Unified Development Code for the City of Canton, Mississippi

Prepared by

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UNIFIED DEVELOPMENT CODE

OF THE

CITY OF CANTON, MISSISSIPPI

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DEVELOPMENT REGULATIONS

CITY OF CANTON, MISSISSIPPI

ORDINANCE ESTABLISHING COMPREHENSIVE LAND DEVELOPMENT REGULATIONS FOR THE CITY OF CANTON, MISSISSIPPI, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT THEREWITH.

PREAMBLE

WHEREAS, the Statutes of the State of Mississippi, Section 17-1-1 to17-1-27, inclusive, of the **Mississippi Code of 1972**, annotated, as amended, empower the CITY OF CANTON, Mississippi, to enact a zoning regulations and provide for their administration, enforcement and amendment; and

WHEREAS, Sections 17-1-3, 17-1-23, 17-1-25, and 21-19-63 of the **Code** empower the Mayor and Board of Aldermen to enact subdivision regulations and provide for their administration, enforcement and amendment; and

WHEREAS, Section 17-1-9 of the **Code** states that "zoning regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and WHEREAS, Section 17-1-1 of the **Code** defines the term "comprehensive plan" as "a statement of public policy for the physical development of the entire municipality or county adopted by resolution of the governing body, consisting of the following elements at a minimum: (1) goals and objectives for the long-range (twenty to twenty-five years) development of the county or municipality---; (2) a land use plan---; (3) a transportation plan---; and (4) a community facilities plan---"; and

WHEREAS, Section 17-1-11 of the **Code** states that "the governing authority of each municipality and county may provide for the preparation, adoption, amendment, extension and carrying out of a comprehensive plan---and may create, independently or jointly, a local planning commission---with authority to prepare and propose (a) a comprehensive plan of physical development of the municipality or county; (b) a proposed zoning ordinance and map;" and

WHEREAS, pursuant to Section 17-1-11, the Mayor and Board of Aldermen of the City of Canton have established a Canton Zoning Commission; and

WHEREAS, the Mayor and Board of Aldermen on _____, 2009, adopted by resolution a Comprehensive Plan for the City of Canton and on _____, 2009, as previously recommended by Canton Zoning Commission following public hearings relative to same; and

WHEREAS, the Canton Zoning Commission has recommended the adoption of this **Unified Development Code** for the City of Canton and an accompanying **Official Zoning Map**; and

WHEREAS, based upon the recommendations of the Zoning Commission, the Mayor and Board of Aldermen of Canton have divided the City into districts and adopted regulations pertaining to such districts, and have given reasonable consideration among other things, to the character of the districts and their particular suitability for particular uses, with a view to conserving the value of property and encouraging the most appropriate use of land throughout the City; and

WHEREAS, the **Unified Development Code** includes certain procedures and standards to be followed in the development or redevelopment of land subdivisions in the City of Canton to assure that development of the City is orderly, healthful, efficient and economic; and

WHEREAS, the Mayor and Board of Aldermen have given due public notice of a hearing relating to said **Unified Development Code** and **Official Zoning Map** and have held a public hearing in accordance with the requirements of Section 17-1-15 of the **Mississippi Code**;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CANTON, MISSISSIPPI, THAT THIS **UNIFIED DEVELOPMENT CODE** SHALL GOVERN THE USE OF ALL LAND AND THE SUBDIVISION OF ALL LAND WITHIN THE CORPORATE LIMITS OF CANTON, MISSISSIPPI.

CHAPTER ONE: ZONING REGULATIONS

ARTICLE I

TITLE AND PURPOSES

SECTION 1.1: TITLE AND PURPOSES

These regulations shall be known as the **Unified Development Code of the City of Canton, Mississippi**, and may be so cited, and further reference elsewhere as "Development Code", and herein as "the Code" or "this Code" shall imply the same wording and meaning as the full title.

SECTION 1.2: PURPOSES

The purposes of this Code are as follows:

1. To preserve and promote the public health, safety, morals, and general welfare of the inhabitants of the City of Canton and of the public generally through the regulation of the location, height, number of stories, size of buildings and other structures; the density and distribution of population, size of yards and other open spaces; and the use of buildings, structures, and land for commercial, industrial, residential and other purposes.

2. To establish procedures governing the filing and approval of land subdivision plats and construction plans in the City of Canton, Mississippi;

3. To establish minimum standards governing the preparation and filing of land subdivision plats and construction plans to be submitted to the City for approval;

4. To establish minimum design standards governing streets, utilities and other required improvements;

5. To assure that outdoor signs are appropriate to the land, building, or use to which they are appurtenant, thereby protecting the character and economic stability of surrounding property;

6. To insure the proper coordination of future streets with existing or planned streets; and

7. To fix penalties for the violation of e these regulations.

8. Landscaping, erosion control, and storm water management.

CHAPTER ONE: ZONING REGULATIONS

ARTICLE II

INTERPRETATION AND DEFINITIONS

SECTION 1.20: RULES FOR WORDS AND PHRASES

For the purpose of this Code, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory; the word "may" is permissive; the word "used" includes "designed" and "intended or arranged to be used or occupied"; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual.

