surface of any floor and the surface of the next floor above, or if there is no such floor above, then the space between such floor and the ceiling or roof above.

Street. A strip of land, including the entire right-of-way, publicly or privately owned, serving as a means of vehicular travel, and furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, shade trees and sidewalks.

Traditional neighborhood. A compact, mixed use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(e) Application procedure and approval process.

- (1) Prior to the issuance of any permits for development within a traditional neighborhood development, the following steps shall be completed according to the procedures outlined in this section:
 - a. The applicant shall have had an initial conference;
 - b. General implementation plan and a zoning map amendment to a traditional neighborhood development district shall be approved by the mayor and board of aldermen;
 - c. Specific implementation plan shall be approved by the mayor and board of aldermen.

- (2) Initial conference. before submitting an application for a traditional neighborhood development project, the applicant shall schedule an appointment and meet with the planner to discuss the procedure for approval of a traditional neighborhood development project, including submittal requirements and design standards.

(f) *General implementation plan.*

- (1) *General implementation plan process.* Following the initial conference, the applicant shall submit a general implementation plan to the Batesville Planning Staff together with an application for a zoning map amendment to a traditional neighborhood development district.
- (2) *General implementation plan submittal requirements.* The purpose of the general implementation plan is to establish the intent, density, and intensity for a proposed development. The general implementation plan shall include the following:
 - a. A general location map of suitable scale, but no less than one (1) inch = two hundred (200) feet, which shows the location of the property within the community and adjacent parcels including locations of any public streets, railroads, major streams or rivers and other major features within one thousand 1,000 feet of the site.
 - b. A site inventory and analysis to identify site assets or resources, and constraints, including but not limited to, floodplains, wetlands and soils classified as "poorly drained" or "very poorly drained," soils with bedrock at or within forty-two (42) inches of the surface, utility easements for high-tension electrical transmission lines (>69KW), steep slopes greater than fifteen (15) percent, and brownfields.
 - c. A conceptual site plan, at a scale of no less than one (1) inch = one hundred (100) feet, which indicates topography in two-foot contours for sites with fifteen (15) feet or more of local relief, or one-foot contours for local sites with less than fifteen (15) feet of local relief, consisting of a map with proposed features and existing site features and uses that will remain. These features should include building outlines, location of streets, transit stops, drives and parking areas, pedestrian and bicycle paths, service access areas for receiving material and trash removal, and other impervious surfaces. The location of proposed and existing to remain trees and shrubs should also be included, along with any other significant features.
 - d. A conceptual stormwater management plan identifying the proposed patterns of major stormwater runoff, locations of stormwater infiltration areas, and other significant stormwater best management practices.
 - e. Identification of the architectural style(s) of the traditional neighborhood development and the accompanying site design style(s). The design style of the traditional neighborhood development shall be conveyed with drawings or computer simulations of typical proposed building elevations (including dimensions of building height and width and facade treatment).

- f. A written report that provides general information about the covenants, conservation easements, or agreements which will influence the use and maintenance of the proposed development. The report shall also describe the site conditions and the development objectives.
- g. Any other information deemed necessary by Batesville in order to evaluate plans.
- h. Ten (10) copies of the above information shall be submitted plus one (1) reduced set no larger than eight and one-half (8½) inches by eleven (11) inches.

(g) *Specific implementation plan.* The purpose of the specific implementation plan is to establish a detailed development proposal. The specific implementation plan can be proposed, reviewed, and acted upon as whole or in part or phases.

- (1) *Specific implementation plan process.* Following approval of the general implementation plan, the applicant shall submit a specific implementation plan to the planning staff.
- (2) Within thirty (30) days following receipt of the specific implementation plan, the planning commission shall receive a report from the planning department recommending approval, disapproval or approval with specified modifications. The planning commission shall determine that the proposed specific implementation plan is in substantial conformance with the approved general implementation plan. Upon due consideration, the planning commission shall recommend that the mayor and board of aldermen either:
 - a. Approve the specific implementation plan as being in substantial conformance with the general implementation plan;
 - b. Approve the specific implementation plan as being in substantial conformance with the general implementation plan with specified modifications; or
 - c. Deny the specific implementation plan.
- (3) Following planning commission recommendation, the mayor and board of aldermen shall receive the recommendation from the planning commission and the report from the planning staff. Upon due consideration, the mayor and board of aldermen shall either:
 - a. Approve the specific implementation plan as being in substantial conformance with the general implementation plan;
 - b. Approve the specific implementation plan as being in substantial conformance with the general implementation plan with specified modifications; or
 - c. Deny the specific implementation plan.
- (4) *Specific implementation plan submittal requirements.* The applicant shall submit a series of plans, maps, and written materials which include the following information:
 - a. A general location map of suitable scale which shows the boundaries and dimensions of the property within the context of Batesville and adjacent parcels,

including locations of any public streets, railroads, major streams or rivers and other major features within one thousand (1,000) feet of the site, along with a legal description of the property. (names of property owners)

- b. A site inventory and analysis to identify site assets or resources, and constraints, including but not limited to, floodplains, wetlands and soils classified as "poorly drained" or "very poorly drained," soils with bedrock at or within forty-two (42) inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), slopes greater than fifteen (15) percent, and brownfields.
- c. A site plan, including proposed topographic contours at one-foot intervals, with the following information:
 1. The location of proposed structures and existing structures that will remain, with height and gross floor area noted;
 2. Pedestrian lighting, including lamp intensity and height;
 3. The location of proposed open space;
 4. The circulation system indicating pedestrian, bicycle, and motor vehicle movement systems, including existing and proposed public streets or rights-of-way; transit stops; easements or other reservations of land on the site; the location and dimensions of existing and proposed curb cuts, off-street parking and loading spaces, including service access for receiving and trash removal; sidewalks and other walkways;
 5. Location of all trees, shrubs and groundcover (proposed or existing) to remain on the site;
 6. A stormwater management plan for the site. The grading plan shall show existing and proposed ground elevations with contours (one-foot contour interval) and spot elevations at significant high points, low points, and transition points. The grading plan shall also note the finished ground floor elevations of all buildings. The plan shall also show the locations of all storm drainage sewers and structures, and infiltration or detention/retention structures; and all wetlands on the site, using the Federal Manual For Identifying and Delineating Jurisdictional Wetlands, and copies of documents completed in making the wetlands identification;
 7. Detailed elevations of all proposed commercial buildings and typical elevations of residential buildings. Scaled elevations should identify all signs, building materials and percentage of ground floor commercial facade in windows; the location, height and material for screening walls and fences, including outdoor trash storage areas, electrical, mechanical and gas metering equipment, storage areas for trash and recyclable materials, and rooftop equipment. Commercial areas shall also be subject to the city's design standards;
 8. A utilities plan showing underground and above ground lines and structures for sanitary sewers, electricity, gas, telecommunications, etc.;

9. A written report which completely describes the proposal and indicates covenants or agreements that will influence the use and maintenance of the proposed development. The report also shall describe the analysis of site conditions and the development objectives;
 10. Phasing plans, where applicable;
 11. Any other information deemed necessary by the mayor and board of aldermen in order to evaluate plans;
 12. Five (5) copies of the above information shall be submitted, plus one (1) reduced set no larger than eight and one-half (8½) inches by eleven (11) inches.
- (5) *Amendments to the specific implementation plan.* Minor changes to the specific implementation plan adopted by the mayor and board of aldermen may be approved by the planning department, provided that the changes do not involve:
- a. Increases or decreases of less than ten (10) percent in floor area of structures or number of dwelling units.
 - b. Change in exterior building material.
 - c. Alteration of any conditions attached or modification to the specific implementation plan made by the board.
 - d. A major change to a specific implementation plan which is less restrictive than any conditions of approval for the initial specific implementation plan, shall require approval by a majority vote of all members of the mayor and board of aldermen.
- (h) *Subdivision of land.* If the traditional neighborhood development involves the subdivision of land as defined in Batesville's Subdivision Ordinance, the applicant shall submit all required land division documents in accordance with the requirements of the subdivision ordinance. If there is a conflict between the design standards of the subdivision ordinance and the design guidelines of this ordinance, the provisions of this ordinance shall apply.
- (i) *Ownership and maintenance of public space.* Provision shall be made for the ownership and maintenance of streets, squares, parks, open space, and other public spaces in a traditional neighborhood development by dedication to Batesville.
- (j) *Recording of documents.* The traditional neighborhood development must follow the city's subdivision regulations including platting and recording requirements.
- (k) *Traditional neighborhood development design standards.*
- (1) *Neighborhood uses.* In order to achieve the proximity necessary to make neighborhoods walkable, it is important to mix land uses. A traditional neighborhood development should consist of a mix of residential uses, a mixed use area, and open space as provided below:
- a. A mix of residential uses of the following types can occur anywhere in the traditional neighborhood development. For infill development, the mix of residential uses may be satisfied by existing residential uses adjacent to the traditional neighborhood development.

