

**Town of Byhalia, Mississippi**  
**Zoning Regulations**

**Adopted August 7, 2009**

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## Article 1            GENERAL PROVISIONS

- Section 1**        **Short title** – This ordinance shall be known and may be cited as the “Byhalia Zoning Ordinance”.
- Section 1**        **Authority** – This appendix is adopted pursuant to the authority contained in Title 17, Chapter 1, Section 2, and following of the Mississippi Code of 1972, annotated.
- Section 2**        **Jurisdiction** – This chapter shall be effective throughout the city limits.
- Section 3**        **Effective date** – The provisions in this ordinance were originally adopted on April 21, 1992. Ord. Book 1, Page 155
- Section 4**        **Relationship to the land-use plan** – It is the intention of the board that this appendix implement the planning policies adopted by the board for the city as reflected in Byhalia 2030 General Development Plan. While the board reaffirms its commitment that this chapter 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.
- Section 5**        **Conformity Required** – No use or sale of land or buildings except in conformity with appendix provisions
- a        Subject to Article X of this appendix (Non-Conforming 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.
- Section 6**        **Fees**
- a        Reasonable fee sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be changed 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 council filed in the office of the city clerk.
- b        Fees established in accordance with subsection (a) shall be paid upon submission of a signed application or notice of appeal.

**Section 7**     **Severability** – It is hereby declared to be the intention of the board that the section, 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.

## Article 2

## DEFINITIONS

### Section 1

#### Definitions

a) 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:

- (1) Accessory building or use: A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. An accessory use includes, but is not limited to, the following:
  - (a) A children's playhouse, garden house, and private greenhouse;
  - (b) A civil defense shelter, serving not more than two (2) families;
  - (c) A garage, shed, or building for domestic storage;
  - (d) Incinerators incidental to residential use;
  - (e) 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 regulations;
  - (f) A nonpaying guesthouse or rooms for guests within an "accessory building", provided such facilities are used for the occasional housing of guests of occupants of the principal building, and not for permanent occupancy by others as housekeeping units;
  - (g) Off-street motor vehicle parking areas and loading and unloading facilities.
- (2) 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 agriculture purposes.
- (3) Antenna: Equipment designed to transmit or receive electronic signal
- (4) 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.
- (5) 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.

- (6) 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.
- (7) Building, principal: The primary building on a lot or a building that houses a principal use.
- (8) Certify: Whenever this chapter 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 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 another document.
- (9) 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:
  - (a) 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 24-hour day.
  - (b) 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 24-hour day. An occupied residence which cares for sixteen (16) or more children shall be a day care center.
  - (c) Child care home: A home for not more than nine orphaned, abandoned, dependent, abused, or neglected children, together with not more than (2) adults who supervise such children, all of whom live together as a single housekeeping unit.
  - (d) Child care institution: An institutional facility housing more than nine (9) orphaned, abandoned, dependent,



abused, or neglected children.

- (10) 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.
- (11) City: The City of Byhalia.
- (12) 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.)
- (13) Conditional-use permit: A permit issued by the Mayor and Board 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 council.
- (14) 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.
- (15) Council: The Mayor and Board of the City of Byhalia.
- (16) 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.
- (17) 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.
- (18) Duplex: See Residence, duplex
- (19) 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.
- (20) 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.
- (21) Family: One (1) or more persons living together as a single housekeeping-unit.
- (22) 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 Federal Emergency Management Agency, a copy of which is on file in the planning department.
- (23) Floodway: The channel of a river or other water course 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.
  - (24) Gross floor area: The total area of a building measured by taking the outside dimensions of the building at each flood level intended for occupancy or storage.
  - (25) Habitable floor: Any no or usable for living purposes, which include working, sleeping, eating, cooking, recreation, or any combination thereof. A floor used only for storage is not a habitable floor.
  - (26) 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 of whom live together as a single housekeeping unit.
  - (27) 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.
  - (28) 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.
  - (29) Home occupation: A commercial activity that: (i) is conducted by a person on the same lot (in a residential district) where such person resides, and (ii) is not so insubstantial or incidental or is not so commonly associated with residential use as to be regarded as an accessory use, but that can be conducted without any significantly adverse impact on the surrounding neighborhood. Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if:
    - (a) goods, stock in trade or other commodities are displayed,
    - (b) any on-premises retail sales occur,
    - (c) more than one person not a resident on the premises is employed in connection with the purported home occupation,

- (d) it created objectionable noise, fumes, odor, dust or electrical interference, or
- (e) 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.
- (f) The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria:
  - (i) the office or studio of a physician,
  - (ii) dentist,
  - (iii) artist,
  - (iv) musician,
  - (v) lawyer,
  - (vi) architect,
  - (vii) engineer,
  - (viii) teacher or similar professional,
  - (ix) workshops, greenhouses or kilns, or
- (30) 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.
- (31) 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.
- (32) Kennel: A commercial operation that: (I) provides food, shelter, and care of animals for purposes not primarily related to medical care (a kennel may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale.
- (33) 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. Is 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.
- (34) Lot area: The total area circumscribed by the boundaries of a

lot, except that: (I) 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 is 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 the purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

- (35) 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.
- (36) Manufactured Home: A factory built single family structure that is manufactured under the authority of the National Manufactured Home Construction and Safety Act, is transportable in one or more sections, is built on a permanent chassis, and is built for human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body of frame.
- (37) Mobile home: A dwelling unit that: (I) is not constructed in accordance with the standards set forth in the Southern Standard Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (ii) exceeds forty (40) feet in length and eight (8) feet in width.
- (38) Mobile home park: A residential use in which more than one (1) mobile home is located on a single lot.
- (39) Modular home: A dwelling unit constructed in accordance with the standards set forth in the Southern Standard Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly in a permanent foundation. Among other possibilities, a modular home may consist of two (2) sections transported to the site in a manner similar to a mobile home (except that the modular home meets the Southern Standard Building Code), or a series of panels or room sections transported on a truck and erected or joined together in the site.
- (40) Non-Conforming lot: A lot existing at the effective date of this chapter (and not created for the purpose of evading the restrictions of this appendix) that does not meet the minimum area requirement of the district in which the lot is located.
- (41) Nonconforming project: Any structure development or undertaking that is incomplete at the effective date of this chapter

- and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- (42) 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.)
  - (43) 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.
  - (44) 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.
  - (45) Parking area aisles: A portion of the vehicle accommodations area consisting of lanes providing access to parking spaces.
  - (46) Parking space: A portion of the vehicle accommodation area set aside for the parking of one (1) vehicle.
  - (47) Person: An individual, trustee, executor, or other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.
  - (48) 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 multi-family residences, or both.
  - (49) 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.
  - (50) Planning jurisdiction: The area within the city limits of the City of Byhalia.
  - (51) Receive-only earth station: An antenna and attendant processing equipment for reception of electronic signals from satellites.
  - (52) 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) in which each dwelling unit has a living space on the ground floor and a separate, ground floor entrance.
  - (53) Residence, multi-family: 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).
  - (54) Residence, multi-family apartments: A multi-family residential use

- other than a multi-family conversion or multi-family townhouse.
- (55) Residence, multi-family conversion: A multi-family residences 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.
  - (56) Residence, multi-family townhouses: A multi-family 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 other dwelling unit in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.
  - (57) 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 not more than a total of seven hundred fifty (750) square feet.
  - (58) Residence, single-family detached, one 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.
  - (59) 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.
  - (60) Residence, two-family apartment: A two family residential use other than a duplex, two family conversion or primary residence with accessory apartment.
  - (61) 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.
  - (62) 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 unsub divided developments.
  - (63) Room house: (See Boarding house.)
  - (64) 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) of this definition, and (iii) is designed to attract the attention of such persons or to communicate information to them,
  - (65) Sign, freestanding: A sign is attached to, erected on or supported by some structure (such as 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.
- (66) 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
- (67) VIII, (Signs).
- (a) Signs, 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.
- (b) 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 reasonably short or definite period after the erection of such a 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.
- (68) 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.
- (69) Street: A public street or a street with respect to which an offer of dedication has been made.
- (a) 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.
- (b) 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.
- (c) Street, cul-de-sac: A street that terminates in a vehicular turnaround.
- (d) 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.
- (e) 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.
- (70) Structure: Anything constructed or erected.
- (71) 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 developments (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets.

- (a) Subdivision, architecturally integrated: A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration or 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 subdivision as set forth in section 507.
  - (b) Subdivision, major: Any subdivision other than a minor subdivision.
  - (c) 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.
- (72) Temporary emergency, construction, or repair residence: A residence (which may be a mobile home) 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, or (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, (iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site (one-year limit).
- (73) Town: The Town of Byhalia. Same as City
- (74) Tower: Any structure whose principal function is to support an antenna.
- (75) Tract: (See Lot). The term tract is used interchangeably with the term lot, particularly in the context of subdivision, where one “tract” is subdivided into several “lots”.
- (76) 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.
- (77) Use: The activity or function that actually takes place or is intended to take place on a lot.
- (78) Usable Open Space: Open space that is not encumbered with any substantial structure, is not developed to use as a roadway, parking area, or sidewalk; Is left in its natural undisturbed state if wooded, except for cutting trails, or if not wooded at the time of development is landscaped for recreation; is capable of being used



for informal and unstructured recreation and relaxation; is legally and practically accessible to the residents of the development with which it is associated ball fields; and consists of no more than 25% flood plain or floodway.