SECTION 1.21: DEFINITIONS

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

Accessory Structure or Use: Any detached structure or use which is subordinate or incidental to the main building or dominant use of the lot or premises, excluding driveways, sidewalks and fences.

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

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

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

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

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

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

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

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

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

Animal Control Ordinance: When used in this Code, this term shall refer to the **Animal Control Ordinance of the City of Canton**.

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

Arterial Street/Highway: See "Street".

Automotive Maintenance Services: Routine maintenance activities performed on a vehicle either by the owner/operator or by maintenance personnel. The following activities are

considered routine: engine tune-up; changing of plugs, filters, oil, lubricants, belts; change and rotate tires; brake services; radiator flushing; battery services; muffler services; adjusting timing and fuel injector services; and top-off all fluids. It is also considered as minor repairs.

Automotive (major) Repair Services: Buildings and premises wherein major mechanical and body work is performed on vehicles. Such activities include engine overhaul or dismantling of subparts; body or frame repair; windshield or glass replacement; transmission, starter, alternator or other subpart rework service; welding or metal cutting; and any other repair other than "minor repair" or routine maintenance.

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

Base Flood: A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

Bed and Breakfast Facility: Residential establishment wherein units are rented to transient guests on an overnight basis and wherein breakfast is the only meal served to these guests.

Block: A parcel of land intended to be used for urban purposes, which is entirely surrounded by streets, highways, railroad rights-of-way, shoreline of waterways, public parks, boundary lines of municipalities, or combinations thereof.

Boarding House: A building other than a hotel or motel, where, for compensation and by prearrangement for definite periods, meals and/or lodging are provided for three or more but not exceeding ten (10) persons (other than family members) on a weekly or monthly basis. (See also Rooming House".)

Bond: Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Mayor and Board of Aldermen. All bonds shall be approved by the Mayor and Board of Aldermen, whenever a bond is required by these regulations.

Bond, Performance: A bond warranting the completion of required improvements in accordance with approved construction plans and specifications within a specific period of time after approval of the final plat.

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

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

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

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

(NOTE: This definition is intended to distinguish between buildings that are "canopies", which do not have walls on all sides, from those that are fully-enclosed by walls. When the term "fully-enclosed building" is used in this Code, it is intended to prevent exposure of equipment, materials, etc. to the outside world, thereby controlling some characteristics that might be objectionable, such as noise and uses that are not aesthetically appropriate for a particular zoning district.)

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

(NOTE: The provision for measuring the finished lot grade within 20 feet of the structure is to prevent the deliberate building up of a portion of the site on which the building will sit in order to permit an additional story to be constructed.)

Building Permit: A permit that is obtained from the Building Official granting permission to construct, build, remodel, or alter any structure.

Building, Portable: Any building that is portable in nature, without any wheels, and built on a chassis or frame designed and constructed to be used without a permanent foundation. Building permits are required prior to the placement of such buildings on any lot.

Building Setback Line: See "Setback Line".

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

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

Carport: A roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

Cemetery: Property used for the interring of the dead. ALL cemeteries are considered public/ quasi-public facilities, subject to the regulations of Section 1.33.

Certificate of Occupancy: A certificate issued by the city official designated by the Mayor and Board of Aldermen to ensure that new or altered buildings or structures are in conformance with the provisions of the Zoning Ordinance and any other Federal, state, city and county laws and to have a record on the point.

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

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

City: The City of Canton, Mississippi.

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

Collector Street: See "Street".

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

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

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

Condominium: Real property consisting of an undivided interest in common of a portion of a parcel of real property, plus a separate interest in space in a residential, office, commercial or other land use. (From: **Mississippi Code of 1972**, Annotated, Section 89-9-7.) See also

Apartment".

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

Construction Permit: A permit which a person is required to obtain prior to initiating construction of any improvements required by these regulations. This permit serves as a construction checklist to be signed by the Canton Director of Building and Development, City Engineer, or other authorized inspectors and the subdivider's engineer after each improvement has been satisfactorily installed.

Construction Plans: The maps and drawings showing the specific location and design of improvements to be installed in accordance with these regulations.

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

Convenience Store: A store of not more than 3,000 square feet of retail sales area, not counting storage, which deals in grocery items of a convenience nature.

Country Club: A land area and buildings containing recreational facilities, clubhouse and the usual accessory uses, open only to members and their guests for a membership fee. Country clubs are regulated as public/quasi-public facilities and are subject to the provisions of Section 1.33 of this Code.

County: The county of Madison.

Coverage: That part of a lot covered by buildings.

Cul-De-Sac or Dead-End Street: A local street which has only one end open to vehicular traffic and the other permanently terminated by a vehicle turn-around.

Curb Radius or Curb Line Radius: The radius used to join two intersecting streets.

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

Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

Development: The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.

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

Dimensional Variance: See "Variance".

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

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

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

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

Duplex: A residential building designed to be occupied by two families living independently of each other.