- b. Single-family detached dwellings;
 - c. Single-family attached dwellings, including duplexes, townhouses, row houses;
 - d. Multifamily dwellings, including senior housing;
 - e. Secondary dwelling units (granny flats);
 - f. Special needs housing, such as community living arrangements and assisted living facilities;
 - g. Mixed use area, of commercial, residential, civic or institutional, and open space uses as identified below. All residents should be within approximately one-fourth of a mile or a five-minute walk from existing or proposed commercial, civic, and open space areas. Individual businesses should not exceed six thousand (6,000) square feet in size.
- (2) *Commercial uses.*
- a. Food services (neighborhood grocery stores; butcher shops; bakeries; restaurants, not including drive-throughs; cafes; coffee shops; neighborhood bars or pubs);
 - b. Retail uses (florists or nurseries; hardware stores; stationery stores; book stores; studios and shops of artists and artisans);
 - c. Services (day care centers; music, dance or exercise studios; offices, including professional and medical offices; barber; hair salon; dry cleaning);
 - d. Accommodations (bed and breakfast establishments, small hotels or inns).
- (3) *Residential uses.*
- a. Single-family attached dwellings, including duplexes, townhouses, row houses;
 - b. Multifamily dwellings, including senior housing;
 - c. Residential units located on upper floors above commercial uses or to the rear of storefronts;
 - d. "Live/work" units that combine a residence and the resident's workplace;
 - e. "Special needs" housing, such as community living arrangements and assisted living facilities.
- (4) *Civic or institutional uses.*
- a. Municipal offices, fire stations, libraries, museums, community meeting facilities, and post offices;
 - b. Transit shelters;
 - c. Places of worship;
 - d. Educational facilities;
 - e. Open space uses;
 - f. Central square;
 - g. Neighborhood park;

- h. Playground.
- (5) *Open space uses* identified below should be incorporated in the traditional neighborhood development as appropriate. Large outdoor recreation areas should be located at the periphery of neighborhoods rather than central locations:
- a. Environmental corridors;
 - b. Community parks;
 - c. Streams, ponds, and other waterbodies;
 - d. Stormwater detention/retention facilities.
- (6) *Development units.* The number of residential dwelling units and the amount of nonresidential development (excluding open spaces) shall be determined as follows:
- a. *In areas devoted to mixed residential uses:*
 - 1. The number of single-family attached and detached units permitted shall be three (3) to eight (8) dwelling units per net acre;
 - 2. The number of multifamily units shall be twelve (12) to twenty (20) dwelling units per net acre;
 - 3. Secondary dwelling units shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of secondary dwelling units shall not be more than ten (10) percent of the total number of single-family attached and detached units.
 - b. *In mixed use areas:*
 - 1. The number of single-family and multifamily dwelling units permitted shall be calculated the same as above, plus an additional number of units not to exceed ten (10) percent of the amount permitted above;
 - 2. All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than ten (10) dwelling units or ten (10) percent, whichever is greater;
 - 3. The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed twenty-five (25) percent of the traditional neighborhood development.
 - c. *Open space:* At least twenty (20) percent of the gross acreage of the traditional neighborhood development must be open space. Open space may include undevelopable areas such as steep slopes and wetlands, and stormwater detention and retention basins. At least twenty-five (25) percent of the open space must be common open space dedicated to the public for parkland. Ninety (90) percent of the lots within the areas devoted to mixed residential uses shall be within one-fourth of a mile or a five-minute walk from common open space.
- (7) *Stormwater management.* The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration,

and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent practicable. New development and redevelopment shall meet the following requirements:

- a. Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.
 - b. Post development peak discharge rates should not exceed predevelopment peak rates.
 - c. Erosion and sediment controls must be implemented to remove eighty (80) percent of the average annual load of total suspended solids.
 - d. Redevelopment stormwater management systems should improve existing conditions and meet standards to the extent practicable.
 - e. All treatment systems or BMPs must have operation and maintenance plans to ensure that systems function as designed.
- (8) *Lot and block standards.*
- a. *Block and lot size diversity.* Street layouts should provide for perimeter blocks that are generally in the range of two hundred (200) to four hundred (400) feet deep by four hundred (400) to eight hundred (800) feet long. A variety of lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.
 - b. *Lot widths.* Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.
 - c. *Building setback, front—Mixed use area.* Structures in the mixed use area have no minimum setback. Commercial and civic or institutional buildings should abut the sidewalks in the mixed use area (may have a build to line).
 - d. *Building setback, front—Areas of mixed residential uses.* Single-family detached residences shall have a building setback in the front between 0 and twenty-five (25) feet. Single-family attached residences and multifamily residences shall have a building setback in the front between 0 and fifteen (15) feet (may have a build to line).
 - e. *Building setback, rear—Areas of mixed residential uses.* The principal building on lots devoted to single-family detached residences shall be setback no less than thirty (30) feet from the rear lot line.
 - f. *Side setbacks.* Provision for zero lot-line single-family dwellings should be made, provided that a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings, and provided that all dwellings have pedestrian access to the rear yard through means other than the principal structure.

(1) *Circulation standards.* The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off-street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development.

(1) *Pedestrian circulation.* Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the traditional neighborhood development. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks on both sides in accordance with the specifications listed in the city's subdivision regulations.

(2) *The following provisions also apply:*

- a. *Sidewalks in residential areas.* Clear and well-lighted sidewalks, three (3) to five (5) feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.
- b. *Sidewalks in mixed use areas.* Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of five (5) feet in width.
- c. *Disabled accessibility.* Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.
- d. *Crosswalks.* Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges or with striping.
- e. *Bicycle circulation.* Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing or planned bicycle routes or greenways through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other nonmotorized users) and separate, striped, four-foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be fourteen (14) feet.
- f. *Public transit access.* Where public transit service is available or planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security through surveillance, and shall be well-lighted.
- g. *Motor vehicle circulation.* Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as "queuing streets," curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.

- (3) *Street hierarchy.* Each street within a traditional neighborhood development shall be classified according to the following (arterial streets should not bisect a traditional neighborhood development):
- Collector.* This street provides access to commercial or mixed use buildings, but it is also part of Batesville's major street network. On-street parking, whether diagonal or parallel, helps to slow traffic. Additional parking is provided in lots to the side or rear of buildings.
 - Subcollector.* This street provides primary access to individual residential properties and connects streets of lower and higher function. Design speed is twenty-five (25) mph.
 - Local street.* This street provides primary access to individual residential properties. Traffic volumes are relatively low, with a design speed of twenty (20) mph.
 - Alley.* These streets provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.

Table 1: Attributes of Streets in a Traditional Neighborhood Development

	Collector	Sub-collector	Local Street	Alley
Average Daily Trips	750—1500	750 or more	Less than 250	Not applicable
Right-of-Way	76—88 ft.	48—72 ft.	35—50 ft.	12—16 ft.
Auto travel lanes	Two or three 12 ft. lanes	Two 10 ft. lanes	Two 8 ft. lanes for two-way traffic, or one 12 ft. lane for one-way traffic	
Bicycle lanes	Two 6 ft. lanes combined with parking lanes	4 ft. lanes with no parking, or 6 ft. lanes combined with parking lanes	None	None
Parking	Both sides,	None, one, or 8 ft. both sides.	None, one or both sides, 8 ft.	None (access to individual drives and garages outside right-of-way)
Curb and gutter	Required	Required	Required	Not Required
Planting strips	Minimum 6 ft.	Minimum 6 ft.	Minimum 6 ft.	None
Sidewalks	Both sides, 5 ft. minimum	Both sides, 3—5 ft.	Both sides, 3—5 ft.	None

(m) *Street layout.* The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:

- Intersections shall be at right angles whenever possible, but in no case less than seventy-five (75) degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment (the through street receives precedence) which significantly reduces accidents without the use of traffic controls.

- (2) **Corner radii.** The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of fifteen (15) feet for local streets and twenty (20) feet for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of ten (10) feet.
- (3) **Curb cuts for driveways to individual residential lots** shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential uses. Clear sight triangles shall be maintained at intersections, as specified below, unless controlled by traffic signal devices:

Intersection of:	minimum clear sight distance:
local street and collector	120 feet
collector and collector	130 feet
collector and arterial	50 feet

- (4) The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.
- (n) *Parking requirements.* Parking areas for shared or community use should be encouraged. In addition, in the mixed use area, any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided as specified in this ordinance.
- (1) A parking lot or garage may not be adjacent to or opposite a street intersection.
 - (2) In the mixed use area, a commercial use must provide one parking space for every five hundred (500) square feet of gross building area.
 - (3) Parking lots or garages must provide not less than one (1) bicycle parking space for every ten (10) motor vehicle parking spaces.
 - (4) Adjacent on-street parking may apply toward the minimum parking requirements.
 - (5) In the mixed residential areas, parking may be provided on-site. One (1) off-street parking space with unrestricted ingress and egress shall be provided for each secondary dwelling unit.
 - (6) Multifamily uses must provide one (1) parking space for every dwelling unit and 0.5 parking space for each additional bedroom.
 - (7) **Service access.** Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas.

- (8) **Paving.** Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.
- (o) *Architectural standards.* A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.
- (1) *Guidelines for existing structures.*
- a. Existing structures, if determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures or landscape development.
 - b. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall be used as the criteria for renovating historic or architecturally significant structures.
- (2) *Guidelines for new structures.*
- a. **Height.** New structures within a traditional neighborhood development shall be no more than three (3) stories for single-family residential, or five (5) stories for commercial, multifamily residential, or mixed use.
 - b. **Entries and facades.**
 1. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.
 2. The front facade of the principal building on any lot in a traditional neighborhood development shall face onto a public street.
 3. The front facade shall not be oriented to face directly toward a parking lot.
 4. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
 5. For commercial buildings, a minimum of fifty (50) percent of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.
 6. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.
- (3) *Guidelines for garages and secondary dwelling units.* Garages and secondary dwelling units may be placed on a single-family detached residential lot within the principal building or an accessory building provided that the secondary dwelling unit shall not exceed eight hundred (800) square feet.
- (4) *Guidelines for exterior signage.* A comprehensive sign program is required for the entire traditional neighborhood development which establishes a uniform sign theme. Signs shall share a common style (e.g., size, shape, material). In the mixed use area, all signs shall be wall signs or cantilever signs. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed eight (8) square feet.

(5) *Guidelines for lighting.*

- a. Street lighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Street lights shall be installed on both sides of the street at intervals of no greater than seventy-five (75) feet. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society.
- b. Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.