- (79) 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.
- (80) 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.
- (81) Wholesale sales: On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

## Article 3

## ZONING DISTRICTS AND ZONING MAP

### Section 1

#### Zoning Districts

a

#### Residential district established.

- (1) The following residential districts are hereby established: Agricultural, R-15, R-12, R-10, R-8, and RM-8. Each of these districts are 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.
- (2) 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.
- (3) The R-15, R-12, and R-10 districts are designed primarily to accommodate single-family detached residential uses (other than mobile homes) at medium densities in areas served by public water allowed in these districts only in the context of planned residential developments.
- (4) The R-8 district is designed to accommodate single-family detached, townhouses, and two-family.
- (5) The RM-8 district is designed primarily to accommodate higher density multi-family developments.

b

#### Commercial districts established.

- (1) The following commercial districts are hereby established: C-1, C-2, C-3, and C-4. These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.
- (2) The C-1 (Neighborhood Commercial) district is neighborhood scale goods and services serving the immediate area neighborhood at low density scale.
- (3) The C-2 district (Community and highway service) is designed to accommodate commercial activities that draw business primarily from and provide services primarily to (the interstate highway).
- (4) The C-3 (Central business) district is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the city's central business district.
- (5) The C-4 District (planned commercial) is designed to accommodate selective uses based on site plan and proposed use list.

c

#### Manufacturing districts established.

1. The following districts are hereby established primarily to accommodate

enterprises engaged in the manufacturing, processing, creating, repairing, removing, painting, cleaning, or assembling of goods, merchandise or equipment. A district in which the principal use of the land is for industries which can be operated in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential or commercial districts and for warehousing and wholesaling activities with limited contact with the general public.

**2. M1 -Light Industrial**

**Light Industrial is intended primarily for the use of light manufacturing, assembling, fabrication and packaging, and for warehousing, wholesale services use. This district is primarily carried on within enclosed buildings have adequate land area for parking and landscaping and with adequate safeguards for safety and aesthetics. Any business, commercial, or industrial uses which would involve unusual hazard of fire, explosions, noise, dust, odor, vibrations, or conditions of a toxic nature will not be permitted.**

**3. M2 – Heavy Industrial**

**Heavy Industrial is intended primarily to provide of all types of industrial activities not otherwise provided within the other districts that have been established within the zoning districts. This will include uses or activities in addition to customary and normal manufacturing and industrial processes, the storage of bulk materials when is found that the specific location and safeguards provided so reduce that danger from fire or explosion as not to be dangerous to the health, safety welfare of the community and nearby properties. This district is located so as to be accessible to both major highways and railroads.**

**Adopted by the Town of Byhalia March 19, 2019**

**d Planned Unit development district established.**

- (1) 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 purpose of this ordinance 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.

**e Floodplain and floodway districts.**

- (1) 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.

## **Section 2 Zoning Map**

### **a Official zoning map.**

- (1) 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.
- (2) The official zoning map dated August 7, 2009 is adopted and incorporate herein by reference. Amendments to this map shall be made and posted in accordance with Article XIII.
- (3) 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. No further council authorization or action is required so long as no district boundaries are changed in this process.

### **b Amendments to official zoning map.**

- (1) 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.
- (2) The administrator shall update the official zoning map as soon as possible after amendments are adopted by the Board. 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.
- (3) No unauthorized person may alter the official zoning map.
- (4) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

## **Article 4 PERMISSIBLE USES**

- Section 1 Table of Permissible Uses- 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 set forth in this article. As used in this table “P” shall stand for permitted uses and “C” for conditional uses. (S) shall stand for “supplemental conditions apply” and “PA” shall stand for permit on appeal. Supplemental conditions are contained in Article 5.

ZONE													
USE	A	R-15	R-12	R-10	R-8	RM-8	C-1	C-2	C-3	C-4	M-1	M-2	PUD
<b>1.0 Residential</b>													
<b>1.1 Single-family, Detached, One Dwelling per Lot</b>													
1.110 Site built	P	P	P	P	P	P							**
1.112 Modular structures				P	P	P							**
1.113 Manufactured home	PA												**
<b>1.2 Single-family, Detached, more than One Dwelling per Lot</b>													
1.21 Site Built	P	P											**
1.22 Manufactured Home Park													**
<b>1.3 Two Family Residences</b>													
1.31 Two Family Conversion					PA	P							**
1.32 Primary Residence with accessory apartment		PA	PA	PA									**
1.33 Duplex						PA	P						**
<b>1.4 Multiple-Family Residences</b>													
1.41 Multiple-Family Conversion						P							**
1.42 Multiple-Family Townhouse					PA	P							**
1.43 Multiple-Family Apartment						P							**
<b>1.5 Homes Emphasizing special devices, treatments, or supervision</b>													
1.51 Homes for Handicapped/Infirm						P							**
1.52 Nursing Care Intermediate						P							**
1.53 Child care homes		PA	PA										**
1.54 Halfway Homes						PA							**
<b>1.6 Miscellaneous residential situations</b>													
1.61 Rooming or Boarding houses					PA	PA				PA			**
1.62 Home Occupations	P	P	P	P	P	PA							**
1.63 Bed and Breakfast Homes		PA	PA	PA	PA	PA				PA			**
<b>2.0 Sales and Rental of Goods, Merchandise and Equipment</b>													
2.1 Inside Storage or Display													**
2.11 High volume traffic								P					**
2.111 Convenience Stores							P	P	P	***			**
2.112 All other uses							P	P	PA	***			**
2.12 Low volume traffic generation							P	P	P	***			**
2.13 Wholesale							P	P		***			**
2.2 Outside storage or Display										***			**
2.21 High volume traffic generation							P	PA		***			**
2.22 Low volume traffic generation							P	PA		***			**
2.23 Wholesale							P	P		***			**
<b>3.0 Office, Clerical, Research, and Service not related to goods</b>													

3.1 Inside Operations													
ZONE													
USE	A	R-15	R-12	R-10	R-8	RM-8	C-1	C-2	C-3	C-4	M-1	M-2	PUD
3.11 Professional Offices serving clients on premises							P		P	***			**
3.12 Offices without client traffic							P		P	***			**
3.13 Clinics of health Care Professionals with not more than 10,000 square feet gfa.							P		P	***			**
3.2 Inside or Outside Operations													
3.21 Professional Offices serving clients on premises							P	P	P	***			**
3.22 Office without client traffic							P	P	P	***			**
3.23 Banks with drive-in Windows							P	P	P	***			**
4.0 Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembly													
4.1 Inside Operations													
4.11 Majority of Business done with walk-in trade										***	P	PA	**
4.12 Majority of Business not done with walk-in trade										***	P	P	**
4.2 Inside or Outside Operations													
4.2 Inside or Outside operations										***	PA	P	**
5.0 Education, Cultural, Religious, Philanthropic, Social and Fraternal Uses													
5.1 Schools and Day Care													
5.11 Elementary and Secondary (including associated grounds, athletic, and other facilities)	PA	PA	PA	PA	PA	PA	PA		PA	***			**
5.12 Trade or Vocational Schools	PA	PA	PA	PA	PA	PA	PA		PA	***			**
5.13 Colleges, Universities, Community Colleges (including associated grounds, athletic, and other facilities)	PA	PA	PA	PA	PA	PA	PA		PA	***			**
5.2 Churches, Synagogues, Mosques, and Temples (including associated residential structures for religious Personnel and Associated buildings, but not including elementary or secondary schools)	P	P	P	P	P	P	P	PA	P	***			**
5.3 Libraries, Museums, art galleries and similar uses (including associated non-profit educational and instructional activity)													**
5.31 In a converted residence with less than 3500 square feet of gfa.			PA	PA	PA	PA			PA	***			**
5.32 Within any other Permissible structure	PA	PA	PA	PA	PA	PA	P	P	P	***			**
5.4 Social, fraternal clubs and lodges, union halls and similar uses	PA						PA	PA	PA	***			**

ZONE													
USE	A	R-15	R-12	R-10	R-8	RM-8	C-1	C-2	C-3	C-4	M-1	M-2	PUD
<b>6.0 Recreation and Amusement</b>													
<b>6.1 Inside Operations</b>													
<b>6.11</b> Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities, and similar uses							P	PA	PA	***			**
<b>6.12</b> Movie theaters							P	P		***			**
<b>6.13</b> Coliseums, Stadiums, and all other similar facilities seating more than 1000 people	P	PA	PA	PA	PA	PA	P	P	P	***			**
<b>6.2 Inside or Outside Operations</b>													
<b>6.21</b> Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, etc. independent of a residential development	P	P	P	P	P	P	PA		P	***			**
<b>6.22</b> Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, etc. in conjunction with a residential development	P	P	P	P	P	P							**
<b>6.23</b> Golf driving ranges not accessory to golf courses, par 3 golf courses, miniature golf courses, skateboard parks, water slides, and similar uses	P						P		PA	***			**
<b>6.24</b> Horseback riding stables independent of a residential development	P	PA											**
<b>6.25</b> Automobile and motorcycle racing tracks							PA			***	PA		**
<b>6.25</b> Drive-in movie theaters	P									***	PA		**
<b>7.0 Institutional Residence or Care Facilities</b>													
<b>7.1</b> Hospitals, Clinics, Mental Health and other treatment facilities in excess of 10,000 square feet of gross floor area	P					P	P		PA	***			**
<b>7.2</b> Nursing care institutions, Intermediate care institutions, handicapped or Infirm institutions, child care institutions	P					P	P		PA	***			**
<b>7.3</b> Penal and correctional facilities	PA										PA		
<b>8.0 Restaurants, Bars, and Nightclubs</b>													
<b>8.1</b> No substantial carry out, delivery, or drive-in service or outside consumption							PA	PA		***			**
<b>8.2</b> No substantial carry out, delivery, or drive-in service							PA	PA		***			**