Dwelling: Any building, or portion thereof, or manufactured/ mobile home, which is designed and used for human habitation; however, a manufactured/ mobile home, as defined herein, shall not be used as a dwelling in any residential district other than Manufactured Home Park (MHP) or Manufactured Home Subdivision (MHS) residential districts or as a conditional uses (special exception) in the Agricultural (A-1) district.

Dwelling, Single-Family: A detached residential building designed for occupancy by one family.

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

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

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

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

Easement: Authorizations granted by a property owner for the use of a designated part of his property by the public, a corporation or persons for specific purposes.

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

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

(a) Churches and other religious institutions.

(b) Schools, including all private, public or parochial schools, excluding institutions of higher learning which shall be zoned "Special Use" districts only.

(c) All governmental buildings (including municipal buildings and buildings erected by County, State or Federal governments) and major governmental facilities, such as water pumping stations, sewage treatment plants, sanitary landfills and the like. (NOTE: Public recreation and open space facilities are a land use permitted outright in ANY district, and such facilities are not subject to the regulations of Section 1.33 as special exceptions.)

(d) All hospitals, whether public or private.

(e) Convalescent homes or nursing homes, excluding "Comprehensive Elderly Retirement Facilities" which shall be zoned as "Special Use" districts only.

(f) Civic organization buildings and major facilities.

(g) Buildings and facilities erected by charitable organizations (e.g., American Red Cross, Salvation Army, etc.); (Note: When such facilities are erected as emergency measures, they shall be exempt from the Special Exception provisions of this Code, including site plan review and public hearing requirements).

(h) Country clubs and other major recreational facilities constructed by private groups.

(i) ALL cemeteries.

(j) Major facilities associated with privately-owned utilities (electrical, natural gas, telephone) including but not limited to electrical substations, telephone communications centers, microwave towers, cellular telephone antennas, natural gas pumping facilities and similar significant uses.

Family: One person living alone, or two or more persons living together as a single, housekeeping unit, whether related to each other legally or not, as distinguished from a group occupying a boarding house, lodging house, hotel, motel, dormitory or similar dwelling for group use. A family shall be deemed to include domestic servants employed by said family when these servants are on-premise residents.

Fast Food Restaurant: See "Restaurant, Fast Food".

Fill: The placing, storing or dumping of any material such as earth, clay, sand, rubble or waste of any kind upon the surface of the ground which results in increasing the natural surface elevation.

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

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

Funeral Home (or Mortuary): A building used for the preparation of deceased human bodies

for burial or cremation and the display of the deceased and ceremonies connected therewith before burial or cremation.

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

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

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

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

Goals and Objectives: One of the elements of a Comprehensive Plan. Section17-1-1 (c)(ii) of the **Mississippi Code of 1972**, Annotated, As Amended, defines the term as follows: "goals and objectives (are a list of policies, adopted by the governing authorities) for the long-range (twenty to twenty-five years) development of the county or municipality. Required goals and objectives shall address, at a minimum, residential, commercial, and industrial development; parks, open space and recreation, street or road improvements; public schools and community facilities."

Grade or Finished Grade: The finished elevation of land, either horizontal or sloping, after completion of site preparations for construction.

Health Department: The Madison County Health Department.

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

Home Occupation: An occupation for gain or support conducted only by members of a family residing in a dwelling and conducted entirely within the dwelling, provided that no article is sold or offered for sale except such as may be produced by members of the family residing in the dwelling, and further provided that the occupation is incidental to the residential use of the premises and does not utilize more that twenty-five percent (25%) of the floor area of the dwelling. A home occupation shall not be conducted in an accessory building. Home

occupation shall include, in general, personal services, such as are furnished by a physician, dentist, musician, artist, hair stylist/ barber, or seamstress when performed by the person occupying the building as his or her private dwelling, and not including the employment of any additional persons in the performance of such services.

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

Hospital, Veterinary: A facility where sick or injured animals are given medical or surgical care and, in the course of same, may be housed overnight, fed, and provided related services. Such uses shall be subject to the regulations of the **Animal Control Ordinances** of the City of Canton, and shall be considered a commercial use.

Hotel or Motel: A building or buildings where lodging and sometimes food and various personal services are provided for *more than twenty (20) persons*, who are usually but not always transients, for compensation. Hotels and motels shall be considered a commercial use.

Improvements: Physical changes made to raw land and structures and utilities placed on or under the land surface.

Individual Sewage Disposal System: A septic tank, seepage tile sewage disposal system, or any other sewage treatment device approved by the Madison County Health Department and the State Department of Natural Resources, Bureau of Pollution Control.

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

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

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

Inn (or "Bed and Breakfast Inn"): See “Bed and Breakfast Facility”.

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

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

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

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

Land Use Plan: One of the elements of a Comprehensive Plan, usually developed concurrently with the Transportation/ Thoroughfares Plan. Section17-1-1 (c)(ii) of the **Mississippi Code of 1972,** Annotated, As Amended, defines the term as follows: "a land use plan designates in map or policy form the proposed general distribution and extent of the use of land for residences, commerce, industry, recreation, and open space, public/ quasi-public facilities and lands. Background information shall be provided concerning the specific meaning of land use categories depicted in the plan in terms of the following: residential densities; intensity of commercial uses; industrial and public/ quasi-public uses; and any other information needed to adequately define the meaning of such land use codes. Projections of population and economic growth for the area encompassed by the plan may be the basis for quantitative recommendations for each land use category."