(6) *Landscaping and screening standards.* Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this ordinance, it shall be at least three (3) feet in height, unless otherwise specified. Required screening shall be at least fifty (50) percent opaque throughout the year. Required screening shall be satisfied by one (1) or some combination of a decorative fence not less than fifty (50) percent opaque behind a continuous landscaped area, a masonry wall, or a hedge.

- a. *Street trees.* A minimum of one (1) deciduous canopy tree per forty (40) feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.
- b. *Parking area landscaping and screening.*
 1. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:
 - (i) A landscaped area at least five (5) feet wide along the public street or sidewalk.
 - (ii) Screening at least three (3) feet in height and not less than fifty (50) percent opaque.
 - (iii) One (1) tree for each twenty-five (25) linear feet of parking lot frontage.
 2. Parking area interior landscaping. The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
 3. In large parking lots containing more than two hundred (200) spaces, an additional landscaped area of at least three hundred (300) square feet shall

be provided for each twenty-five (25) spaces or fraction thereof, containing one (1) canopy tree. The remainder shall be covered with turf grass, native grasses or other perennial flowering plants, vines or shrubs.

c. *Installation and maintenance of landscaping materials.*

1. All landscape materials shall be installed to current industry standards.
2. Maintenance and replacement of landscape materials shall be the responsibility of the property owner. Landscape maintenance should incorporate environmentally sound management practices, including the use of water and energy-efficient irrigation systems such as drip irrigation, and pruning primarily for plant health and public safety, replacing dead materials annually.
3. Materials. All plant materials must meet the minimum standards set by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species. Plant materials shall comply with the following standards.
4. Minimum plant size shall be as specified as follows (for the purpose of determining tree trunk size, the diameter shall be measured six (6) inches above ground level):
 - (i) Plant type minimum size;
 - (ii) Evergreen tree six (6) feet in height;
 - (iii) Deciduous canopy tree twenty-two (22) inches caliper at dbh*;
 - (iv) Small deciduous tree twelve (12) inches caliper at dbh*;
 - (v) Evergreen or deciduous shrubs eighteen (18) to twenty-four (24) inches in height *dbh = diameter at breast height;
 - (vi) Landscape materials shall be tolerant of specific site conditions, including but not limited to heat, drought and salt;
 - (vii) Existing healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified above;
 - (viii) Landscape materials that are used for screening shall be of a size that allows growth to the desired height and opacity within two (2) years.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 504. Planned commercial district.

(a) *Purpose.* The purpose of this district is to provide for modern, attractive, and efficient retail, personal, and professional commercial facilities with access needs which demand location along major arterial roadways. Uses permitted in this district are frequently automobile-oriented, and, as such, this district is most appropriately located along or at intersections of urban arterial or collector roadways, as identified on the general development

plan. Also, since these corridors are major entryways and focal points in the city, landscape and buffer standards are instituted to provide commercial development which is more compatible and visually pleasing with adjacent residential areas. A preliminary site plan for the development of the entire area is required, but the development may occur in stages.

(b) *Permitted uses.* No specific uses are specified for C-4 planned commercial zone. The applicant for a planned commercial district shall submit a list of uses which will be permitted. The planning commission may delete certain requested uses where it has been determined that the proposed use will not be compatible with surrounding area or will be in conflict with the General Development Plan of the City of Batesville.

(c) *Prohibited uses.* Uses specifically prohibited in the C-4 planned commercial district shall be as follows:

- (1) Adult entertainment;
- (2) Night clubs, bars and taverns;
- (3) Salvage yards;
- (4) Outside storage.

(d) *Preliminary site plan required.* The "C-4" planned commercial district shall be established only upon application, after public hearing as specified in the amendatory procedures of article XVIII, and shall require an approved plan as provided below in order to provide for modern commercial centers of integrated design.

- (1) *Site plan information.* A preliminary site plan shall be prepared and submitted to the planning commission. The preliminary site plan shall be drawn to a scale of not less than two hundred (200) feet to the inch and shall include the following information:
 - a. Property boundary lines and dimensions, topography (five-foot contour intervals), location map.
 - b. Arrangement and size of buildings and the general use of the property.
 - c. Areas to be developed for parking, unloading, drives, walkways, recreation, or other uses.
 - d. A general grading and landscape plan including the location of major existing growth that is to be retained. The landscape plan shall include specific information pertaining to bufferyards and required landscaped areas.
 - e. General locations and types of utilities and easements including storm drainage as well as general details of all surfaced areas.
 - f. Estimates of traffic volumes and movements to and from the completed project from the boundary streets.
 - g. A preliminary time schedule for completion of the entire project.
 - h. A statement regarding the proposed method of operating and maintaining the project.

- i. A statement of financial responsibility to assure construction of the planned district within the proposed time schedule.
- (2) *Site development regulations.* The following minimum development standards shall be observed in the "C-4" planned commercial district:

Minimum site size (entire development)	1.0 acre
Minimum lot area (within development)	20,000 square feet
Minimum lot width (measured at front property line)	100 feet
Maximum floor area ratio	1.0
Maximum building height	40 feet
Off-street parking	As prescribed in this ordinance
Minimum Building Setbacks:	
Front yard (urban arterial)	50 feet
Front yard (collector)	50 feet
Side yard (along intervening street)	50 feet
Side yard (abutting commercial district)	25 feet
Interior side yard (within site)	15 feet*
Rear yard (abutting residential "planned" or zoned district)	60 feet
Rear yard (abutting commercial "planned" or zoned district)	15 feet
* NOTE: Minimum distance between any two buildings within a site 50 feet	

(e) *Landscaped bufferyard requirements.* In addition to the requirements of article XI, of this chapter, the following landscape bufferyards shall be provided in the C-4 district, provided, however, that if the provisions of article XI differ from these requirements, the more restrictive requirement shall apply:

Bufferyard Width	Minimum	Minimum Landscape Requirements
Front lot line abutting a street designated "Urban Arterial" on the public right-of-way	20 feet	(a) 90% landscaped area* (b) One large deciduous tree for every 50 feet of lot frontage
Front lot line abutting any other public right-of-way	15 feet	(a) 90% landscaped area* (b) One large deciduous tree for every 40 feet of lot frontage
Side lot line abutting a public right-of-way	15 feet	(a) 90% landscaped (b) One large deciduous tree area*for every 40 feet of lot frontage
* NOTE: Landscaped area shall be defined as an area consisting of grass, shrubs, trees, flowers, ground cover, or other organic plant materials in the minimum percentage as noted. A sidewalk/bike path is only other permitted material within a landscaped area.		

(f) *Additional landscaping requirements.* In addition to the landscape material requirements provided in this ordinance, the following landscaping materials shall be required of all developments in the "C-4" district:

- (1) For lots equal to twenty thousand (20,000) square feet or less in area, a minimum of one thousand (1,000) square feet of permanently landscaped area shall be provided on a lot (exclusive of the required bufferyards).

- (2) For lots of greater than twenty thousand (20,000) square feet in area, a minimum of five (5) percent of the lot area shall be permanently maintained landscaped area (exclusive of the required bufferyards).
- (3) For every five hundred (500) square feet of landscaped area on a lot/site, a minimum of one (1) medium deciduous or ornamental tree shall be provided (exclusive of the required bufferyard landscape requirements).

(g) *Visibility areas at entrances / intersections.* The design and placement of the landscaping materials within the parking areas and front lot line and side lot line bufferyards will be at the discretion of the owner; provided, however, the landscaping shall not obstruct the view between access drives and public streets. When an access drive intersects a public street, all landscaping within the areas described below shall provide unobstructed cross-visibility at a level between thirty (30) inches and seven (7) feet above existing street grade. The sight visibility area is defined as the area formed from the intersection point of the proposed access drive and the public right-of-way for a distance of thirty-five (35) feet in all directions from said intersection point.

(h) *Traffic access control standards.* In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

- (1) *Maximum width of driveway opening at property line:* Thirty-five (35) feet.
- (2) *Minimum throat length of driveway (measured from property line to first parking aisle):* Fifty (50) feet for access to "urban arterial," thirty (30) feet for all other public rights-of-way.
- (3) *Location of driveways.* Driveways shall be so located that vehicles entering or leaving the establishment will not interfere with the free movement of traffic or create a hazard on the public right-of-way. Where feasible, they shall be located where there are not sharp curves and steep grades and where sight distance is adequate for safe traffic operation. Driveways should not be located within intersections, interchanges, or on highways immediately approaching them. They shall be so located that they will not interfere with the placement of signs, signals, or other devices that affect traffic operation.

All proposed developments shall utilize the rules for curb cuts contained in the City of Batesville Design Standards.

(i) *Review and approval.*

- (1) The planning commission shall study the preliminary plan and supporting data and may make suggestions for changes and adjustments. Upon receipt of the approved preliminary plan, the owner may proceed with final plans and specifications for all or for any portion of the project that is agreed upon. The final plans and specifications

shall be reviewed and approved by the commission. No building permit shall be issued until a final plat of the proposed development, or portion thereof, is approved, filed, and recorded.

- (2) *Modification of site plan.* The planning commission may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than district regulations and may include, but not be limited to, provision for additional bufferyards, landscaping and screening, installation of erosion control measures, improvement to access and circulation systems, rearrangement of structures or uses within the site, and location and character of signs and other modifications deemed necessary to ensure compatibility with the surrounding environment and to protect public health, safety and welfare.
 - (3) *Lapse of approval.* A site plan approval shall become void two (2) years after the date on which the approval became effective unless the applicant receives a building permit and diligently carries out construction prior to expiration of that period, or a specific time extension is requested of and approved. A site plan approval may establish a longer effective period as a specific condition of the application. The planning commission may grant a one-year extension of a site plan approval, provided that the applicant files a written request for an extension stating the reasons for the request prior to the date of expiration of the approval.
 - (4) *Modification of site plan approval.* The planning commission may approve an application for modification of a previous site plan approval if it is determined that the modification does not affect findings relating to the criteria described herein, leading to the original approval.
 - (5) *New applications following denial or revocation.* No application for approval of the same or substantially the same site may be filed within one (1) year of the date of denial of a site plan review by the planning commission.
 - (6) *Approval to run with the land.* A site plan approval pursuant to these provisions shall run with the land and shall continue to be valid upon change of ownership of the site or structure that was the subject of the application.
 - (7) *Site plans approved under prior regulations.* Any site plan approved administratively or approved by ordinance under regulations in effect before the effective date of this regulation shall be considered an approved site plan subject to any conditions imposed at the time of original approval. A pre-existing site plan approval shall be subject to the provisions of this section regarding lapse of approval, modification or revocation.
- (Ord. No. 2010-09-743, 9-7-10)

ARTICLE VI. DENSITY AND DIMENSIONAL REGULATIONS

Sec. 601. Minimum lot size.