but outside consumption permitted														
<b>ZONE</b>														
USE	A	R-15	R-12	R-10	R-8	RM-8	C-1	C-2	C-3	C-4	M-1	M-2	PUD	
8.3 Carry out or delivery service, outside consumption permitted							PA	PA		***			**	
8.4 Carry out, delivery, or drive-in service, outside consumption permitted							PA	PA		***			**	
<b>9.0 Motor Vehicles Sales and Service Operations</b>														
9.1 Motor Vehicle Sales or Rental								P		***			**	
9.2 Mobile Home Sales								P		***			**	
9.3 Motor vehicle repair and maintenance, not including substantial body work								P		***		P	**	
9.4 Motor vehicle painting and body work								P		***	P	P	**	
9.5 Gas Sales							P	P	P	***	P	P	**	
9.6 Car wash							P		PA	***	P	P	**	
<b>10.0 Storage and Parking</b>														
10.1 Parking garages or lot relates to an onsite use							P	P	P	***	P	P	**	
10.2 Storage of goods not related to onsite use or sale													**	
10.21 Inside enclosed structure							P	PA	PA	***	P	P	**	
10.22 Inside or Outside enclosed structure							PA			***	P	P	**	
<b>11.0 Salvage Yards, Scrap Materials, and Junk Yards</b>														
11.0 Salvage Yards, Scrap Materials, and Junk Yards												PA	**	
<b>12.0 Services and Enterprises Related to Animals</b>														
12.1 Veterinarian	P	PA					P			***			**	
12.2 Kennel	PA						PA			***			**	
<b>13.0 Emergency Services</b>														
13.1 Police Station	P	P	P	P	P	P	P	P	P	P	P	P	P	P
13.2 Fire Stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P
13.3 Ambulance and Rescue	P	P	P	P	P	P	P	P	P	P	P	P	P	P
13.4 Civil Defense Operations	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<b>14.0 Agriculture, Forestry, and Mining</b>														
14.1 Agriculture Operations and Farming													**	
14.12 Excluding Livestock	P	PA											**	
14.13 Including Livestock	P	PA											**	
14.2 Forestry Operations including pulp yards	P										P	P	**	
14.3 Mining, including on-site sales of products	PA										PA	PA	**	
<b>15.0 Miscellaneous Public and Semi-Public Facilities</b>														
15.1 Post Office	P						P	P	P	***			**	
15.2 Airport	PA									***			**	
15.3 Sanitary Landfill											PA	PA	**	
15.4 Military reserve, National	P					P			P	***			**	



Guard Centers														
<b>ZONE</b>														
USE	A	R-15	R-12	R-10	R-8	RM-8	C-1	C-2	C-3	C-4	M-1	M-2	PUD	
<b>16.0 Dry Cleaners, Laundromat</b>														
16.0 Dry Cleaners, Laundromat						PA	PA		PA	***				**
<b>17.0 Utility Facilities</b>														
17.1 Neighborhood	P	P						P			***			**
17.2 Community or Regional	PA										***	PA	PA	**
<b>18.0 Towers, Antennas, and related Structures</b>														
18.1 Towers and antennas 50 feet tall or less	P	P						P		P	***	P	P	**
18.2 Towers and antennas more than 50 feet tall	PA										***	PA	PA	**
<b>19.0 Open air Markets and Horticultural</b>														
19.1 Farm and craft markets, Flea markets, produce markets	P							P		P	***			**
19.2 Horticultural sales with outdoor display	P							P		P	***			**
<b>20.0 Funeral Home</b>														
20.0 Funeral Home								P	P	P	***			**
<b>21.0 Cemetery</b>														
21.0 Cemetery	P	P												**
<b>22.0 Day Care Facilities</b>														
22.1 Family Day Care Home	P	PA	PA					P		P	***			**
22.2 Day Care Center								P		PA	***			**
<b>23.0 Temporary Structures Used in Connection with the Construction of a Permanent Building</b>														
23.0 Temporary Structures used in connection with the construction of a Permanent Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P
<b>24.0 Bus Stations, Train Stations</b>														
24.0 Bus Station, Train Station								P	P		***			**
<b>25.0 Commercial Greenhouse Operations</b>														
25.1 No on site sales	P							P		PA	***			**
25.2 On site sales permitted	P							P		PA	***			**
<b>26.0 Weddings and Special Events</b>														
26.1 Weddings and Special Events	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	***	PA	PA	**

**Addendum to above charts**

**9.0 Motor vehicles and services**

Amended to reclassified this section from C-1 (neighborhood Commercial to C-2 Community and Highway Commercial)

**Adopted by the Town Board December 20, 2011**

**26.0 Weddings and Special Events**

Amended to defined the use of property for weddings and special events

**Adopted by the Town of Byhalia November 6, 2012**

**Section 2 Permissible uses and specific exclusions**

- a The presumption established by this appendix 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 Article IV, Section 1 (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 Article IV, Section 1 (Table of permissible uses), even given the liberal interpretation mandated by subsection (a) are prohibited. Nor shall Article IV, Section 1 (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. (Situations that do not comply with this subsection on the effective date of this appendix is required to conform within one (1) year.
  - (4) Automotive vehicles, motor homes 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.
- d The construction of ponds, lakes, or other facilities for the purpose of impounding and storing water shall be conditional in all districts.

**Section 3 More specific use controls**

- a Whenever a development could fall within more than one use classification in the Article IV, Section 1 (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.

## **Article 5 SUPPLEMENTARY USE REGULATIONS AND SITE PLAN REQUIREMENTS**

### **Section 1 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 Article XIV 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.

- (7) The applicant, by showing good cause why he cannot adhere to the proposed timetable described in d(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 multi-family 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 Town standards or in lieu of such standards, to requirements established by the governing authority.
- (3) Provisions of water supply, sanitary sewers, storm water 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 is 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 filled 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 ( $\frac{1}{2}$ ) 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.

## **Section 2      Manufactured Home Park.**

A manufactured home park, when granted as a special exception must meet the following requirements:

- a      Minimum size of a mobile home park shall be four (4) acres, and shall be developed according to a site plan approved by the Town.
- b      The mobile home park density shall not exceed six (6) mobile homes per acre and every mobile home lot shall contain at least 5,000 square feet of area and a width of not less than 50 feet. No trailer, structure, addition, or appurtenance thereto shall be located less than 10 feet from the nearest adjacent lot boundary.
- c      Each trailer shall abut a hard-surfaced driveway, roadway, or street of not less than 30 feet in width, and which shall have unobstructed access to a public highway or street. Space between trailers may be used for parking of motor vehicles if the space is hard surfaced and clearly designated at least 5 feet from the nearest adjacent lot boundary. When such off-street parking spaces are provided, the driveway, roadway, or street serving the lot shall not be less than 24 feet in width. A street plan satisfactory to the Planning Commission Adjustment must be approved prior to construction with streets paved and culverts in place before occupancy. The required improvements shall be in accordance with the requirements and standards for such facilities in the Town's Subdivision Regulations for conventional type subdivisions.
- d      Each mobile home park shall be provided with a service building containing emergency sanitary facilities consisting of at least one lavatory, one flush toilet, 3 clothes washers and dryers, and a community meeting space of not less than 1000 heated square feet for each sex per each 20 mobile home lots or fraction thereof.
- e      Each manufactured home lot shall have a mobile home pad to accommodate the mobile home. The pad shall be graded to obtain adequate surface drainage and shall provide an adequate foundation and anchoring facilities to secure the manufactured home against any accidental movements. The material used in constructing the stand shall be concrete and capable of supporting the expected load. Individual connections shall be provided at each manufactured home stand for water, sewerage, electricity, telephone, gas, and other service as necessary or required.
- f      Regular garbage and refuse pickup service must be provided.
- g      Electrical facilities provided to each lot must meet the National Electrical Code requirements. Manufactured Home Parks having 10 more lots must provide an overhead street or night light operating at night. One street light must be provided for each 10 trailer lot spaces, or portion thereof within the court;
- h      Each Manufactured Home Parks must provide suitable, fenced playground area of not less than 300 square feet for each space;
- i      In approving a Manufactured Home Parks site, there may be imposed such reasonable requirements as to screening and other features of the

development as are deemed necessary to protect adjacent property and prevent objectionable conditions. A twenty-five-foot landscaped area shall be provided around the entire perimeter of a Manufactured Home Parks adjacent to any residential dwelling district;

- j After completion of improvements and prior to operating the mobile home park, a final plan shall be submitted in accordance with Town Subdivision Regulations. Such plans need not be recorded in the Chancery Clerk's office, but must be approved by the Planning Commission and Mayor and Board of Aldermen and filed in a plan book in Town Hall.
- k Masonry skirting shall be provided around the perimeter of each mobile home. Manufactured home roof shall have a pitch of not less than 4 in 12. All siding shall run in a horizontal manner. Trailer tongues shall be removed from the Manufactured Home.

### **Section 3      Manufactured Homes on Individual Lots**

- a Manufactured home, when permitted by right or granted as a special exception must meet the following requirements:
  - (1) The minimum roof pitch shall be 6/12
  - (2) Roofs shall be finished with composition asphalt shingles or standing seam metal material
  - (3) Siding shall be masonry, clapboard, or simulated clapboard in design. All siding must run horizontally. In no case shall metal or metallic materials be used as primary siding. Aluminum siding may be used when covering primary siding but its design must be as stated in this item.
  - (4) Structures shall be permanently sited and attached to ground with either slab, block, or conventional foundation.
  - (5) There shall be a minimum overhang of 6 inches at all eaves.
  - (6) Structures shall not be less than 24 feet wide and no longer than 65 feet in length.
  - (7) Front porches shall be covered with the same roof design as stated above.
  - (8) Structure shall be oriented on a building site so that the front of the structure is considered as primarily facing any public street.