Local Street: See "Street".

Lodging House: See "Rooming House".

Lot: A parcel of land at least sufficient size to meet the minimum requirements for use, coverage, and area and to provide such yards and other open spaces as specified in this Code. Such lot shall have frontage on an improved public (dedicated) street specifically approved by the Mayor and Board of Aldermen through the subdivision plat review process prescribed in this Code or through the site plan review process required by this Code for multifamily dwellings and other developments.
Lot Area: The total area of a lot included within the boundary lines of a lot.

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

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

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

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

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

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

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

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

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

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

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

Manufactured Home: A single-family residential dwelling built in a factory in accordance with the **National Manufactured Home Construction and Safety Standards Act of 1974 after June 15, 1976**. Manufactured homes shall be considered structures for the purposes of this Code. Recreational vehicles (“travel trailers”), as defined herein, shall not be considered manufactured homes, and they are deemed vehicles but not dwellings or structures. See also "mobile home".

Manufactured Home Park: An area, tract, site or plot of land of at least ten acres, which has been planned, improved and meets the requirements of this Code, and in which spaces are provided on a rental basis or lease basis only for owner-occupied homes or in which both the space and the manufactured home are offered to the public on a rental or lease basis only.

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

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

Major Subdivision: All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of local government facilities or the creation of any public improvements.

Medical Overlay District: Consists of commercial and residential land parcels, city property, and roadways identified as a separate district with distinct boundaries and physical requirements. The Medical Overlay District is superimposed over existing zoning rather than replacing underlying zoning. The regulations of this district shall govern all new construction, reconstruction or expansion of new or existing buildings, and new expanded uses, regardless of whether the use is medical-related or not.

Minor Subdivision: Any subdivision containing *not more than three (3) lots* fronting on an existing street, not involving any new street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting adjoining property, and not in conflict with any provision or portion of the City of Canton **Comprehensive Plan** or these Regulations. (From: *Model Subdivision Regulations,* Freilich and Schultz.)

Mobile Home: A single-family residential dwelling unit built in a factory on or prior to June 15, 1976, and not constructed in accordance with the **National Manufactured Home and Construction Safety Standards Act of 1974,** as amended.

Modular Home: A residential dwelling manufactured in whole or in part in an off-site manufacturing facility designed to be transported to a building site be a trailer or other similar carrier, which is not designed to be permanently attached to the dwelling or remain with it after the structure is placed on its permanent foundation. Modular homes are not constructed with an integral chassis, permanent hitch, wheels, axles, or other device allowing transportation. Modular homes must meet the Official Building Code of the City of Canton and be approved by the Building Official.

Mortuary: See "Funeral Home".

Motel: See "Hotel".

Multi-Family Dwelling: See "Dwelling, Multi-Family".

Nonconformities: Any land, lot, building, structure or parts thereof existing prior to the enactment of this Code, which subsequent to the enactment of this Code or amendment thereto, does not conform with the use regulations and/or dimensional regulations of the district in which it is situated, and/or does not comply with any other requirements herein. (See Section 1.40 of this Code for definitions of the various types of nonconformities, including (1) nonconforming undeveloped lots of record, (2) nonconforming structures, and (3) nonconforming uses).

Nursery, Child Care: See "Child Care Facility".

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

Nursing Homes: See "Convalescent Home".

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

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

One Hundred (100)-Year Flood: See “base flood”.

Open Space or "Common Open Space": A parcel or parcels of land not occupied by dwellings or residential structures, accessory structures and yards, which may consist of jogging trails, tennis courts, a golf course, swimming pool, associated recreational buildings and the like, and which is permanently maintained in a suitable state for the shared enjoyment by the owners and/or occupants of individual dwelling units or residential structures within a particular development (such as a conventional residential subdivision, an apartment complex, a manufactured home park or a Planned Unit Development).

Owner: Any person having legal title to or sufficient proprietary interest in the land sought to be subdivided under this Code.

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

Patio House or Patio Home: See "dwelling, patio (or house or home)".
Personal Care Home: A dwelling consisting of a maximum of three bedrooms being occupied by ambulatory, semi-ambulatory, non-ambulatory, and/or chronically ill individuals who require less extensive care, with personal services such as the provision of aid in walking, climbing or descending stairs, getting in or our of bed, feeding (including the preparation of special diets), dressing, bathing or in other matters of personal hygiene, and the supervision of medication.

Planned Unit Development (PUD): An area of a minimum contiguous size, as specified by this Code, to be planned and developed as a single entity containing one or more residential clusters and in which land not used for residential structures or yards but required by the basic zoning of the site shall be reserved collectively in contiguous units accessible to all building sites in the development as open space for the purpose of providing recreational facilities and pedestrian circulation. Two-family or multi-family dwellings, commercial development or public/quasi-public facilities or utilities may only be permitted in a Planned Unit Development if a Development Plan is submitted and appropriate rezoning (or a Special Exception for public/quasi-public uses) is approved by the Mayor and Board of Aldermen.