Subject to the provisions of cluster subdivisions and architecturally integrated subdivisions, all lots in the following districts shall have at least the amount of square footage indicated in the following table:

Zone	Minimum Square Feet
Agriculture	1 Acre
R-12	12,000
R-9	9,200
R-7	7,000
RM-3	3,000
M-1	6,000
C-1	6,000
C-2	3,000*
C-3	5,000*
I-1	No Minimum
I-2	No Minimum
PUD	Approval per Site Plan
Planned Commercial District	Approval per Site Plan
Mixed Use District	Approval per Site Plan
* If used for residential purposes, otherwise no minimum	

(Ord. No. 2010-09-743, 9-7-10)

Sec. 602. Residential density.

(a) Subject to and the provisions of cluster subdivisions and architecturally integrated subdivisions, every lot developed for residential purposes shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions shall be rounded to the nearest whole number.

Zone	Minimum Square Feet Per Dwelling Unit
Agriculture	1 Acre
R-12	12,000
R-9	9,200
R-7	7,000
RM-3	3,000
M-1	6,000
C-1	6,000*
C-2	3,000*
C-3	5,000
I-1	No Minimum
I-2	No Minimum
PUD	Approval per Site Plan
Planned Commercial District	Approval per Site Plan
Mixed Use District	Approval per Site Plan
* If used for residential purposes	

(b) Two-family conversions and primary residences with an accessory apartment shall be allowed only on lots having at least one hundred fifty (150) percent of the minimum square footage required for one (1) dwelling unit on a lot in such district. With respect to multifamily

conversions into three (3) or four (4) dwelling units, the minimum lot size shall be two hundred (200) percent and two hundred fifty (250) percent respectively of the minimum required for one (1) dwelling unit.

(Ord. No. 2010-09-743, 9-7-10; Ord. No. 2013-08-785, § 1, 8-6-13)

Sec. 603. Minimum lot widths.

(a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

- (1) Could be used for purposes that are permissible in that zoning district; and
- (2) Could satisfy any applicable setback requirements for that district.

(b) Without limiting the generality of the foregoing standard, the following table indicates minimum lot widths that are recommended and are deemed to satisfy the standard set forth herein. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

Zone	Lot Width (in feet)
Agriculture	100
R-12	85
R-9	80
R-7	70
RM-3	50
M-1	60
C-1	None
C-2	50
C-3	100
I-1	100
I-2	100
PUD	Approval per Site Plan
Planned Commercial District	Approval per Site Plan
Mixed Use District	Approval per Site Plan

(Ord. No. 2010-09-743, 9-7-10; Ord. No. 2011-03-756, 3-15-11)

Sec. 604. Building setback requirements.

(a) Subject to provision of this article and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth in this section.

(b) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.

(c) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.

(d) As used in this section, the term "building" includes any substantial structure which by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:

- (1) Gas pumps and overhead canopies or roofs;
- (2) Fences running along lot boundaries adjacent to public street rights-of-way if such fences exceed six (6) feet in height and are substantially opaque.

(e) Notwithstanding any other provision of this chapter, a sign may be erected on or affixed to a structure that: (i) has a principal function that is something other than the support of the sign (e.g., a fence); but (ii) does not constitute a building as defined in this chapter, only if such sign located so as to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.

Zone	Minimum Distance From: Street Right-of-Way Line		Street Centerline		Lot Boundary Line
	Building	Freestanding Sign	Building	Freestanding Sign	Building and Freestanding Sign
Agr.	40	20	70	50	20
R-12	30	15	60	45	15
R-9	25	12.5	55	52.5	12
R-7	20	10	50	40	10
RM-3	20	10	50	40	8
M-1	35	10	65	40	—
C-1	-	-	30	30	—
C-2	15	7.5	45	37.5	10
C-3	40	20	70	50	15
I-1	30	15	60	45	20
I-2	40	20	70	50	25
PUD	Approved per Site Plan				
Planned Commercial District	Approval per Site Plan				
Mixed Use District	Approval per Site Plan				

(f) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.

(g) Bypass corridor setback. To achieve the goals of Batesville 2030, the Batesville Highway 6 ByPass shall, within the limits of the authority of the City of Batesville, along its right-of-way, be maintained as green space. The bypass green space shall be achieved by the application of a minimum setback from said right-of-way for a minimum distance of three hundred (300) feet in which no building, including signage, shall be established. The bypass corridor setback shall supersede any other setback established by this ordinance.

(h) Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

(i) Whenever a private road that serves more than three (3) lots or more than three (3) dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three (3) dwelling units is located along a lot boundary, then:

- (1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.
- (2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the column labeled "Minimum Distance from Lot Boundary Line") shall be measured from the inside boundary of the traveled portion of the private road.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 605. Accessory building regulation and setback requirements.

(a) An accessory building must be located on the same lot as the principal building.

(b) The maximum combined square footage of the principal building and the accessory buildings shall not exceed forty (40) percent of the square footage of the lot on which they are located.

(c) An accessory building shall not exceed:

Twenty-five (25) percent of the square footage of the principal structure on lots up to one and one-half (1.5) acres;

Fifty (50) percent of the square footage of the principal structure on lots of one and one-half (1.5) acres to three and one-half (3.5) acres;

Seventy-five (75) percent of the square footage of the principal structure on lots of three and one-half (3.5) acres to four and one-half (4.5); acres;

One hundred (100) percent of the square footage of the principal structure on lots larger than four and one-half (4.5) acres.

(d) Accessory buildings visible from the street must be constructed of materials comparable to the finishes of the principal building.

(e) Accessory buildings in residential areas shall not be used for storage of items in conjunction with the operation of a commercial business.

(f) Accessory buildings in residential districts must comply with the street right-of-way and side lot boundary setbacks set forth in this article, but shall be required to observe only a four (4) foot setback from the rear lot boundary lines except when the high point of the roof or any appurtenance of an accessory building exceeds twelve (12) feet in height, the accessory building shall then be set back from the rear lot boundary lines an additional two (2) feet for every foot of height exceeding twelve (12) feet.

(Ord. No. 2010-09-743, 9-7-10; Ord. No. 2016-03-827, § I, 3-1-16)

Editor's note—Ord. No. 2016-03-827, § I, adopted March 1, 2016, amended § 605, and in so doing changed the title of said section from "Accessory building setback requirements" to "Accessory building regulation and setback requirements," as set out herein.

Sec. 606. Building height limitations.

(a) For purposes of this section:

- (1) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.

- (2) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roofs surface, whichever is greater. Roofs with slopes greater than seventy-five (75) percent are regarded as walls.

(b) Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as follows:

Zone	Height Limitations (in feet)
Agriculture, R-12	35
R-9, R-7, M-1	35
RM-3	60
C-1	85
C-2	35
C-3	60
I-, I-2	85
PUD	Approval per Site Plan
Planned Commercial District	Approval per Site Plan
Mixed Use District	Approval per Site Plan

(c) The following features are exempt from the district height limitations set forth in subsection (b):

- (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage;
- (2) Flagpoles and similar devices;
- (3) Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices.

(d) The features listed in subsection (c) are exempt from the height limitations set forth in subsection (b) if they conform to the following requirements:

- (1) Not more than one-third of the total roof area may be consumed by such features;
- (2) The features described in subdivision (c)(3) above must be set back from the edge of the roof a minimum distance of one (1) foot for every foot by which such features extend above the roof surface of the principal building to which they are attached;
- (3) The permit-issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in subsections (c)(1) and (3) from view.

(e) Notwithstanding subsection (b), in any zoning district the vertical distance from the ground to a point of access to a roof surface of any nonresidential building or any multifamily residential building containing four (4) or more dwelling units may not exceed thirty-five (35) feet unless the fire chief certifies to the permit issuing authority that such building is designed to provide adequate access for firefighting personnel or the building inspector certifies that the

building is otherwise designed or equipped to provide adequate protection against the dangers of fire. Towers and antennas are allowed in all zoning districts to the extent authorized in the Table of Permissible Uses, use classification 18.000.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 607. Cluster subdivisions.

(a) In any single-family residential subdivision in the zones indicated below, a developer may create lots that are smaller than those required in this ordinance if such developer complies with the provisions of this section and if the lots so created are not smaller than the minimum set forth in the following table:

Zone	Minimum Square Feet
PUD	Approved Per Site Plan
R-7	5,250
R-9	8,250
R-12	11,250
Agricultural	15,000

(b) The intent of this section is to authorize the developer to decrease lot sizes and leave the land "saved", by so doing, as usable open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were divided into the size of lots required.

(c) The amount of usable open space that must be set aside shall be determined by:

- (1) Subtracting from the standard square footage requirement set forth, the amount of square footage of each lot that is smaller than that standard;
- (2) Adding together the results obtained in subsection (1) above, for each foot.

(d) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least ten thousand (10,000) square feet of space that satisfies the definition of usable open space set forth if such usable open space is otherwise in compliance with the provisions included in subdivision regulations for the city.