### **Section 4      Site Plan Standards**

- a Site plan standard shall be applied to proposed changes in zoning districts and in subdivisions proposed in applicable districts. Required information required for site plans is listed as follows:
  - (1) A site plan be drawn to scale of not less than two hundred (200) feet to the inch and shall include information listed below;
  - (2) Property boundary lined and dimensions, topography, and location map;
  - (3) Natural conditions, including the general location and extent of

- tree cover; location and extent of water courses, marshes, and flood plains on or within 100 feet of the subject property; existing natural drainage patterns and soil conditions;
- (4) A general grading and landscape plan including the location of major existing trees and vegetation that is to be retained;
  - (5) The general location and maximum number of lots or sites to be developed or occupied by buildings;
  - (6) Arrangement and size of buildings and the general use of the property;
  - (7) Areas to be developed for parking, unloading, drives, walkways, or other circulation improvements;
  - (8) The proposed circulation movements of delivery vehicles passenger vehicles and pedestrians within the planned business and research park and to and from existing streets;
  - (9) The approximate location of points of ingress and egress and access streets, where required;
  - (10) The general location and maximum amount of area to be devoted to common open space and to be conveyed, dedicated, or reserved for parks, playgrounds, public buildings, and other common use areas;
  - (11) General locations and types of utilities and easements including storm drainage as well as general details of all surfaced areas;
  - (12) The approximate location and general description of type of landscaping, planting or fencing and other treatment to provide buffers to surrounding property;
  - (13) A tabulation of the maximum floor area to be constructed and the proposed maximum floor area ratio;
  - (14) A general traffic analysis, estimating the traffic volumes and movement to and from the completed project from the boundary streets;
  - (15) A written statement generally describing the relationship of the proposed planned business park to the comprehensive plan and how the proposed park is to be designed, arranged, and operated to minimize adverse impacts on neighboring properties;
  - (16) A preliminary time schedule for completion of the entire project. If the proposed development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating: (a) the approximate date when construction is expected to begin; (b) the order in which the phases of the project will be built; and (c) the minimum area and the approximate location of common open space and public improvements that will be required at each stage;
  - (17) A statement of financial responsibility describing what bond, credit, escrow, or other assurance the applicant proposed in order to ensure the proper completion of the planned district within the proposed time schedule and required open space and improvements; and
  - (18) A statement describing the proposed means of assuring the continued maintenance of common open space or other common elements and governing the use and continued

protection of the planned business park.

## **Section 5 Home Offices**

Home Offices, where permitted in the Town of Byhalia, shall conform to the following standards:

- a No person other than members of the family residing on the premises shall be engaged in such office activity;
- b The use of the dwelling unit for the home office shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- c There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home office other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- d No traffic shall be generated by such home office in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off street and other than in a required front yard;
- e No equipment or process shall be used in such home office which created noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit is conducted in other than a single-family residence. In the case of electrical interface, no equipment or process shall be used which created visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;
- f No wholesale or retail establishment shall be permitted unless it is conducted entirely by mail or telephone and does not involve the receipt, sale, shipment, delivery, or storage of merchandise on or form the premises;
- g There shall be no storage outside a principal building or accessory structure of equipment or materials used in the home occupation;
- h Home office shall be conducted entirely within the principal residential building;
- i There shall be no group instruction in connection with the home occupation.

## **Section 6 Auto Repair Shops**

Auto Repair Shops, where permitted in the Town of Byhalia, shall conform to the following standards:

- a All junk cars shall be completely concealed from all surrounding property;
- b Fences shall be solid board and of uniform construction and color;
- c Vehicles shall be only stored temporarily and no parts shall be



- removed;
- d NO more than five vehicles may be stored in front of a building at any one time.

## **Section 7 Junk Yards and Salvage Yards**

Junk yards and salvage yards are not permitted within the Town of Byhalia.

**Existing Junkyards and auto salvage and wrecking yards, provided, however, that all such uses should be enclosed by a solid wall or fence of uniform construction or color at least seven feet high and that material not be piled any higher than said wall or otherwise stored in such a manner as to be visible from the adjacent road-way. Burning of autos, parts, or any junk material will not be allowed at any time. [Adopted 2-5-2013, Minute Book 17, Page 229](#)**

## **Section 8 Mini-Warehouses**

Mini-Warehouses, where permitted in the Town of Byhalia, shall conform to the following standards;

- a The site must contain a minimum of 2 acres, but no more than 5 acres.
- b The minimum distance between buildings shall be 25 feet.
- c One (1) parking space for each 50 compartments must be provided;
- d All driveways, parking, loading, and vehicle circulation areas shall be paved;
- e A minimum 6-foot-high fence shall be erected, the composition of which shall be approved by the Planning Commission of Adjustment. A portion of the 50-foot front yard set-back requirement for fences may be waived at the discretion of the Planning Commission
- f Only one sign, meeting the requirements of this ordinance is allowed;
- g Only dead storage will be allowed; no transfer and storage business will be allowed;
- h NO explosives, radioactive, or other hazardous material will be stored on the premises.
- i Other conditions deemed necessary and appropriate by the Planning Commission to uphold the intent of the Comprehensive Plan may be attached to any approval including but not limited to lighting, screening, landscaping, architectural design, and live-in managers. Along with the conditional use application the applicant must submit to the Planning Commission a development plan showing the proposed buildings in relation to the property, ingress and egress, and architectural drawing of the buildings.

## **Section 9 Bed and Breakfast Homes**

Bed and Breakfast Homes, where permitted in the Town of Byhalia, shall conform to the following standards:

- a “Bed and Breakfast”: The term “Bed and Breakfast” shall mean an owner-occupied dwelling in which a room or rooms are rented on a nightly basis only, and only where the only meal served is the

breakfast meal to the guests only. (Same must be the primary residence of the owners). In the event the property is owned by two or more persons, then at least one must live on the property regardless of his or her percent of ownership;

- b “Person” means an individual.
- c Guest activities of the patrons and guests of any Bed and Breakfast shall be limited to the entertainment and uses of the property that would likely be extended to visiting friends or relatives of the owner occupied and which use would not unduly disturb neighboring residents. Specifically excluded from said use is the rented or paid use of the property, or any portion thereof for banquets, parties, reunions, etc.
- d The minimum lot size for any Bed and Breakfast shall be at least one (1) acre. The minimum size for any dwelling or building qualifying to be a Bed and Breakfast shall be at least 3,000 feet of heated and cooled space of the main structure. Maximum number of rooms which any Bed and Breakfast may have available for rent shall be three (3);
- e The maximum stay for any guest shall be limited to eight (8) consecutive days. The owner or proprietor shall maintain a guest register complete with the name of the guest, date and time of arrival as well as departure. Said register shall at all times be available for review and inspection;
- f Each Bed and Breakfast must provide off street parking with a minimum of 1.3 spaces per guest room in addition to any normal or required parking for the dwelling. Parking shall be allowed only in the side and rear yards and must be buffered from adjoining properties by some natural buffer;
- g Exterior signs on the premises may be no longer than two (2) square feet, may not be illuminated, and shall be either attached to the front of the dwelling or as approved by the site plan submitted to the Town of Byhalia. Variances for the size limit shall not be allowed under any circumstances;
- h Failure to abide by the terms of the conditional use permit granted by the Town shall be cause for revocation of said permit. Failure to commence business within (6) months of the issuance of a permit to operate shall be cause for termination of same. Notice of said termination shall consist of notice in writing by U.S. Certified mail to the permit holder at the street address of the Bed and Breakfast. Failure of the establishment at any time to pass inspections by the Mississippi Department of Public Health or the Town Fire Marshall shall require immediate cessation of operations by the establishment until such time as full compliance may be had.

## **Section 10 Commercial Landscape Buffers**

Landscape buffers shall be installed upon the construction of commercial buildings which abut residential properties. Such commercial landscape buffers shall consist of an opaque barrier a minimum of six feet in height. Said barrier may be of either wood or plant construction or some combination of both, so long as the initial installation achieves a height of 30 inches and will result in a site proof screen at least six feet in height within 36 months of installation. Substitutions for this specification may be considered and approved by the planning commission so long as an equivalent visual effect is achieved.

## Section 11 Weddings and Special Events

**Section 11 Wedding Chapel, Special Event Facility:** Any building or group of buildings offered for use in conducting wedding ceremonies and receptions, and other special events, including meetings, conferences, banquets, dinners, and private parties for a fee. This definition does not include churches and similar congregations where weddings are permitted as an ancillary use.

1. For the purpose of this section, the conducting of wedding ceremonies and receptions, and other special events, including meetings, conferences, banquets, dinners, and private parties for a fee, shall only be permitted on a single lot, parcel, or tract of record, for which the said Events use is ancillary to an existing principal residential use that is owner-occupied.
2. The minimum lot, parcel, or tract of record area for Wedding Chapels, Special Event shall have a no less than a 4-acre minimum.
3. Attendance at any Special Event shall be permitted only by invitation or reservation and shall not exceed two-hundred and fifty (250) persons per event.
4. The owner/operator of any proposed Wedding Chapel, Special Event Facility shall provide to the Planning Commission a comprehensive operations plan that addresses the following elements: *hours of operation; parking/traffic control; noise generation activities; catering operations; sanitary sewer; and waste disposal.*
5. The hours of operation for any Special Event shall be from 10:00am to 11:00pm  
**Revisions to Article 5 Section 11 of the Wedding Chapel, Special Event Facility to clarify the times in which the events can operate.**  
**Upon motion by Alderman William Rose and second by Alderwoman Delainer Richmond, with all in agreement, the board agreed to clarify the time to close as midnight and cleared by 1 am.**  
**Adopted by the Town of Byhalia September 1, 2020**
6. The service of alcohol at any Special Event shall be limited to operations in conformance with special event liquor licenses which may be brought in by licensed and insured caterers/vendors in conformance with applicable county and state regulations and must be on premises if any questions are raised for inspection by any City Official.
7. Commercial kitchens shall not be permitted on the premises. The kitchen that is part of the principal residence may be used by licensed caters for the handling, warming, and the distribution of food, but no food preparation shall be permitted.
8. Should outdoors structures, such as tents, need to be erected temporarily to accommodate receptions and other such events, these structures shall be subject to the same setbacks requirements applicable to permanent structures on the premises.

9. Any proposal for the expansion of, or addition to, a previously approved Wedding Chapel, Special Event Facility shall necessitate an application
  10. The Town Board of Aldermen shall reserve the right to revoke an approved Wedding Chapel, Special Even Facility if it determines that the Wedding Chapel, Special Event Facility, as established, has violated any condition(s) of its prior authorization.
  11. Any applicant who’s Wedding Chapel, Special Event Facility use has been approved for operation by the Town Board of Aldermen, shall subsequently secure all required permits and a Town of Byhalia business license prior to opening for business.
- Adopted by the Town of Byhalia November 6, 2012**

**Article 6 DENSITY AND DIMENSIONAL REGULATIONS**

**Section 1 Minimum lot size**

- a Subject to the provisions of Article VI, Section 7 (Cluster subdivisions) and section Article VI, Section 8 (Architecturally integrated subdivisions), all lots in the following districts shall have at least the amount of square footage indicated in the following table:
- b Minimum Square Feet

Agriculture	1 Acre (43,560 sq. ft.)
R-15	15000
R-12	12000
R-10	10000
R-8	8000
RM-8	8000
M-1	3000
C-1	6000
C-2	3000*
C-3	5000*
C-4	Approval per Site Plan
M-1	No Minimum
M-2	No Minimum
PUD	Approval per Site Plan

\*If used for residential purpose, otherwise no minimum

**Section 2 Residential density**

- a With the exception of provisions for 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.