Planning Commission: The duly appointed Canton Planning Commission of the City of Canton, Mississippi.

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

Plat: A map, plan or layout of a subdivision showing the information required by this Code.

Portable Building: See "Building, Portable".

Principal Arterial Street/ Highway: See “Street”.

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

Private Drive (or Driveway): A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure. A “driveway” has not been dedicated or accepted by the City for public use.

Property Line: The legal boundary line separating buildings or tracts in different ownership.
Public/Quasi-Public Facilities and Utilities: See "Facilities and Utilities, Public/Quasi-Public".
Recreational Vehicle (RV): See "Transient Trailer" or "Travel Trailer".

Registered Professional Engineer: An engineer properly licensed and registered in the State of Mississippi.

Registered Land Surveyor: A land surveyor licensed and registered in the State of Mississippi.

Rest Home: See "Convalescent Home".

Restaurant, Fast Food: A commercial establishment whose principal business is the sale of prepared food or rapidly prepared food and beverages for consumption either within the restaurant or for carry-out, and where either: (1) customers are not served food and beverages by a restaurant employee (waiter or waitress) at the same table or counter where items are consumed; or (2) the establishment includes a drive-in or drive-through service facility or offers curb service.

Restaurant, Full Service: A commercial establishment where customers are served food and beverages by a restaurant employee (waiter or waitress) at the same table or counter where items are consumed. This term does not include “fast food restaurants” as defined herein. “Full service restaurants” may offer some “carry-out” services where food and beverages (including adult beverages) are consumed off the premises.

Right-of-Way: A strip of land occupied or intended to be occupied by a street or highway, pedestrian crosswalk, railroad, electric transmission line, water main, sanitary or storm sewer main, or for another special use.

Rooming House: A building where lodging only is provided for compensation for up to twenty (20) persons. A building which has accommodations for more than twenty persons shall be defined as a "Hotel" or "Motel" under the terms of this Code.

Sanitary Sewer System: A public sewage disposal system or private central sewage disposal system of a type approved by the Mississippi Department of Natural Resources, Bureau of Pollution Control; or an individual disposal system of a type approved by the Madison County Health Department Sanitarian.

School: The term "school" as used in this Code shall include public, private, and parochial institutions of learning, including trade or industrial schools" (i.e., those schools offering training to students in skills required for the practice of trades and industry), but EXCLUDING INSTITUTIONS OF HIGHER LEARNING (colleges and universities), WHICH SHALL BE ZONED AS "SPECIAL USE" DISTRICTS ONLY.

Service Station: Any premises that is primarily used for retail sale of gasoline and other petroleum products or automobile accessories and incidental services including facilities for lubricating, washing (either automatic or by hand) and cleaning, or otherwise servicing automobiles and light trucks. This term shall not include premises where heavy vehicular repair activities such as engine overhauls, painting or body work are conducted.

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

Setback Line or Building Setback Line: A line delineating the minimum allowable distance

between the street right-of-way and the front of a structure within which no building or other structure shall be placed. The minimum distance is prescribed by this Code. The building setback line is parallel to or concentric with the street right-of-way line.

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

Sidewalk: A paved walk for pedestrians. When a sidewalk is to be constructed within a dedicated right-of-way, the sidewalk shall be constructed in accordance with this Code.

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

Sign: Any device, structure, fixture, or placard using graphics, symbols, and/ or written copy designed specifically for the purpose of advertising or identifying any establishment, product, services, activity, place, person or any other item of information. Signs may be further defined as to types in the Sign Chapter of this code.

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

Site Plan Review: The process specified under Sections 1.600.11 through 1.600.14 of this Code in which site plans for certain proposed developments and/or site plans (when required by the Zoning Administrator in coordination with other City/ County officials) accompanying applications for dimensional variance, conditional use, and rezoning are reviewed by City officials, the Planning Commission and the Mayor and Board of Aldermen for conformance with this Code and other applicable laws and codes, and to determine what other special restrictions (if any) need to be applied if the site plan and application are approved by the Mayor and Board of Aldermen.

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

Special Exception: See "Conditional Use".

Specified Anatomical Areas: Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or less than 50% of the female breast below a point immediately above the areola; or human male genitals in a discernibly turgid state even if completely and opaquely

covered.

Specified Sexual Activity: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; flagellation or torture in the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of physical pain; erotic touching, fondling or other such contact with an animal by a human being; or human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in this section.

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

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

Street: A publicly-owned thoroughfare which affords the principal means of access to abutting property; such thoroughfares are dedicated by a property owner for public use, accepted by the responsible political entity in which the street is located and is so dedicated, and recorded in the Office of the Madison County Chancery Clerk.
Street Right-of-Way Line: The legal property boundary line delineating the street right-of-way and the abutting property.

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

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

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

Subdivision: The division of any lot, tract or parcel of land into two (2) or more lots for the immediate or future purpose of sale or building development by means of an appropriately recorded document. However, the term “subdivision” as used herein shall not include the

exceptions to these regulations as cited under Section 1.30. See also “Major Subdivision” and “Minor Subdivision”.