(e) The setback requirements of sections 604 and 605 shall apply in cluster subdivisions.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 608. Architecturally integrated subdivisions.

(a) In any architecturally integrated subdivision, the developer may create lots and construct buildings without regard any minimum lot size, lot width, or setback restrictions except that:

- (1) Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and

(2) Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this appendix.

(b) The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized.

(c) To the extent reasonably practicable, in residential subdivisions the amount of land "saved" by creating lots that are smaller than the standards set forth shall be set aside as usable open space.

(d) The purpose of this section is to provide flexibility, consistent with the public health and safety and without increasing overall density, to the developer who subdivides property and constructs buildings on the lots created in accordance with a unified and coherent plan of development.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 609. Density on lots where portion dedicated to city.

(a) Subject to the other provisions of this section, if: (1) any portion of a tract lies within an area designated on any officially adopted city plan as part of a proposed public park, greenway, or bikeway; and (2) before the tract is developed, the owner of the tract, with the concurrence of the city, dedicates to the city that portion of the tract so designated; then, when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.

(b) If the proposed use of the remainder is a single-family detached residential subdivision, then the lots in such subdivision may be reduced in accordance with the provisions set forth; except that the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the city in accordance with subsection (a) of this section.

(c) If the proposed use of the remainder is a two-family or multifamily project, then the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

(d) If the portion of the tract that remains after dedication divided in such way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus".

(Ord. No. 2010-09-743, 9-7-10)

Sec. 610. Density bonus.

(a) Any development designed in accordance with the provisions of this section may upon request, receive a lot density bonus of ten (10) percent calculated on the total number of lots permitted in the subdivision and to be added to the number of permitted lots for the subdivision.

(b) Any fractional part of a calculated density bonus shall be rounded up to the nearest whole number. (Example: Seventeen (17) lots are permitted in a given subdivision designed under this section. Multiplied by ten (10) percent, the seventeen-lot subdivision is eligible for a density bonus of 1.7 lots or two (2) bonus lots after rounding. Total permitted lots would equal nineteen (19).)

(Ord. No. 2010-09-743, 9-7-10)

ARTICLE VII. SIGNS

Sec. 701. Definitions.

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

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

Effective date of this article: The effective date of this article as originally adopted, or the effective date of an amendment to it if the amendment makes a sign nonconforming.

Freestanding sign: A sign that is attached to, erected on or supported by one structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign stands without supporting elements, such as a "sandwich sign", is also a freestanding sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

Internally illuminated signs: Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that:

- (1) Are filled with neon or some other gas that glows when an electric current passes through it; and
- (2) Are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the signs that contain the message, shall also be considered internally illuminated signs.

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

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

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

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

(Ord. No. 2010-09-743, 9-7-10)

Sec. 702. Permit required for signs.

Except as otherwise provided in section 703 (Signs excluded from regulation) and section 704 (Certain temporary signs; permit exceptions and additional regulations), no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this section. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration.

- (1) If plans submitted for a building permit include sign plans in sufficient detail that the permit-issuing authority can determine whether the proposed sign or signs comply with the provisions of this appendix, then issuance of the requested permit shall constitute approval of the proposed sign or signs.
- (2) Signs not approved as provided or exempted may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a sign permit issued by the administrator.
- (3) Sign permit applications and sign permits shall be governed by the same provisions of this appendix applicable to building permits.
- (4) In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), sign permits shall be issued in the name of the lot owner or his agent rather than in the name of the individual business enterprise requesting a particular sign. The city may assist the owner by suggesting a formula whereby the maximum square footage of sign area allowed on the lot may be allocated equitably among all tenants, but the city shall be responsible for enforcing only the provisions of this appendix and not the provisions of any allocation formula, lease, or other private restriction.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 703. Signs excluded from regulation.

The following signs are exempt from regulation:

- (1) Signs not exceeding four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as: (i) signs giving property identification names or numbers or names of occupants; (ii) signs on mailboxes or newspaper tubes; and (iii) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- (2) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- (3) Official signs of a noncommercial nature erected by public utilities.
- (4) Flags, pennants or insignia of any governmental, nonprofit or commercial organization that are attached to a building or other improvement to the land when not displayed in connection with a commercial promotion or as an advertising device.
- (5) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
- (6) Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.
- (7) Church bulletin boards, church identification signs, and church directional signs that do not exceed one (1) per abutting street and sixteen (16) square feet in area and that are not internally illuminated.
- (8) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
- (9) Signs proclaiming religious, political, or other noncommercial messages (other than those regulated by subsection (7) that do not exceed one (1) per abutting street and sixteen (16) square feet in size and that are not internally illuminated.)

(Ord. No. 2010-09-743, 9-7-10)

Sec. 704. Certain temporary signs; permit exemptions and additional regulations.

(a) The following temporary signs are permitted without a building permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this chapter for total sign surface area and number of freestanding signs:

- (1) Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent: Such signs may not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental. For lots of less than five (5) acres, a single sign on each street frontage may be erected. For lots of five (5) acres or more in area and having a street frontage in excess of four hundred (400) feet, a second sign not exceeding four (4) square feet in area may be erected.

- (2) Construction site identification signs: Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including but not limited to sale or leasing information. Not more than one (1) such sign may be erected per site, and it may not exceed thirty-two (32) square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within ten (10) days after the issuance of the final occupancy permit.
- (3) Signs attached temporarily to the interior of a building window or glass door: Such signs, individually or collectively, may not cover more than seventy-five (75) percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within thirty (30) days after placement.
- (4) Displays, including lighting, erected in connection with the observance of holidays: Such signs shall be removed within ten (10) days following the holidays.
- (5) Signs erected in connection with elections or political campaigns: Such signs shall be removed within three (3) days following the election or conclusion of the campaign. Applicant shall provide the city with a master list indicating sign locations to be accompanied by written consent of property owners for sites not owned by the applicant. Applicant shall post a cash bond in the amount of three hundred dollars (\$300.00) securing the removal of such signs within the applicable time period. Failure to remove signs shall result in forfeiture of said security. Removal of signs by the applicant will result in refund of posted security.
- (6) Signs indicating that a special event such as a grand opening, fair, carnival, circus or similar event is to take place on the lot where the sign is located and signs promoting nonprofit organizational events such as school funds raisers, community festivals or similar events, not located on the premises where the event is to take place. Such signs may be erected not sooner than two (2) weeks before the event and must be removed not later than three (3) days after the event.
- (7) Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:
 - a. Not more than one (1) such sign may be located on any lot;
 - b. No such sign may exceed thirty-two (32) square feet in surface area;
 - c. Such sign may not be displayed for longer than five (5) consecutive days, nor more than thirty (30) days out of any three hundred sixty-five-day period, except by variance from the governing authority of the city.

(b) Other temporary signs not listed in this section shall be regarded and treated in all respects as permanent signs, except that (as provided in section 706) temporary signs shall not be included in calculating the total amount of permitted sign area.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 705. Determining the number of signs.

(a) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. When matter is displayed in a random manner without organized relationship of elements each element shall be considered a single sign.

(b) A two-sided or multi-sided sign shall be regarded as one (1) sign so long as:

- (1) With respect to a V-type sign, the two (2) sides are at no point separated by a distance that exceeds five (5) feet; and
- (2) With respect to double-faced (back to back) signs, the distance between the backs of each face of the sign does not exceed three (3) feet.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 706. Computation of sign area.

(a) The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight (8) straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

(b) If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

(c) With respect to two-sided, multi-sided, or three-dimensional signs, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one (1) time by a person from one (1) vantage point. Without otherwise limiting the generality of the foregoing:

- (1) The sign surface area of a double-faced, back to back sign shall be calculated by using the area of only one (1) side of such sign, so long as the distance between the backs of such signs does not exceed three (3) feet.
- (2) The sign surface area of a double-faced sign constructed in the form of a "V" shall be calculated by using the area of only one (1) side of such sign (the larger side if there is a size difference), so long as the angle of the "V" does not exceed thirty (30) degrees and at no point does the distance between the backs of such sides exceed five (5) feet.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 707. Total sign surface area.

(a) Unless otherwise provided in this article, the total surface area devoted to all signs on any lot shall not exceed the limitations set forth in this section, and all signs except temporary signs shall be included in this calculation.

(b) Unless otherwise provided in this article, the maximum sign surface area permitted on any lot in any residential district is eight (8) square feet.

(c) Subject to the other provisions of this section, the maximum sign surface area permitted on any lot in the C-1 district shall be determined as follows:

- (1) There may be not more than 0.5 square feet of sign surface area per linear foot of lot street frontage up to one hundred (100) feet of frontage.
- (2) There may be up to 0.75 square feet of additional sign surface area per linear foot of lot street frontage in excess of one hundred (100) feet.

(d) Subject to the other provisions of this section, the maximum sign surface area on any lot in the C-2, C-3, I-1 and I-2 districts shall be determined by multiplying the number of linear feet of street frontage of the lot by 1.0 feet. However, in no case may the total sign surface area exceed five hundred (500) square feet.

(e) If a lot has frontage on more than one (1) street, then the total sign surface area permitted on that lot shall be the sum of the sign surface area allotments related to each street on which the lot has frontage. However, the total sign surface area that is oriented toward a particular street may not exceed the portion of the lots total sign surface area allocation that is derived from frontage on the street.

(f) Whenever a lot is situated such that it has no street frontage on any lot boundary and an applicant desires to install on such a lot a sign that is oriented toward a street, then the total sign surface area permitted on that lot shall be the sign surface areas that would be allowed if the lot boundary closest to the street toward which such sign is to be oriented fronted on such street. The applicant shall be restricted to using only one (1) street and the closest lot boundary to this street for determining the total permitted sign surface area. However, the applicant shall be given the opportunity to determine the one (1) street used in the calculation.