<b>Zone</b>	<b>Maximum Dwelling Units Per Acre</b>
Agriculture	1
R-15	2.5
R-12	3
R-10	4
R-8	5
RM-8	12
C-1	N/a
C-2	N/a
C-3	N/a
C-4	N/a
M-1	N/a
M-2	N/a
PUD	Approval per site plan

- 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 multi-family 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.

**Section 3      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 presumptively to satisfy the standard set forth in subsection (a). 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.

<b>Zone</b>	<b>Lot Width (in feet)</b>
Agriculture	100
R-15	85
R-12	80
R-10	70
R-8	50
RM-8	50
MH	60
C-1	50
C-2	100
C-3	None
C-4	Approval per Site Plan
M-1	100
M-2	100
PUD	Approval per Site Plan

**Section 4 Building setback requirements**

- a Subject to section 5 and 8 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 line to the street right-of-way line or center-line than is authorized in the table set forth in this section:
- (1) If the street right 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 center-line.
  - (2) As used in this section, the term “lot boundary line” refers to lot boundaries other than those that abut streets.
  - (3) 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:

- (a) Gas pumps and overhead canopies or roofs;
- (b) 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.
- (c) 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.

	Minimum Distance From: Street Right-of-Way Line/ Side Lot Line	Maximum Distance From: Street Right-of-Way Line/ Side Lot Line	Minimum Distance From: Street Right-of-Way Line/ Side Lot Line	Maximum Distance From: Street Right-of-Way Line/ Side Lot Line
Zone	Building		Freestanding Sign	
Arg.	40/15	None	20	25
R-15	30/15	50/15	15	20
R-12	25/10	40/10	12.5	15
R-8	20/3	30/3	10	15
RM-8	35/20	50/20	10	15
MH	Approved per Site Plan		Approved per Site Plan	
C-1	15/0	50/20	N/a	N/a
C-2	40/20	50/30	2	5
C-3	None	None	10	20
C-4	Approved per Site Plan		Approved per Site Plan	
M-1	30/20	100/None	5	15
M-2	40/20	100/None	5	15
PUD	Approved per Site Plan			
Rear Set Back (11/2/10 minutes)		20 ft commercial	15 ft residential	

- b 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.
- c 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).

**Section 5 Accessory building setback requirements**

- a All accessory buildings in residential districts must comply with the street right of way and side lot boundary setbacks set forth in this ordinance, but (subject to the remaining provisions of this subsection) shall be required to observe only a four (4) foot setback from rear lot boundary lines:
  - (1) Where the high point of the roof or any appurtenance of an accessory building exceeds twelve (12) feet in height, the accessory building shall be set back from rear lot boundary lines an additional two (2) feet for every foot of height exceeding twelve (12) feet.
  - (2) Maximum lot coverage of principal and accessory buildings shall not exceed forty (40) percent of the lot.

**Section 6 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 roof's 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-15	35
R-12, R-10, R-8	35
RM-8	60
C-1	35
C-2	35
C-3	48
C-4	Approval per Site Plan
M-1, M-2	50
PUD	Approval per Site Plan

- c Subject to subsection (d), 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.
- (4) The features listed in subsection (c) are exempt from the height limitations set forth in subsection (b) if they conform to the following requirements:
  - (a) Not more than one-third (1/3) of the total roof area may be consumed by such features;
  - (b) 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;
  - (c) 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 subdivisions (b) (1) and (3) from view.
  - (d) 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 multi-family 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.

**Section 7 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 by Article 5, section 1 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-10	5250
R-12	8250
R-15	11250
Agricultural	15000

- 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 by section 601.

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 in section 601 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.
- (3) 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 and if such usable open space is otherwise in compliance with the provisions included in subdivision regulations for the city.
  - (a) The setback requirements of Section 4 and 5 shall apply in cluster subdivisions.

**Section 8 Architecturally integrated subdivisions**

- (1) 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:
  - (a) 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
  - (b) 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.
- (2) The number of dwelling units in an architecturally integrated subdivision may not exceed the maximum density authorized for the tract under Section 2.
- (3) To the extent reasonably practicable, in residential subdivisions the amount of land “saved” by creating lots that are smaller than the standards set forth in section 601 shall be set aside as usable open space.
- (4) 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.

**Section 9 Density on lots where portion dedicated to city**

- (1) Subject to the other provisions of this section, if (I) 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 (ii) 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.
- (2) 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 of section 607 and 608; 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.
  - (3) If the proposed use of the remainder is a two family or multi-family 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.
  - (4) If the portion of the tract that remains after dedication as provided in subsection (a) is 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 rat share of the “density bonus” provided for in subsections (b) and (c).

**Section 10     Density bonus**

- a     Any development designed in accordance with 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.

## Article 7 SECTION A: SIGNS

Revised Sign Ordinance October 15, 2019. All revision is in bold text.

The purpose of these guidelines is designed to safeguard and enhance property values, to protect public and private investment in buildings, open spaces and property, to preserve and improve the appearance of the town as a place in which to live and work. To preserve and enhance the attractiveness of the town to nonresidents who come to the town to work and/or trade. To reduce public safety hazards caused by signs which are improperly constructed and maintained, or which impair visibility or otherwise distract motorists, and in general, to promote the health, safety and welfare of the general public. Adopted 10-15-2019

**Section 1 Definitions.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases in this section shall have the meaning indicated when used in this article.

- a) **Abandoned signs: Signs that appear to have been abandoned or is in non-use for a period in excess of one hundred eighty (180) days. Adopted 10-15-2019**
- b) **Billboard (Tall Sign):** 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.
- c) **Banners: A sign made of flexible material that advertises a business, an event, or product for sale. Made of non-rigid material which by color and/or movements attracts attention for the Business or special event. Types of Banners:**
  - 1) **Hanging or Suspended Banners: Banners using cables, rods, or rope to hang above crowds or streets for maximum visibility and promotional impact.**
  - 2) **Mesh Banners: made of material that allows wind to pass through without lifting the banner up like a sail or wing.**
  - 3) **Flag Banners: Banners that are mounted on a single pole. The pole is mounted in the ground allowing the banner to be blown freely by the wind.**
  - 4) **Inflatable Tube: A inflatable tube, also known as a sky dancer, air dancer, and tube man, is an inflatable moving**

advertising product comprising a long fabric tube (with two or more outlets), which is attached to and powered by an electrical fan. As the electrical fan blows air through the fabric tube, this causes the tube to move about in a dynamic dancing or flailing motion.

5) **Balloons: Balloons are inflatable devices that have commercial message, logo, or symbol printed on them and is anchored or attached with a tether of sufficient size and breaking strength to prevent the balloon from escaping. Adopted 10-15-2019**

- d) 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. **Banners are also considered a freestanding sign. Adopted 10-15-2019**
- e) Internally illuminated signs: Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that (I) are filled with neon or some other gas that glows when some electric current passes through it, and (ii) 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.
- f) Off-premises signs: A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided at a location other than the premises on which the sign is located. A sign that draws attention to a cause or advocated or proclaims a political, religious or other noncommercial message shall also be an off-premises sign unless such a sign is excluded from regulation.
- g) On premises sign: A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other enterprise or activity that exists or is conducted, sold, offered, maintained, or provided on the premises where the sign is located.
- h) 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) of this definition, and (ii) is

designed to attract the attention of such persons or to communicate information to them.

- i) 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.

**Section 2 Permit required for signs**

- a) Except as otherwise provided in sections 703 (Signs excluded from regulation) and 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.
- b) 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 provisions of this appendix, then issuance of the requested permit shall constitute approval of the proposed sign or signs.
- c) Signs not approved as provided in subsection (b) or exempted under the provisions referenced in subsection (a) may be constructed, erected, moved, enlarged, illuminated, or substantially altered only in accordance with a sign permit issued by the administrator.
  - (1) Sign permit applications and sign permits shall be governed by the same provisions of this appendix applicable to building permits.
  - (2) In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), sign permits shall be issues 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.

**Section 3 Signs excluded from regulation.**

- A The following signs are exempt from regulation under this appendix except for those stated in subsection 712(b) through (e).

- (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 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 that do not exceed one (1) per abutting street and sixteen (16) square feet in size and that are not internally illuminated.

**Section 4**     **Certain temporary signs;** permit exemptions and additional regulations.

A     The following temporary signs are permitted without a **sign** permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this chapter except those contained in sections 706 (Total sign surface area) and 708 (Number of freestanding signs).

- (1) Signs containing the message that the real estate on which the sign is located (included 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 **or exterior** of a building window or glass door: Such signs, individually or collectively, may not cover more than twenty (20) 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. **Adopted 3-4-2014**
- (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:
  - (a) **Such signs shall be only be placed on private property and not within the road right-of -way. Adopted 10-15-2019**
  - (b) Such signs shall be removed within three (3) days following the election or conclusion of the campaign. No such sign may exceed sixteen (16) square feet in surface area.
- (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 fund 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 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 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 subsection (a) 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.

**Section 5 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 the 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.

**Section 6 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 time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:
- (1) The sign surface area of a double faced, back to back sign shall 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.