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

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

Through Lot: See "Lot, Double Frontage".

Thoroughfares Plan: The primary component of the "Transportation Plan", which is one of the elements of a Comprehensive Plan, usually developed concurrently with another element, the "Land Use Plan".

Townhouse: A single-family dwelling constructed in a series or group of attached units with property lines separating each unit. (From: Standard Building Code).

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

"Trailer": Archaic term sometimes applied to manufactured homes. (See “manufactured home").

Transient Trailer (Travel Trailer): A portable or mobile living unit used for temporary human occupancy away from the place or residence of the occupants. For the purposes of this Code, such transient trailers shall be considered a VEHICLE AND NOT A STRUCTURE. The term transient trailer" or "travel trailer" shall include “pick-up truck campers", "motor homes", "camping trailers" and "recreational vehicles".

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

Transportation Plan: One of the elements of a Comprehensive Plan. See Section17-1-1 (c)(ii) of the **Mississippi Code of 1972**, Annotated, As Amended.

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

Undeveloped Lot: A vacant lot or parcel of land.

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

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

Variance: A relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. However, financial hardship shall not be considered justification for granting a variance. The criteria for issuance of a variance are listed under SECTION 1.600.08 of this Code. As used in this Code, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use not permitted shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district.

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

Veterinary Hospital: See "Hospital, Veterinary".

Yard (or "Minimum Yard" or "Setback"): The required open space between any main building or portion thereof and the adjoining lot lines, WHICH SHALL REMAIN UNOCCUPIED AND UNOBSTRUCTED BY ANY PORTION OF A STRUCTURE, except as otherwise specifically provided herein. In measuring a lot for the purpose of determining the minimum front, side or rear yard, the shortest horizontal distance between the lot line and the nearest vertical bearing (wall, column, etc.) of a structure shall be used.

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

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

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

Zoning Administrator: The official charged by the Mayor and Board of Aldermen with the administration and enforcement of this Code, or his duly authorized representative. In this case

it shall be the Director of Building and Development.

Zoning Commission: The duly appointed members of the Canton Zoning Commission of the City of Canton, Mississippi.

Zoning District: See "District".

ARTICLE III

GENERAL REGULATIONS

SECTION 1.30 - APPLICATION OF REGULATIONS

1.30.01 **COMPLIANCE REQUIRED:** No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered EXCEPT IN CONFORMANCE WITH ALL OF THE REGULATIONS SPECIFIED FOR THE DISTRICT IN WHICH IT IS LOCATED. Furthermore, no person shall use or occupy a building, structure, or land within the City of Canton for an activity that requires a federal, State of Mississippi, and/or City license until said license is obtained from the appropriate authorities.

1.30.02 **NONCONFORMITIES DEFINED**: "Nonconformities" shall consist of any land, lot, building, structure, or parts thereof, or the various uses to which those items are or were put, and which lawfully existed prior to the enactment of this ordinance; but which subsequently do not comply with the provisions of this ordinance and the requirements of the district wherein located. The regulations pertaining to such nonconformities are established in the district regulations and under Section 40.

1.30.03 **PERMITTED USES CONSTITUTE CONFORMING USES** : Any land use which is permitted as a conditional use (also referred to herein as a "special exception") in a particular district under the terms of this ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

1.30.04 **DISTRICT REGULATIONS CONSTITUTE MINIMUM REGULATIONS:** The regulations established in this ordinance within each district (Sections 150 through 300) shall constitute minimum regulations unless otherwise noted.

1.30.05 **UNIFORMITY WITHIN DISTRICTS:** The regulations and provisions established by this ordinance for each district shall apply uniformly within each district of the same name and shall apply uniformly to each class or type of building, structure, use, or land therein except as otherwise provided.

1.30.06 **AREAS ANNEXED AFTER ENACTMENT OF THIS ORDINANCE:** Any land annexed into the City of Canton following enactment of this ordinance shall bear the zoning classifications of Madison County and be subject to the zoning regulations of Madison County, until due public notice of hearings is given to consider the zoning of all or part of such annexed land in accordance with the zoning regulations in this code**.** Following such public hearings and action by the Mayor and Board of Aldermen, the annexed land shall be subject to the regulations of this ordinance rather than those of Madison County.

1.30.07 **PENDING APPLICATIONS FOR BUILDING PERMITS:** Nothing in this ordinance shall require any change in the overall layout, plans, construction, size, or designated use of any development, building, structure, or part thereof for which official approvals and required building permits have been legally granted before the enactment of this ordinance. Construction shall have been started within six months of the effective date of this ordinance and completed within a subsequent two year period and not discontinued until completion except for reasons beyond the builder's control. All permits for which construction has not begun within six months of the effective date of this ordinance are hereby revoked and void.