(g) The sign surface area of any sign located on a wall of a structure may not exceed fifty (50) percent of the total surface area of the wall on which the sign is located.

(h) The "central business district" is that area of the city designated as the central business district by the mayor and board of aldermen by ordinance adopted on November 2, 1999, and of record in Minute Book E-2 at page 3 of the minutes of the city. Signs located in the central business district that advertise businesses located in the central business district shall be calculated as follows:

- (1) Each ground floor occupant of a business structure is permitted two (2) signs facing each street upon which his business fronts. The area of said sign or signs shall not exceed two and one-half (2½) square feet of sign for every foot of front footage of the applicable building, subject to the following restrictions:
 - a. The maximum square footage sign allotment shall not exceed one hundred fifty (150) square feet.

- b. Where frontage is on more than one (1) street, only the signs computed with the front footage along the street shall face that street; but in no case shall the total square footage of signs exceed one hundred fifty (150) square feet, except where additional square footage has been approved by the governing authority.
- c. Business establishments situated on the second floor of business structures and having an exterior entrance shall be permitted one (1) wall sign not to exceed four (4) square feet located adjacent to the entrance.
- d. Wall signs shall not be higher than the roof line of the buildings.
- e. No sign shall be located closer than two (2) feet from any other business located on the ground floor of the same or adjoining building, and no business sign shall be located closer than four (4) feet in any direction from any other sign.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 708. Freestanding sign surface area.

(a) For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area. For example, wall signs typically have one (1) side. Freestanding signs typically have two (2) sides (back to back), although four-sided and other multi-sided signs are also common.

(b) A single side of a freestanding sign may not exceed 0.3 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of a freestanding sign exceed fifty (50) square feet in surface area if the lot on which the sign is located has less than two hundred (200) feet of frontage on the street toward which that sign is primarily oriented, seventy-five (75) square feet on lots with two hundred (200) or more but less than four hundred (400) feet of frontage, and one hundred (100) square feet on lots with four hundred (400) or more feet of frontage.

(c) In the C-2, C-3, I-1 and I-2 districts, a single side of a freestanding sign may not exceed 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of such sign exceed two hundred fifty (250) square feet in surface area.

(d) With respect to freestanding signs that have no discernible sides, such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed for a single side of freestanding sign.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 709. Number of freestanding signs.

(a) Except as authorized by this section, no development may have more than one (1) freestanding sign.

(b) If a development is located on a corner lot that has at least one hundred (100) feet of frontage on each of the two (2) intersecting public streets, then the development may have not more than one (1) freestanding sign along each side of the development bordered by such streets.

(c) If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lots boundaries (double-front lot), then the development may have not more than one (1) freestanding sign on each side of the development bordered by such streets.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 710. Subdivision and multi-family development entrance signs.

At any entrance to a residential subdivision or multifamily development, there may be not more than two (2) signs identifying such subdivision or development. A single side of any such sign may not exceed sixteen (16) square feet, nor may the total surface area of all such signs located at a single entrance exceed thirty-two (32) square feet.
(Ord. No. 2010-09-743, 9-7-10)

Sec. 711. Location and height requirements.

(a) Freestanding signs shall observe the setback requirements set forth in this article.

(b) No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting erected in connection with the observation of holidays on the roofs of residential structures.

(c) No sign attached to a building may project more than twelve (12) inches from the building wall.

(d) No sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the city.

(e) No part of a freestanding sign may exceed a height, measured from ground level, of fifty (50) feet in the C-3, I-1 and I-2 districts, thirty (30) feet in the C-2 district and fifteen (15) feet in all other districts.

(f) Exception for interstate-oriented signs, signs located within one thousand two hundred (1,200) feet of the intersection of a state and federal highway shall be allowed an additional twenty-five (25) feet of height for a total of seventy-five (75) feet, but no additional sign surface area shall be allowed.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 712. Sign illumination and signs containing lights.

(a) Unless otherwise prohibited by this appendix, signs may be illuminated if such illumination is in accordance with this section.

(b) No sign within one hundred fifty (150) feet of a residential zone may be illuminated between the hours of midnight and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.

(c) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

(d) Except as herein provided:

(1) Internally illuminated signs are not permissible in the residential zoning districts; and

(2) Where permissible, internally illuminated freestanding signs may not be illuminated during hours that the business or enterprise advertised by such a sign is not open for business or in operation. This subsection shall not apply to the following types of signs:

- a. Signs that constitute an integral part of a vending machine, telephone booth, device that indicates time, date or weather conditions, or similar devices whose principal function is not to convey an advertising message.
- b. Signs that do not exceed two (2) square feet in area and that convey the message that a business enterprise is open or closed or that a place of lodging does or does not have a vacancy.
- c. Illuminated tubings or strings of lights that outline property lines, sales areas, roof lines, doors, windows or similar areas are prohibited.

(e) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

(f) These provisions do not apply to temporary signs erected in connection with the observance of holidays.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 713. Miscellaneous restrictions and prohibitions.

(a) As provided in the Table of Permissible Uses (use classification 27.000), no off-premises signs (except those exempted from regulation or from permit requirements in this article) may be located in any district other than a C-3, I-1, or I-2 district.

(b) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(c) Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement: (i) is not a

primary design feature of the sign; and (ii) is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs indicating the time, date, or weather conditions.

(d) No sign may be erected so that by its location, color, size, shape, nature or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

(e) Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 714. Maintenance of signs.

(a) All signs and all components, thereof, including without limitation, supports, braces and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.

(b) If a sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted that sign shall be considered abandoned and shall, within thirty (30) days after such abandonment be removed by the sign owner, owner of the property where the sign is located or other party having control over such sign.

(c) If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors or similar components, the owner of the sign or the owner of the property where the sign is located or other person(s) having control over such sign shall, within thirty (30) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of prohibiting the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

(d) The area within ten (10) feet in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than five (5) inches in height.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 715. Unlawful cutting of trees or shrubs.

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs, or other vegetation located:

- (1) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the public works director.

- (2) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
 - (3) In any area where such trees or shrubs are required to remain under a permit issued under this zoning ordinance.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 716. Nonconforming signs.

- (a) Subject to the remaining provisions of this section, nonconforming signs that are otherwise lawful as of the effective date of this ordinance may be continued.
- (b) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.
- (c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this ordinance.
- (d) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this appendix, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.
- (e) The message of a nonconforming sign, when related to an existing business or activity established upon the site, may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed). However, a change of occupancy of the premises shall require any and all site signage to conform to the provisions of this ordinance.
- (f) Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any twelve-month period fifty (50) percent of the value (tax value if listed for tax purposes) of such sign.
- (g) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located or other party having control over such sign.

(h) If a nonconforming billboard remains blank for a continuous period of one hundred eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is "blank" if:

- (1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
- (2) The advertising message it displays becomes illegible in whole or substantial part; or
- (3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 717. Amortization of nonconforming signs.

(a) Nonconforming signs that are otherwise lawful as of the effective date of this ordinance may be continued.

(b) The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered to comply with the provisions of this article or removed within twelve (12) months after the effective date of this article:

- (1) Portable signs and temporary signs;
- (2) Signs that are in violation of this ordinance.

(Ord. No. 2010-09-743, 9-7-10)

ARTICLE VIII. PARKING

Sec. 801. Definitions.

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

Circulation area: That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Driveway: That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Gross floor area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Parking area aisles: That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking space: A portion of the vehicle accommodation area set for the parking of one (1) vehicle.

Vehicle accommodation area: That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas (spaces and aisles).
(Ord. No. 2010-09-743, 9-7-10)

Sec. 802. Number of parking spaces required.

(a) All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.

(b) The presumptions established by this section are that:

- (1) A development must comply with the parking standards set; and
- (2) Any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered.

(c) Uses in the Table of Parking Requirements, are indicated by a numerical reference keyed to the table of permissible uses. When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one (1) parking space.

(d) The board recognizes that the Table of Parking Requirements cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 803. Table of Parking Requirements.

Use	Parking Requirement
1.110	2 spaces per dwelling unit.
1.200	2 spaces for each dwelling unit, except that one-bedroom units require only 1 space.
1.300	With respect to multifamily units located in buildings where each dwelling unit has an entrance and living space on the ground floor, the requirement shall be 1 space for each one-bedroom unit and 2 spaces for each unit with 2 or more bedrooms. Multifamily units limited to persons of low or moderate income or the elderly require 1 space per unit. All other multifamily units require 1 space for each bedroom in each unit plus 1 additional space for every 4 units in the development.
1.400	3 spaces for every 5 beds except for uses exclusively serving children under 16, in which case 1 space for every 3 beds shall be required.
1.510	1 space for each bedroom.
1.530	Space (in accordance with other sections of this table) for restaurant or other facilities.

Use	Parking Requirement
1.7	4 spaces for offices of physicians or dentists; 2 spaces for attorneys, 1 space for all others.
2.111	1 space per 200 square feet of gross floor area.
2.112	1 space per 150 square feet of gross floor area.
2.120	1 space per 400 square feet of gross floor area.
2.130	
2.210	1 space per 200 square feet of gross floor area.
2.220	1 space per 400 square feet of gross floor area.
2.230	
3.110	1 space per 200 square feet of gross floor area.
3.120	1 space per 400 square feet of gross floor area.
3.130	1 space per 150 square feet of gross floor area.
3.210	1 space per 200 square feet of gross floor area.
3.220	1 space per 400 square feet of gross floor area.
3.230	1 space per 200 square feet of area within main building plus reservoir land capacity equal to 5 spaces per window (10 spaces if window serves 2 stations).
4.110	1 space per 400 square feet of gross floor area.
4.120	1 space for every 2 employees on the maximum shift.
4.200	Except that, if permissible in the commercial districts, such uses may provide 1 space per 100 square feet of gross floor area.
5.110	1.75 spaces per classroom in elementary schools 5 spaces per classroom in high schools.
5.120	1 space per 100 square feet of gross floor area.
5.130	1 space per 150 square feet of gross floor area.
5.200	1 space for every 4 seats in the portion of the church building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses, plus 1 space for every 200 square feet of gross floor area designed to be used neither for services nor residential purposes.
5.300	1 space per 300 square feet of gross floor area.
5.400	
6.110	1 space for every 3 persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion, i.e., tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation.
6.120	1 space for every 4 seats.
6.130	
6.210	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
6.220	
6.230	Miniature golf course, skateboard park, water slide, and similar uses: 1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area; Driving range: 1 space per tee plus 1 space per 200 square feet in building gross floor area; Par Three Course: 2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area.
6.240	1 space per horse that could be kept at the stable when occupied to maximum capacity.
6.250	1 space for every 3 seats.