**Section 7      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 1 square foot of sign surface area per linear foot of building street frontage up to one hundred (100) feet of frontage.
- D Subject to the other provisions of this section, the maximum sign surface area on any lot in the C-2 and C-3 districts shall be determined by multiplying the number of linear foot of building street frontage of the lot by 1.0 feet. However, in no case may the total sign surface area exceed one hundred and twenty-five (125) 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 lot's 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 desire to install 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 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 zoned C-3 and lying with the Historic District of the City of Byhalia.
  - (1) Signs located in the central business district that advertise businesses located in the central business district shall be calculated as follows:
  - (2) 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 (2 ½) 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 thirty-two (32) square feet.
    - (b) Where frontage is on more than one street, only signs computed with 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 building.
    - (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.
- I **Billboard signs shall not exceed two hundred (200) square feet of face surface. Have a total height of one hundred (100) feet as measured from the ground to the top of the sign. A minimum height of thirty-five as measured from the ground to the bottom of the sign. Must comply with any FAA regulation regarding lighting of the top of the sign due to the height.**
- J **Hanging or Suspended Banners Shall not exceed one hundred twenty-five (125) square feet in size and shall be professionally prepared. Cannot attach to any utilities pole without the utility company’s written permission. [Adopted 10-15-2019](#)**

**Section 8**

**Freestanding sign surface area**

- A For purposes of this section, a side of a freestanding sign is any plane

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

- B Subject to subsection (c), a single side of a freestanding sign may not exceed 1 square foot 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 square feet in surface area.

**Section 9 Number of freestanding signs**

- A Except as authorized by this section, no development may have more than one (1) freestanding sign per lot street frontage, provided that corner lots have at least one hundred (100) feet of frontage on each of the two (2) intersecting public streets.
- B If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's 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.
- C **Flag Banners will be permitted on road frontage. The flag Banners cannot be placed within the road right-of-way. The Flag Banners must have a minimum of 40' spacing between each banner. No Flag Banner may be place within 40' of the entrance to the business or on corner lots within 40' of the street intersection. No Flag Banner may be place in which impairs the visibility on any motorist. Adopted 10-15-2019**

**Section 10 Subdivision and multi-family development entrance signs**

- A At any entrance to a residential subdivision or multi-family development, there may be not more than two (2) signs identifying each 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 exceeds thirty-two (32) square feet.

**Section 11 Location and height requirements**

- A Freestanding sign shall be located a minimum of one foot from the property line.
- 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 display, including lighting erected in connection with the observation of holiday 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 eight feet. Signs shall be ground mounted. Ground mounting shall occur on a masonry base of at least 18 inches in height.  
Pole mounting shall be achieved with posts anchoring sign edges and sign surface area no closer than 18 inches to the ground. Any gap between ground and sign surface area shall be landscaped with evergreen plants to achieve an opaque barrier in such gap.

**Section 12 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 (15) feet of a residential zone may be illuminated between the hours of midnight and 6 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential.
- C Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
- D Except as herein provided, (I) internally illuminated signs are not permissible in the residential zoning districts, and (ii) 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.
- E Subject to subsection (g) illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows or similar areas are prohibited.
- F Subject to subsection (g), no sign may contain or be illuminated by flashing or intermittent lights of changing degrees of intensity, except signs indicating the time, date, or weather conditions.  
(1) Subsections (e) and (f) do not apply to temporary signs erected in connection with the observance of holidays.

**Section 13 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 under sections 2 and 3 of this article) may be located in any district other than a C-3 or M1-M2 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, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement (i) is not a primary design feature of the sign, and (ii) is not intended to attract attention to the sign. The restriction of this subsection shall not apply to signs specified in subdivision 702(4) or to signs indicating the time, date or weather conditions. **Adopted 10-15-2019**
- 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. **See Addendum Sept. 17, 2013**
- F Tall Sign are only allowed with board approval. The height of the signs will be determined by the business looking to locate in the Town limits of Byhalia, MS. These type signs are only considered in the area adjacent to Hwy 78/future I-22 just outside the Highway right of way. If a tall sign Garden is established the signs will only be allow in the Garden area. All other signage will revert back to the original signage code and restrictions. **See Addendum Sept. 17, 2013**
- G **Billboard Signs are only permitted to be placed along an Interstate 22, Interstate 269 and U. S. Highways 78 only. They can only be placed one thousand (1,000) feet apart. Billboards must be place on private property and not in the Interstate or U. S. Highway right-of-way. Billboards can only be placed within a twenty (20) feet of the right-of -way. No portion of the Billboard sign can be within the right-of-way of the Highway. Before permit can be issued, the Sign Company must provide a liability insurance bond in amount not less than one hundred thousand dollars (\$100,000.00) which will cover personal injury and/or property loss per occasion by fall or collapse of such sign. No Billboards may be place that may damage or destroy any structure within the collapse zone of the billboard. Billboards are only allowed within zoning districts A, C2, M1, and M2. No billboards are permitted to be placed within residential zoning. Should an approved zoning for billboards be changed to residential, the billboard is to be removed within one hundred**

eighty days (180) after formal notification.

- H **Balloons shall be allowed in C-2 zoning. Balloons may be used for short term promotions of thirty (30) days or less only. Shall not be more than one hundred (100) cubic feet in size. No balloon shall reach a height of more than one hundred (100) feet above the roof line of the business upon which it is located. Business owner must provide a liability insurance bond in amount not less than one hundred thousand dollars (\$100,000.00) which will cover personal injury and/or property loss per occasion by fall or the escape of the balloon.**
- I **Banners placed on chain link fences, iron fences, wooden fences, hand rails, or any other type of material used for fencing or barriers is prohibited.**
- J **Banners may be used as a permanent type of sign for a business. The banner must be mounted to a hard surface and the hard surface must be properly mounted to the building of the business.**
- K **Banners used to promote or advertise a name brand product the business is promoting, may be used if display according to Section 13 Subsection J. Any Banner used in this manor also must comply with Section 7 Subsection G.**
- L **No sign of any kind or type may be placed on an utility pole, street sign pole, stop sign pole, or any pole that is owned and maintain by the Town of Byhalia. [Adopted 10-15-2019](#)**

#### **Section 14 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 subsection 715(c), which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

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.

E **Banners must be kept in a state of good condition. Banners are to be replaced when the banner begins to fade, becomes frayed or tattered, or the purposed of the banner is no longer readable.**

F **Tube signs are permitted only to be place within 10' of the business's building. Can only be in operation during business hours. Cannot be place is such a way as to hinder the ingress or egress of the main entrance to the business.**

G **Owners of signs that appear to the code enforcement official of the Town of Byhalia to have been abandon, shall be notified in writing of such. The owner of the land shall also be notified in writing of such abandon sign. The owner of the sign or owner of the property shall have thirty (30) day to remove the sign in question. If same is not removed, the town may demolish said sign and bill the sign owner and property owner jointly for the cost of said demolition or removal and same may be added to the ad valorem taxes for the property. [Adopted 10-15-2019](#)**

**Section 15 Unlawful cutting of trees and shrubs**

A 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;

B 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;

C 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;

D In any area where such trees or shrubs are required to remain under a permit issued under this zoning ordinance.

**Section 16 Non-Conforming signs**

A Subject to the remaining provisions of this section, non-conforming 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 non-conforming 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 non-conforming 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 non-conforming 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, non-conforming signs may be repaired or renovated so long as the cost of such work does not exceed within any 12-month period fifty (50) percent of the value (tax value if listed for tax purposes) of such sign.
- G If a non-conforming 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 property having control over such sign.
- H If a non-conforming 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.

**Section 17 Amortization of non-conforming signs**

- A Subject to section 16 of this ordinance and to the remaining provisions of this section, non-conforming signs that are otherwise lawful as of the effective date of this ordinance may be continued.
- B The following types of non-conforming signs or signs that are non-conforming 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 section 12 or subsections 13(b), (c), or (d) of this article.

**Section 18 Penalties**

Any person, firm, business, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a Misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00). Each day continuance of a violation shall be considered a separate offence and punishable as such. The owner of any sign, building or premises, or part thereof, where anything is in violation of this Ordinance were signs are placed, or signs exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty off a separate offense. **Adopted 10-15-2019**

**Section 19 Severability**

If any section of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid. **Adopted 10-15-2019**

**Signs -**

**Section 4, subsection a, line 3, add wording exterior.**

Signs attached temporarily to the interior **or exterior** of a building window or glass door: Such signs, individually or collectively, may not cover more than twenty (20) 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.

**Adopted by the Town of Byhalia March 4<sup>th</sup>, 2014**

**Signs -**

**Section 13, subsection e**

**Neon Signs Downtown Area – close to Residential**

All signs are only allowed by design approval and Town sign permit. While signage has been addressed as far as height, width, and location, consideration should be exercised when illuminated lights are used so that the signs do not cause glare hazardous to pedestrians or vehicle drivers or do not

create a nuisance to adjacent properties. Neon signs are only allowed with board approval. If approved, signs cannot be a nuisance to any other properties. Signs should be turned off or on a timer to turn off at closing time (not to be on all night) or sign must be removed.

**Section 13, subsection g**

**Signage Adjacent to Right of Way on Hwy 78/I 22**

Tall Signs are only allowed with board approval. The height of the signs will be determined by the business looking to locate in the Town limits of Byhalia, MS. These type signs are only considered in the area adjacent to Hwy 78/future I-22 just outside the Highway right of way. If a tall sign Garden is established the signs will only be allowed in the Garden area. All other signage will revert back to the original signage code and restrictions.

**Adopted by the Town of Byhalia September 17,2013**

## Article 8            **PARKING**

### **Section 1        Definitions**

- a        Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.
- (1)      Circulation area: That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.
  - (2)      Driveway: That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
  - (3)      Gross floor area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
  - (4)      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).
  - (5)      Parking area aisles: That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.
  - (6)      Parking space: A portion of the vehicle accommodation area set for the parking of one (1) vehicle.

### **Section 2        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 appendix are that: (1) a development must comply with the parking standards set forth in subsection (e) to satisfy the requirement stated in subsection (a), and (ii) any development that does meet these standards is in compliance. However, the table of parking requirements is only intended to establish a presumption and should be flexibly administered, as provided in section 2, paragraph-f.
- c        Uses in the table of parking requirements (subsection (e)), are indicated by a numerical reference keyed to the table of permissible uses, section 401. 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 ( $\frac{1}{2}$ ) 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 set forth in subsection (e) 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.

e Table of Parking Requirements.