1.30.08 **CONFORMANCE WITH SUBDIVISION REGULATIONS:** No building shall be constructed on any lot which does not conform to the provisions of the Subdivision Regulations in this code**.**

SECTION 1.31- DIMENSIONAL CONTROLS

1.31.01 **REDUCTION OF YARDS AND LOTS BELOW MINIMUM REQUIREMENTS PROHIBITED:** No yard or lot of record existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots of record created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

1.31.02 **FRONT YARDS ON CORNER OR DOUBLE FRONTAGE LOTS:** On corner lots or double frontage lots ("through lots"), each side fronting on a street shall be considered a front yard, and the required front yard setback shall be measured from each existing or proposed (on the adopted Thoroughfares Plan, as part of ***the Comprehensive Plan)*** right-of-way upon which the lot abuts. In accordance with the ***Subdivision Regulations of the City of Canton,*** the front yard setbacks of all lots shall be shown as

a dashed line on all preliminary and final subdivision plats.

1.31.03 **DETERMINATION OF SETBACKS:** In measuring a required front yard (i.e., setback), the minimum horizontal distance between the existing or proposed right-of-way line and the main structure shall be used. The required setback line shall be measured from the existing or proposed right-of-way line (or lines for corner lots and double frontage lots), which shall be determined by the adopted ***Thoroughfares Plan.*** If a proposed street is not functionally classified (as a local, collector or arterial street) by the adopted ***Thoroughfares Plan,*** the functional classification of said street shall be determined by the Planning Commission during the sketch plat review process for the proposed subdivision or during the site plan review process (for developments not involving a subdivision of land).

1.31.04 **VISIBILITY AT INTERSECTIONS:** On a corner lot in any district, one-half (2-1/2) and ten (10) feet above the center line grades of the intersecting streets (or the existing grades on the side of the intersecting street, whichever is greater) and within a triangular area bounded by the rights-of-way lines for a distance of twenty (20) feet from the intersection and a straight line connecting said points twenty (20) feet from the intersection of the rights-of-way lines.

1.31.05 **ACCESSORY BUILDINGS OR USES:** No accessory building or use shall be placed within the required front yard of any main building or use in ANY district. However, an accessory building or use may be placed in the required side yard of any main building or use in R- 1 and R-2 districts, provided that the accessory building or use is at least ten (10) feet from the side and/or rear property line, and the accessory building shall be set back a minimum of sixty (60) feet from the street line on which the lot and main building fronts. No accessory building shall cover more than forty (40) percent of a required rear yard. No accessory building shall be used as a permanent dwelling.

1.31.06 **RAILROAD SETBACKS:** A setback of 100 feet shall be required between all proposed residential main buildings and railroad tracks (i.e., measured from the metal track, not the railroad right-of-way line, to the nearest exterior limits of the proposed residential building). The side or rear yard setback required within the district where residential structures are permitted may be included within this 100-foot setback. Accessory buildings, such as garages or carports where detached from the main residential buildings or laundry rooms and recreational club houses (in apartment or condominium complexes) may be located within the 100-foot setback provided that the builder of such accessory structures

complies with the required side or rear yard setback within the subject district.

1.31.07 **EXCEPTIONS TO HEIGHT REGULATIONS:** The height regulations contained in the District Regulations of this ordinance do not apply to spires, belfries, cupolas, antennas, water tanks, ventilation chimneys, masts, towers, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. However, any person proposing to erect such an appurtenance to exceed a height of 45 feet above the finished grade shall apply for a conditional use permit (special exception) in accordance with Section 1.600.09 of this ordinance.

SECTION 1.32- PUBLIC/QUASI-PUBLIC FACILITIES AND UTILITIES

All public and quasi-public facilities and utilities, as defined under 1.33 of this ordinance, may be located in ANY district in the City, provided:

1.32.01 That all applicable requirements of federal, state and county or city laws shall be met.

1.32.02 That all such proposed uses shall be subject to the procedures stated under Section 1.600.09 relative to Special Exceptions (Conditional Uses). No public or quasi-public facility or utility shall be located in a residential district or other district where such land use would adversely affect the surrounding area. Provided, however, that all cemeteries existing prior to the adoption of this ordinance shall be permitted in any district.

SECTION 1.33 - DIMENSIONAL REQUIREMENTS FOR PUBLIC/QUASI-PUBLIC FACILITIES AND UTILITIES IN ALL DISTRICTS:

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

1.33.01 **MAXIMUM BUILDING HEIGHT:** 45 feet, unless greater height is specifically approved by the Mayor and Board of Aldermen based upon the required site plan review.

1.33.02 **MINIMUM LOT AREA:** Established based upon proposed use.

1.33.03 **MINIMUM LOT WIDTH:** Established based upon proposed use.

1.33.04 MINIMUM YARDS:

A. **Front yard:** 30 feet from the existing or proposed right-of-way as shown on the adopted Canton ***Thoroughfares Plan*** to the building setback line.

B. **Side yard:** 10 feet, unless the proposed public/quasi-public use abuts an existing single-family detached residence or a R- 1 or R-2 district in which case the side yard shall be at least 50 feet from any building to the lot line abutting the single-family detached residence or R- 1 or R-2 district.

C. **Rear yard:** 20 feet, unless the proposed public/quasi-public use abuts an existing single-family detached residence or a R- 1 or R-2 district in which
case the side yard shall be at least 50 feet from any building to the lot line abutting the single-family detached residence or R-1 or R-2 district.