Use	Parking Requirement
6.260	1 space per speaker outlet.
7.100	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater.
7.200	3 spaces for every 5 beds. Multifamily units developed or sponsored by a public or nonprofit agency for limited income families or the elderly require only 1 space per unit.
7.300	1 space for every 2 employees on maximum shift.
7.400	
8.100	1 space per 100 square feet of gross floor area.
8.200	Same as 8.100 plus 1 space for every 4 outside seats.
8.300	
8.400	Same as 8.200 plus reservoir lane capacity equal to 5 spaces per drive-in window.
9.100	1 space per 200 square feet of gross floor area.
9.200	
9.300	
9.400	
9.500	1 space per 200 square feet of gross floor area of building devoted primarily to gas sales operation, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces.
9.600	Conveyer type: 1 space for every 3 employees on the maximum shift plus reservoir capacity equal to 5 times the capacity of the washing operation. Self-service type: 2 spaces for drying and cleaning purposes per stall plus 2 reservoir spaces in front of each stall.
10.200	1 space for every 2 employees on the maximum shift, but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside).
11.000	1 space per 200 square feet of gross floor area.
12.000	1 space per 200 square feet of gross floor area.
13.000	1 space per 200 square feet of gross floor area.
14.000	1 space for every 2 employees on maximum shift.
15.100	1 space for every 2 employees on maximum shift.
15.200	
15.300	1 space for every 2 employees on maximum shift.
15.400	1 space per 100 square feet of gross floor area.
16.000	1 space per 200 square feet of gross floor area.
19.000	1 space per 1,000 square feet of lot area used for storage, display or sales.
20.000	1 space per 100 square feet of gross floor area.
21.200	1 space per 200 square feet of gross floor area.
22.000	1 space per employee plus 1 space per 200 square feet of gross floor area.
24.000	1 space per 200 square feet of gross floor area.
25.000	1 space per 200 square feet of gross floor area.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 804. Flexibility in administration required.

(a) The board recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation

may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the permit-issuing authority may permit deviations from the presumptive requirements and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth.

(b) The permit-issuing authority may allow deviations from the parking requirements set forth when it finds that:

- (1) A residential development is irrevocably oriented toward the elderly;
- (2) A business is primarily oriented to walk-in trade.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in subsection 802(b), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by subsection 802(b) for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in this article.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 805. Parking space dimensions.

(a) Each parking space shall contain a rectangular area at least nineteen (19) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(b) In parking areas containing ten (10) or more parking spaces, up to twenty (20) percent of the parking spaces need contain a rectangular area of only seven and one-half (7½) feet in width by fifteen (15) feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(c) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet by nine (9) feet.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 806. Required widths of parking area aisles and driveways.

(a) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

Aisle Width	<i>Parking Angle</i>				
	0"	30"	45'	60"	90"

	<i>Parking Angle</i>				
One-Way Traffic	13	11	13	18	24

(b) Driveways shall be not less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic, except that ten (10) feet wide driveways are permissible for two-way traffic when:

- (1) The driveway is not longer than fifty (50) feet;
 - (2) It provides access to not more than six (6) spaces; and
 - (3) Sufficient turning space is provided so that vehicles need not back into a public street.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 807. General design requirements.

(a) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one (1) or two (2) dwelling units, although backing onto arterial streets is discouraged.

(b) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(c) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such area shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(d) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(Ord. No. 2010-09-743, 9-7-10)

ARTICLE IX. SCREENING AND TREES

DIVISION 1. SCREENING

Sec. 901. The mayor and board of aldermen findings concerning the need for screening requirements.

The city finds that:

- (1) Screening between two (2) lots lessens the transmission from one lot to another of noise, dust and glare;

- (2) Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimal screening can provide an impression of separation of spaces, and more extensive screening can shield entirely one use from the visual assault of an adjacent use;
- (3) Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening;
- (4) The provisions of this part are necessary to safeguard the public health, safety and welfare.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 902. Screening standard established.

Where commercially zoned, industrially zoned, multifamily zoned, or manufactured home zoned projects adjoins other residentially zoned property, prior to the issuance of a building permit, a screening barrier will be erected by the developer of the commercial, industrial, multifamily, or manufactured home property which separates the adjoining yard, and adequately screens the residential uses from any noise, sight, sound, odor, or other noxious offense which might be created by the commercial, industrial, multifamily, or manufactured home property use.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 903. Descriptions of screening.

The following three (3) basic types of screens are hereby established and are used as the basis for screening requirements:

- (1) *Type A, opaque screening.* A screen that is opaque from the ground to a height of at least six (6) feet, with intermittent visual obstructions from the opaque portion to a height of at least sixteen (16) feet. The screening intended to include all visual contact between uses and to create a strong impression of special separation.
- (2) *Type B, semi-opaque screening.* A screen that is opaque from the ground to a height of six (6) feet, within intermittent visual obstructions from above the opaque portion to a height of at least sixteen (16) feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces.
- (3) *Type C, broken screen.* A screen composed of intermittent visual obstructions from the ground to a height of sixteen (16) feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 904. Subdivisions.

When undeveloped land is subdivided and undeveloped lots only are sold, the subdivider shall not be required to install any screening. Screening shall be required, if at all, only when the lots are developed, and the responsibility for installing such screening shall be determined in accordance with the other requirements of division 1 of this article.

(Ord. No. 2010-09-743, 9-7-10)

Secs. 905—930. Reserved.**DIVISION 2. SHADING****Sec. 931. Council findings and declaration of policy on shade trees.**

(a) The city finds that:

- (1) Trees are proven producers of oxygen, a necessary element for human survival;
- (2) Trees appreciably reduce the ever increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;
- (3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air washer devices used on commercial air conditioning systems;
- (4) Trees have an important role in neutralizing wastewater passing through the ground from the surface to groundwater tables and lower aquifers;
- (5) Trees, through their root system stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control, and flood control;
- (6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and
- (7) For the reasons indicated in subsection (6), trees have an important impact on the desirability of land and therefore on property values.

(b) Based upon the findings set forth, the city declares that it is not only desirable but essential to the health, safety and welfare of all persons living or working within the city's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 932. Required trees along dedicated streets.

Along both sides of all newly created streets that are constructed in accordance with the public street standards set forth in subdivision regulations for the city, the developer shall either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to, and fifty (50) feet from the centerline of the street, there is for every thirty

(30) feet of street frontage at least an average of one (1) deciduous tree that has or will have when fully mature a trunk at least twelve (12) inches in diameter. When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in appendix B.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 933. Retention and protection of large trees.

(a) Every development shall retain all existing trees eighteen (18) inches in diameter or more unless the retention of such trees would unreasonably burden the development.

(b) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree eighteen (18) inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within twelve and one-half (12½) feet (measured from the center of the trunk) of any tree eighteen (18) inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(c) The retention or protection of trees eighteen (18) inches in diameter or more as provided unreasonably burdens a development to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer.

(d) If space that would otherwise be devoted to parking cannot be so used because of the requirements of this subsection, and, as a result, the parking requirements set forth cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of this section, up to a maximum of fifteen (15) percent of the required spaces. (Ord. No. 2010-09-743, 9-7-10)

Sec. 934. Shade trees in parking areas.

(a) Vehicle accommodation areas that are required to be paved must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk at least twelve (12) inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in appendix B.

(b) Each tree of the type described shall be presumed to shade a circular area having a radius of fifteen (15) feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, twenty (20) percent of the vehicle accommodation area will be shaded.

(c) No paving may be placed within twelve and one-half (12½) feet (measured from the center of the trunk) of any tree retained to comply with this subsection and new trees planted to comply with this subsection shall be located so that they are surrounded by at least two hundred (200) square feet of unpaved area.

(e) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three (3) feet, six (6) inches.

(Ord. No. 2010-09-743, 9-7-10)

Secs. 935—960. Reserved.

ARTICLE X. NONCONFORMING USES

Sec. 1001. Purpose.

In order to avoid individual hardship whenever reasonable and not in conflict with the general welfare of the City of Batesville, and for purposes herein outlined, the following provisions shall apply to all zoning districts:

- (1) *Nonconforming uses permitted.* Except as specified in this appendix, the lawful use of any building or land existing at the time of the enactment of this ordinance may be continued although such use does not conform to the provisions of this appendix.
 - (2) *Unsafe structures.* Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
 - (3) *Construction approved prior to ordinance.* Nothing contained in this appendix shall require any change in plans, construction or designed use of a building for which a building permit has been heretofore issued and the construction of which has begun.
 - (4) *Restoration.* No building damaged by fire or other causes to the extent of more than fifty (50) percent of its reasonable value shall be repaired or rebuilt except in conformity with the regulation of this appendix.
 - (5) *Abandonment.* Whenever a nonconforming use has been discontinued for twelve (12) consecutive calendar months, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this appendix.
- (Ord. No. 2010-09-743, 9-7-10)

ARTICLE XI. ADMINISTRATION, ENFORCEMENT AND PENALTIES**Sec. 1101. Enforcing officer.**

The code enforcement officer of the city is hereby authorized and directed to enforce all the provisions of this ordinance and for such purpose he shall have the powers of a police officer. His duties shall include inspecting premises and issuing building permits and certificates of occupancy for buildings and uses that meet the requirements of this ordinance.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 1102. Building permits.