Use	Parking Requirement
1.11	2 spaces per dwelling unit
1.2	2 spaces for each dwelling unit, except that one-bedroom units require only one space
1.3	With respect to multi-family 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 two or more bedrooms.
1.4	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every three beds shall be required.
1.51	1 space for each bedroom
1.52	1 space for each room to be rented plus additional
1.53	Space (in accordance with other sections of this table) for restaurant or other facilities
1.7	4 spaces for offices of physicians or dentists; 2 spaces for attorneys, 1 space for all others
2.11	1 space per 200 square feet of gross floor area
2.11	1 space per 150 square feet of gross floor area
2.12	1 space per 400 square feet of gross floor area
2.13	
2.21	1 space per 200 square feet of gross floor area
2.22	1 space per 400 square feet of gross floor area
2.23	
3.11	1 space per 200 square feet of gross floor area
3.12	1 space per 400 square feet of gross floor area
3.13	1 space per 150 square feet of gross floor area
3.21	1 space per 200 square feet of gross floor area
3.22	1 space per 400 square feet of gross floor area
3.23	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 two stations)

4.11	1 space per 400 square feet of gross floor area
4.12	1 space for every two employees on the maximum shift
4.2	Except that, if permissible in the commercial districts, such uses may provide 1 space per 100 square feet of gross floor area
5.11	1.75 spaces per classroom in elementary schools 5 spaces per classroom in high schools
5.12	1 space per 100 square feet of gross floor area
5.13	1 space per 150 square feet of gross floor area
5.2	1 space for every four 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
5.3	1 space per 300 square feet of gross floor area
5.4	
6.11	1 space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion-example, 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
6.12	1 space for every four seats
6.13	
6.21	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every three persons that the outdoor facilities and designed to accommodate when used to the maximum capacity
6.22	
6.23	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
6.24	1 space per horse that could be kept at the stable when occupied to maximum capacity
6.25	1 space for every three seats
6.26	1 space per speaker outlet

7.1	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
7.2	3 spaces for every five beds Multi-family units developed or sponsored by a public or nonprofit agency for limited income families or the elderly require only 1 space per unit
7.3	1 space for every two employees on maximum shift
7.4	
8.1	1 space per 100 square feet of gross floor area
8.2	Same as 8.100 plus 1 space for every four outside seats
8.3	
8.4	Same as 8.20 plus reservoir lane capacity equal to 5 spaces per drive-in window
9.1	1 space per 200 square feet of gross floor area
9.2	
9.3	
9.4	
9.5	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
9.6	Conveyer type- 1 space for every three employees on the maximum shift plus reservoir capacity equal to 5 times the capacity if the washing operation. Self-service type 2 spaces for drying and cleaning purpose per stall plus two reservoir spaces in front of each stall
10.21	1 space for every two employees on the maximum shift
10.2	But not less than 1 space per 5,000 square feet of area devoted no storage (whether inside or outside)
11	1 space per 200 square feet of gross floor area
12	1 space per 200 square feet of gross floor area
13	1 space per 200 square feet of gross floor area
14	1 space for every two employees on maximum shift
15.1	1 space for every two employees on maximum shift
15.2	
15.3	1 space for every two employees on maximum shift

15.4	1 space per 100 square feet of gross floor area
16	1 space per 200 square feet of gross area
19	1 space per 1,000 square feet of lot area used for storage, display, or sales
20	1 space per 100 square feet of gross floor area
21.2	1 space per 200 square feet of gross floor area
22	1 space per employee plus 1 space per 200 square feet of gross floor area
24	1 space per 200 square feet of gross floor area
25	1 space per 200 square feet of gross floor area

- f Flexibility in administration required
  - (1) The board recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in subsection 802(e) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in section 802, the permit-issuing authority may permit deviations from the presumptive requirements of subsection 802(e) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in subsection 802(a).
- g Without limiting the generality of the foregoing, the permit-issuing authority may allow deviation from the parking requirements set forth in subsection 802(e) when it finds that:
  - (1) A residential development is irrevocably oriented toward the elderly;
  - (2) A business is primarily oriented to walk-in trade.
  - (3) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in subsection 802(e), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
  - (4) 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(e) for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in article VIII.

**Section 3      Parking space dimensions**

a Subject to subsections (b) and (c), 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 to contain a rectangular area of only seven and one half (7 ½) feet in width by fifteen (15) feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small compact cars only.
- c Wherever parking area 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.

**Section 4 Required widths of parking area aisles and driveways**

- a Parking area aisle width shall conform to the following table, which varies the width requirement according to the angle of parking.

Parking Angle					
	0°	30°	45°	60°	90°
Aisle Width	Feet				
One Way Traffic	13	11	13	18	24
Two Way Traffic	19	20	21	23	24

- b Driveways shall not be 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 (I) the driveway is no longer than fifty (50) feet, (II) it provides access to not more than six (6) spaces, and (III) sufficient turning space is provided so that vehicles need not back into a public street.

**Section 5 General design requirements**

- a Unless no other practical alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.
- b Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- c Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such 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.

## **Article 9                    SCREENING AND TREES**

### **Section 1                    Screening standard established**

- a Where commercially zoned, industrially zoned, multi-family zoned, or manufactured zoned project, adjoins other residential zoned property, prior to the issuance of a building permit, a screening barrier will be erected by the developer of the commercial, industrial, multi-family, 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, multi-family, or manufactured home property use.

### **Section 2                    Descriptions of screening**

- a The following three basic types of screens are hereby established and are used as the basis for screening requirements. Illustrated examples of the screens are found in Appendix A.
  - (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 is 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 obstruction 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.

### **Section 3                    Subdivisions**

- a When undeveloped land is subdivided and undeveloped lots only are sold, the sub-divider 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 I of this article.

### **Section 4                    Shading- Mayor and Board findings and declaration of policy on shade Trees**

- a The council finds that:
  - (1) Trees are proven producers of oxygen, a necessary element for

human survival;

- (a) 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;
  - (b) 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;
  - (c) Trees have an important role in neutralizing waste water passing through the ground from the surface to groundwater tables and lower aquifers;
  - (d) Trees, through their root system stabilize the ground water tables and play an important and effective part in soil conservation, erosion control, and flood control;
  - (e) 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
  - (f) For the reasons indicated in subsection (e), trees have an important impact on the desirability of land and therefore on property values.
- (2) Based upon the findings set forth in subsection (a), the Mayor and Board declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town's planning jurisdiction to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

**Section 5 Required trees along dedicated streets**

- a 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 center line of the street there is for every thirty (30) feet of street frontage at least an average of one 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.

**Section 6 Retention and protection of large trees**

- a Every developer 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 (12 ½) 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 in subsections (a) and (b) unreasonably burdens a development to accomplish such retention or protection, the desired location of improvements on a lot of 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 subsections (a) or (b), and, as a result. The parking requirements set forth in article VIII cannot be satisfied, the number of required spaces may be reduced by the number of spaces “lost” because of the provisions of subsection (a) and (b), up to a maximum of fifteen (15) percent of the required spaces.

**Section 7      Shade trees in parking areas**

- a Vehicle accommodation area that are required to be paved by section 803 and 804 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 in subsection (a) 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 (12 ½) feet (measured from the center of the trunk) of any tree retained to comply with subsection (a) and new trees planted to comply with subsection (a) shall be located so that they are surrounded by at least two hundred (200) square feet of unpaved area.
- d Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches (3' 6”).

## **Article 10           NONCONFORMING USES**

### **Section 1       Purpose**

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

### **Section 2       Nonconforming uses permitted**

- a       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.

### **Section 3       Unsafe structures**

- a       Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition with no increase in nonconforming status.

### **Section 4       Construction approved prior to ordinance**

- a       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.

### **Section 5       Restoration**

- a       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.

### **Section 6       Abandonment**

- a       Whenever a nonconforming use has been discontinued for twelve (12) consecutive calendar months, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this ordinance.

## **Article 11 ADMINISTRATION, ENFORCEMENT AND PENALTIES**

### **Section 1 Enforcing officer**

- a The building official 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 certificated of occupancy for buildings and uses that meet the requirements of this ordinance.

### **Section 2 Building permits**

- a Building permits shall be issued in accordance with the following provisions:
- (1) Building permits 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) Plan required. All applications for building permits shall be accompanied by a plan 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.

### **Section 3 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 be 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 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.
  - (4) Records. It shall be the duty of the building official 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.
  - (5) Fees. No fee shall be charged for a certificate of occupancy.
  - (6) 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.

**Section 4            Complaints Regarding Violations**

a            Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Official. The Administrated Official shall record properly such complaint, promptly investigate, and act thereon as provided by this Ordinance.

**Section 5            Penalties**

a            Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be arrested and brought before the court of appropriate jurisdiction and upon conviction be punished by a fine of not more than one hundred dollars (\$100.00) for each violation; and each day's failure to comply with the provisions of this ordinance shall constitute a separate violation. State law reference-Penalties for violations, Miss. Code Ann. 1972, 17-1-27.

**Section 6            Remedies**

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

## Article 12 ESTABLISHMENT OF PLANNING COMMISSION

### Section 1 Appointment

- a The Planning Commission of the City of Byhalia is hereby established. Said board shall consist of six (6) members, appointed by the Mayor and Board of Aldermen of Byhalia.
- b All members of the commission shall serve without additional compensation and the term of office shall be concurrent with the term of office held by the aldermen. The Planning Commission shall adopt from time to time such rules and regulations as it may deem necessary for its own operation and to carry into effect the provisions of this ordinance. **Determine Pay of Planning Commission**  
**Upon motion by Alderman William Rose and second by Alderman Rick DeBardeleben, with all in agreement, the board agreed to pay the Planning Commission members \$50.00 for each meeting. Adopted August 6, 2019.**
- c The Commission shall keep records of its proceedings showing the action of the commission 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 commission and shall be a public record.

### Section 2 Authority

- a The Planning Commission shall have jurisdiction of certain matters arising in connection with the administration, enforcement, or interpretation of this ordinance as herein provided.

### Section 3 Meetings

- a Meetings of the Planning Commission 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 Commission shall constitute a quorum. There shall be a fixed place for the meeting and all meetings shall be open to the public.  
**Planning Commission's monthly Meeting Date will be the fourth(4<sup>th</sup>) Tuesday each month. The meeting time will at 5:30 pm at Byhalia Town Hall. The Town will be able to advise any developers, builders or individual that has business before the Planning Commission when the next meeting will be. The Town will be able to advise anyone with business before the Planning Commission that all application, maps and other documentations required to be turned in by the 1<sup>st</sup> of each month. This time frame will allow all required public notices to go out in a timely manner.**  
**Adopted by the Board 12-15-2020**



## Section 4

### Jurisdiction

a

The Planning Commission 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 order, requirement, decision, or determination made by the building official in the enforcement of this ordinance;
- (2) To make recommendations to the Mayor or Board of Aldermen regarding changes and amendments to this ordinance;
- (3) To hear and decide upon applications for conditional uses enumerated in this ordinance; shall decide such questions involved in determining whether conditional use conditions and safeguards as are appropriate under this Ordinance, or shall deny conditional uses when not in harmony with the purpose and intent of this Ordinance subject to the following:
  - (a) A written application for a use permitted on appeal indicating the section of this ordinance under which the uses permitted on appeal is sought and stating the grounds on which it is requested shall be submitted to the Planning Commission at least fifteen days in advance of the hearing at which the application is to be considered.
  - (b) Every action authorized hereunder shall not be personal to the applicant thereof but shall run with the land so long as the conditions under which the exception was granted continue.
  - (c) In granting any uses permitted on appeal the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the uses permitted on appeal is granted, shall be deemed a violation of this Ordinance. The Planning Commission shall prescribe a time limit within which the action for which the uses permitted on appeal is required shall be begun or completed or both. Failure to begin or complete, or both, such action within the time limit set shall void the uses permitted on appeal.
- (4) 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;
- (5) The Planning Commission shall have the power to authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Planning Commission unless and until they find that all the following facts and conditions exist:
  - (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved.
  - (b) That literal interpretation of the provisions of this

- Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance;
- (c) That the special conditions and circumstances do not result from the actions of the applicant;
  - (d) That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - (e) Under no circumstances shall the Planning Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zoning district nor shall any lot be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this ordinance are not maintained.
- (6) 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;
  - (7) 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.

**Section 5 Appeals**

- a Appeals from any decision of the Planning Commission concerning the enforcement of the provisions of this ordinance may be made to the Mayor and Board of Aldermen of the city. The final disposition 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 Planning Commission's 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.
- c Appeals to the Planning Commission concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the Governing Body of the Town affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the Planning Commission and specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Planning Commission all papers constituting the record upon which the action appealed from was taken.

## **Article 13            CHANGES AND AMENDMENTS**

### **Section 1            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; however, in case 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 there from 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 (2/3) of all the members of the Mayor and Board of Aldermen of the town who are not required by law or ethical reasons to recuse themselves. (State law reference-Amendments, Miss. Code Ann. 17-1-15, 17-1-17.)

## **Article 14            LEGAL STATUS PROVISIONS**

### **Section 1            Conflict with other laws**

- a            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. State law reference-Miss., Code Ann. 1972, 17-1-21.
- b            Validity.
  - (1)          Should any section, clause, or provisions 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.
  - (1)          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.
  - (1)          All ordinances and parts of ordinances in conflict herewith are repealed.

**APPENDIX**  
**Changes to the Byhalia Development Plan/Zoning Codes by Mayor and Board of Alderman**

**PRIVATE SWIMMING POOL/SPAS/HOT TUB REGULATIONS**  
**TOWN of BYHALIA**  
**P. O. Box 412 – 225 Hwy. 309 S**  
**Byhalia, MS. 38611**  
**(662)838-2135**

**I, the undersigned, understand that I have only made an application for a swimming pool, spa, or hot tub permit to be constructed or placed on the job site listed below and that no work may begin until this permit application has been reviewed and approved by the Town of Byhalia Building Department.**

Listed below are the steps needed to get a swimming pool, spa, or hot tub permit application approved:

1. A site inspection by the Town of Byhalia Building Department may be needed and approved before this permit can be issued.
2. If a site inspection is needed, the contractor shall have the location of the pool, spa, or hot tub marked with flags, stakes, or painted lines on the ground.
3. After the site inspection has been completed, approved, and the pool, spa, or hot tub permit application has been reviewed, you will be notified that your pool, spa, or hot tub permit has been issued. At this time work may begin.
4. If after the site inspection and the pool, spa, hot tub application review has been completed, if we cannot approve the permit application, you will be notified of the reason(s) that the permit application was denied. When you have address and corrected the reason(s) for the permit application denial, then the Town of Byhalia Building Department we be able to issue the pool, spa, or hot tub permit.
5. All construction of a pool, spa, or hot tub will be built according to the current International Building Codes that the Town of Byhalia had adopted.

NOTE: No work may begin until the above requirements have been completed and approved.

I, the undersigned have read and understand these requirements and regulations that the Town of Byhalia has in place to regulate pools, spas, or hot tubs. I agree to comply with all of these requirements and regulations, as it applies to the districts in which I will be constructing or placing a pool, spa, or hot tub.

Job Site Address: \_\_\_\_\_

Subdivision \_\_\_\_\_ Lot # \_\_\_\_\_ Zoning District: \_\_\_\_\_

Contractors Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PRIVATE SWIMMING POOL PERMIT APPLICATION**

**TOWN of BYHALIA**

**P. O. Box 412 – 225 Hwy. 309 S**

**Byhalia, MS. 38611**

**(662)838-2135**

Receipt # \_\_\_\_\_

Check # \_\_\_\_\_

Cash \_\_\_\_\_

Subdivision: \_\_\_\_\_ Lot #: \_\_\_\_\_

Job Site Address: \_\_\_\_\_

Contractor: \_\_\_\_\_ Phone #: \_\_\_\_\_

Contractor Address: \_\_\_\_\_ Email: \_\_\_\_\_

Circle One: In Ground Pool    Above Ground Pool    Spa    Hot Tub

Height of Above Ground Pool: \_\_\_\_\_ (measured from finished grade five feet from edge)

Pools/Spas/Hot Tub Fees \$100.00

Heaters (each) \_\_\_\_\_ x \$25.00 \_\_\_\_\_

Recording Fee \$1.00

Total Fee Due \_\_\_\_\_

If Fence/Barrier is already in place: Material: \_\_\_\_\_ Height: \_\_\_\_\_

Electrical and Plumbing permits shall be applied for before Pool/Spa/Hot Tub permit will be issued.

Fence/Barrier permit (in need) shall be applied for before Pool/Spa/Hot Tub permit will be issued.

I, the undersigned, certify that the described work listed on this permit is true and correct. I acknowledge that any permit granted on the representation herein made may be revoked at any time, without notice, on a breach of representation or violation of the Town of Byhalia Swimming Pool Codes.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_

Approved By: \_\_\_\_\_

All inspection listed below shall be inspected and approved by the Town of Byhalia Building Department

Location: \_\_\_\_\_ Bonding: \_\_\_\_\_ Electrical Ditches: \_\_\_\_\_ Deep Seal Trap: \_\_\_\_\_

Light Niche: \_\_\_\_\_ Others: \_\_\_\_\_ Others: \_\_\_\_\_ Final: \_\_\_\_\_

**PUBLIC SWIMMING POOL PERMIT APPLICATION**

**TOWN of BYHALIA**

**P. O. Box 412 – 225 Hwy. 309 S**

**Byhalia, MS. 38611**

**(662)838-2135**

Receipt # \_\_\_\_\_

Check # \_\_\_\_\_

Cash \_\_\_\_\_

Subdivision: \_\_\_\_\_ Lot #: \_\_\_\_\_

Job Site Address: \_\_\_\_\_

Property Owner: \_\_\_\_\_ Phone # \_\_\_\_\_

Contractor: \_\_\_\_\_ Phone #: \_\_\_\_\_

Contractor Address: \_\_\_\_\_ Email: \_\_\_\_\_

Pools/Spas/Hot Tub Fees \$300.00 \_\_\_\_\_

Electrical (Optional by Contractor) \$150.00 \_\_\_\_\_

Electrical Contractor: \_\_\_\_\_

License #: \_\_\_\_\_

Plumbing (Optional by Contractor) \$ 30.00 \_\_\_\_\_

Plumbing Contractor: \_\_\_\_\_

License #: \_\_\_\_\_

Fence (Optional by Contractor) \$ 75.00 \_\_\_\_\_

Fence Contractor: \_\_\_\_\_

Recording Fee \$1.00

Total Fee Due \_\_\_\_\_

**Note: Optional Electrical, Plumbing, and Fence means permits may be paid for by contractor. If Contractor does not pay for these permits, he must have Electrical, Plumbing, and Fence Sub-Contractors apply for their own permits.**

*All construction of a pool, spa, or hot tub will be built according to the current International Building Codes that the Town of Byhalia had adopted.*

(Continued)

I, the undersigned, certify that the described work listed on this permit is true and correct. I acknowledge that any permit granted on the representation herein made may be revoked at any time, without notice, on a breach of representation or violation of the Town of Byhalia Swimming Pool Codes.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_

Approved By: \_\_\_\_\_

All inspection listed below shall be inspected and approved by the Town of Byhalia Building Department

Location: \_\_\_\_\_ Bonding: \_\_\_\_\_ Electrical Ditches: \_\_\_\_\_ Deep Seal Trap: \_\_\_\_\_

Light Niche: \_\_\_\_\_ Others: \_\_\_\_\_ Others: \_\_\_\_\_

Final: \_\_\_\_\_ (Shall be made and approved before open to Public)

**CALL 811 BEFORE YOU DIG**

**Adopted by the Town of Byhalia Board of Alderman 11-06-18**