Building permits shall be issued in accordance with the following provisions:

- (1) *Building permit required.* It shall be unlawful to commence the excavation or filling of any lot for any construction of any building, or to begin construction of any building, or to commence the moving or alteration, of any building or to commence the development of land for a use not requiring a building, until the building official has issued a building permit for such work.
- (2) *Plat required.* All applications for building permits shall be accompanied by a plat in duplicate of dimensioned sketch or to scale plan signed by the owner or his authorized agent, showing the actual dimensions of the lot to be built upon, the location of adjoining or surrounding buildings or structures, and such other information as may be required by the building official, which is necessary to provide for the enforcement of this ordinance.
- (3) *Time limitation.* Any building permit issued shall become invalid unless the work authorized by it shall have commenced within six (6) months of its date of issue or if work authorized by it is suspended or abandoned for a period of one (1) year.
- (4) No building permit, or permit for excavation for any building shall be issued before application has been made for certificate of occupancy.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 1103. Certificate of occupancy.

(a) *Certificates of occupancy shall be issued in accordance with the following provisions:*

- (1) Certificate of occupancy required. No vacant land shall be occupied or used, except for agricultural purposes, and no buildings hereafter erected or structurally altered shall be occupied or used until a certificate of occupancy shall have been issued within three (3) days after the application has been made, provided such use is in conformity with the provisions of this ordinance.
- (2) A certificate of occupancy is required in advance of occupancy or use of:
 - a. A change of type of occupancy or use of any building or land;

- b. Each nonconforming use created by the passage of, and subsequent amendments to, this ordinance.
 - (3) Certificate of occupancy shall state that the buildings or proposed use of a building or land, comply with all the buildings and health laws and ordinances and with the provisions of this ordinance.
 - (b) *Records.* It shall be the duty of the code enforcement officer to keep a record of all building permits and certificates of occupancy issued and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.
 - (c) *Fees.* No fee shall be charged for a certificate of occupancy.
 - (d) *Denials.* A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance, or unless the building, as finally constructed complies with the sketch or plan upon which the building permit was issued.
- (Ord. No. 2010-09-743, 9-7-10)

Sec. 1104. Penalties.

- (a) Any person, firm, association, corporation, or other entity who shall violate the terms, conditions, or provisions of this "Batesville Zoning Ordinance" shall be guilty of a misdemeanor and upon conviction thereof, or a plea of guilty or nolo contendere shall be punished by a fine of five hundred dollars (\$500.00) for the first offense, a fine of seven hundred fifty dollars (\$750.00) for the second offense within one (1) calendar year of the first offense, and a fine of one thousand dollars (\$1,000.00) for the third offense and subsequent offenses within one (1) calendar year of the first offense, and for all offenses in the discretion of the court, imprisonment for up to ninety (90) days. Each calendar day that any such violation occurs shall constitute a separate offense. Any person convicted of the aforesaid violation or in a plea of guilty or nolo contendere thereto shall pay all court costs.
- (b) Any person, firm, association, corporation, or other entity who shall violate or fail to comply with any condition or contingency imposed by the mayor and board of aldermen in any action adopted by the mayor and board of aldermen granting a variance, conditional use, or rezoning of any property shall be guilty of a misdemeanor and upon conviction thereof or the entry of a plea of guilty or nolo contendere shall be punished by a fine of five hundred dollars (\$500.00) for the first offense, a fine of seven hundred fifty dollars (\$750.00) for the second offense within one (1) calendar year of the first offense, and a fine of one thousand dollars (\$1,000.00) for the third offense and subsequent offenses within one (1) calendar year of the first offense, and for all offenses in the discretion of the court, imprisonment for up to ninety (90) days. Each calendar day that any such violation occurs shall constitute a separate offense. Any person convicted of the aforesaid violation or in a plea of guilty or nolo contendere thereto shall pay all court costs.

(c) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any provision of the Batesville Zoning Ordinance or any condition or contingency imposed in connection with a variance, conditional use, or rezoning of any property shall be deemed a public nuisance and may be abated by the city as provided by law and each calendar day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 2010-09-743, 9-7-10)

State law reference—Penalties for violations, Miss. Code Ann. 1972, 17-1-27.

Sec. 1105. Remedies.

In the event any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this ordinance, the code enforcement officer or any other appropriate city authority, or any person who would be damaged by such violation, in addition to the remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation in the case of each such building or use of land.

(Ord. No. 2010-09-743, 9-7-10)

State law reference—Remedies of local governing authorities, Miss. Code Ann. 1972, 17-1-19.

ARTICLE XII. BOARD OF APPEALS

Sec. 1201. Appointment.

(a) The Board of Appeals of the City of Batesville is hereby established. Said board shall consist of six (6) members, appointed by the Mayor and Board of Aldermen of Batesville.

(b) All members of the board shall serve without additional compensation and the term of office shall be concurrent with the term of office held by them under the Charter of the city; provided, however, in the case of the members appointed by the board of aldermen, his or her term of office shall be concurrent with the appointment. The chairman of the board of appeals shall be appointed by the members of the board of appeals. The board of appeals shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 1202. Authority.

The board of appeals shall have jurisdiction of certain matters arising in connection with the administration, enforcement, or interpretation of this ordinance as herein provided.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 1203. Meetings.

(a) Meetings of the board of appeals shall be held at the call of the chairman and at such other times as the majority of the board may determine. The presence of three (3) members of the board shall constitute a quorum. There shall be a fixed place for the meeting and all meetings shall be open to the public.

(b) The chairman, or in his absence the acting chairman, may administer the oaths and compel the attendance of witnesses. The board shall adopt its own rules and procedures and keep records of its proceedings showing the action of the board and the vote of each member on each question considered. Records of its examinations and other official actions shall be immediately filed in the office of the board and shall be a public record.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 1204. Jurisdiction.

(a) The board of appeals shall have the following powers, and it shall be its duty:

- (1) To hear and decide appeals where it is alleged there is an error in an order, requirement, decision or determination made by the code enforcement officer in the enforcement of this ordinance;
- (2) Upon recommendation of the planning commission, to hear and decide upon applications for conditional uses enumerated in this ordinance;
- (3) To permit the extension of a district where the boundary line of a district divides a lot in a single ownership at the time of the passage of this ordinance;
- (4) To interpret the provisions of this ordinance in such way as to carry the intent and purpose of the plan, as shown upon the accompanying official zoning map made a part of this ordinance fixing the several districts where the street layout actually on this ground varies from the street layout on this map;
- (5) Upon recommendation of the planning commission, to vary or modify the application of any of the regulations or provisions of the ordinance where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance, so that the spirit of this ordinance shall be observed, public welfare and safety secured and substantial justice done.

(b) In exercising the above powers, the board may, in conformity with the provisions of this ordinance reverse or affirm, wholly or in part or may modify the order, requirement, decision or determination of the code enforcement officer and/or planning commission, and to that end shall have all the powers of the code enforcement officer and may issue or direct the issuance of a building permit. A majority vote of the members of the board shall be necessary to reverse any order, requirement decision or determination of the building official, or to decide in favor of the applicant, or on any matter upon which it is required to pass under the provisions of this ordinance.

(Ord. No. 2010-09-743, 9-7-10)

Sec. 1205. Appeals.

(a) Appeals from the ruling of the board of appeals concerning the enforcement of the provisions of this ordinance may be made to the mayor and board of aldermen of the city. Appellant shall file with the board of appeals a notice of appeal, specifying the grounds thereof. The chairman of the board of appeals shall forthwith transmit to the mayor and board of aldermen of the city all papers constituting the record upon which the action appealed from was taken. The final deposition of any such appeal shall be in the form of a decision expressed in a resolution, either reversing, modifying or affirming, wholly or partially, the board of appeals' decision or determination appealed from.

(b) Any person aggrieved at the findings of the mayor and board of aldermen of the city after an appeal from the board of appeals has been transmitted to said mayor and board of aldermen and a hearing has been had thereof shall have the right of appeal from the findings of said board in the manner provided by law.

(Ord. No. 2010-09-743, 9-7-10)

ARTICLE XIII. CHANGES AND AMENDMENTS**Sec. 1301. Amendment procedure.**

(a) The mayor and board of aldermen of the city may from time to time on their own motions or on petition, after at least fifteen (15) days' public notice and hearings as provided by law, amend, supplement or change, modify or repeal the boundaries or regulations herein as subsequently established, after submitting same to the city planning commission for its recommendations and reports.

(b) However, in cases of a protest against such change, signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet therefrom or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds of all the members of the mayor and board of aldermen of the city.

(Ord. No. 2010-09-743, 9-7-10)

State law reference—Amendments, Miss. Code Ann. §§ 17-1-15, 17-1-17.

ARTICLE XIV. LEGAL STATUS PROVISIONS**Sec. 1401. Conflict with other laws.**

(a) *Conflict with other laws.* Whenever the provisions of this ordinance impose more restrictive standards than required in or under any statute or other legal document, the requirements of this ordinance shall govern. Whenever the provisions of any other statute or legal document require more restrictive standards than are required by this ordinance, the provisions of such statute or document shall govern.

(b) *Validity.* Should any section, clause, or provision of this ordinance be declared by the courts to be invalid or unconstitutional, such declaration shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional.

(c) *Effective date.* This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

(d) *Repeal of conflicting ordinances.* All ordinances and parts of ordinances in conflict herewith are repealed.

(Ord. No. 2010-09-743, 9-7-10)

State law reference—Miss., Code Ann. 1972, 17-1-21.