SECTION 1.34 - REQUIRED DEDICATIONS AND IMPROVEMENTS

See ***Subdivision Regulations of the City of Canton.***

SECTION 1.35 - HOME OCCUPATIONS

Home occupations, as defined under Article II of this ordinance, are permitted in any district where residential uses are allowed if a building permit or change of use permit is issued, and therefore subject to the following limitations:

1.35.01 **DISPLAY AND STORAGE:** No storage or display of materials, goods supplies, or equipment related to the operation shall be visible from the outside of any structure located on the premises.

1.35.02 **MAXIMUM AREA:** Not more than 25 percent of the floor area of the dwelling shall be used for the conduct of the home occupation.

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

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

1.35.05 **SIGNS RELATING TO HOME OCCUPATIONS:** One name plate measuring no more than one square foot in area shall be allowed for each home occupation.

1.35.06 **NON-RESIDENT EMPLOYEES:** No more than one actively-engaged, non-resident employee (i.e., a person not residing on the same premises with the operator) shall be employed in connection with any home occupation.

1.35.07 **ADDRESS OF CONVENIENCE: A** home occupation that is solely used for the purpose of receiving phone calls, mail, and keeping business records in connection with any profession or occupation shall be known as an "address of convenience."

1.35.08 **HOBBIES:** Such as boat building or repair, furniture making or repair, automobile repair and rebuilding, and other activities not normally carried on extensively in a residential district shall not be permitted to the extent that they are annoying or harmful to nearby residential occupants. Such uses that involve the use of power tools or the creation of noise not usual to a residential district shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m.

1.35.09 **PERMITTED ACTIVITIES:** Primary sale of goods in connection with such home occupation shall be that which is prepared, produced, or grown on the premises. Home occupations may also provide services.

1.35.10 **PROHIBITED ACTIVITIES:** There shall be no retail, wholesale, or warehousing activity other than that which is clearly incidental to the direct provision of the service. Auto repair on vehicles other than the vehicles of the home owner or occupant of the home is prohibited. Also prohibited are: boat repair, animal hospitals, commercial kennels, funeral parlors or undertaking establishments, antiques shops, nurseries, restaurants, rooming houses, dancing schools, tea rooms, and embalming facilities.

1.35.11 **ON-PREMISE CLIENT CONTACT:** Customer and client contact shall be conducted primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring,

music or swimming lessons, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic. Barber shops and beauty shops shall be limited to one chair for clients.

1.35.12 **DELIVERIES:** Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except parcel post or other similar commercial delivery trucks.

1.35.13 **USES PER DWELLING UNIT:** There shall not be more than one use constituting a designated home occupation per dwelling unit.

1.35.14 **OTHER PROVISIONS:** No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, or odors detectable to the normal senses outside of the dwelling unit or accessory building in which the occupation is conducted. No equipment or process shall be used in any home occupation that creates visual or audible electrical interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

SECTION 1.36 - MISCELLANEOUS GENERAL REGULATIONS

1.36.01 **COMMON YARDS. OPEN SPACE. AND OFF-STREET PARKING OR LOADING SPACE:** No yard, other than open space, off-street parking or loading space required for any building or structure shall be included as a yard, open space or off-street parking or loading space required for any other building or structure, except where permitted through site plan review. This requirement shall not be construed to apply to planned unit developments (PUDs) or planned unit residential developments (PURDs) approved by the Mayor and Board of Aldermen.

1.36.02 **STREET ACCESS REQUIRED:** Every building or structure hereafter constructed, moved, or structurally altered shall have direct access to a public (dedicated) street and shall be so located as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

1.36.03 **FENCES. WALLS. AND HEDGES:** Except for the requirements of Section 1.31.04 regarding visibility at intersections, fences, walls, and hedges or other densely planted vegetation shall be permitted in any required yard or along the edge of any yard. However, said fences, walls,

or dense vegetation shall not exceed a height of four feet in the front yards of Single-Family Residential (R-1 and R-2), Townhouse (R-3), and Patio Home (R-4) districts, except where such districts abut a multi-family residential use or district or a commercial or industrial use or district, in which case the fence, wall, or dense vegetation may be erected or allowed to grow to a height of six feet.

1.36.04 **PARKING AND STORAGE OF VEHICLES REQUIRING LICENSES AND STATE INSPECTION STICKERS:** See Ordinance Regulating the Abatement of Inoperable Vehicles within the City of Canton.

1.36.05 **PROHIBITED USES**: Within the City of Canton, no lot, land, premises, place, or building shall be used, and no buildings or structures shall be erected or placed, which are arranged, intended, or designed for any use that generates environmental pollutants beyond a tolerable level by reason of excessive noise, odor, glare, vibration, smoke, dust, fumes, vapors, gases, liquid and solid waste, radiation, electrical emissions, danger from fire or explosion, or any other debilitating influence as defined by the U.S. Environmental Protection Agency as regulated by the Mississippi Department of Environmental Quality, Bureau of Pollution Control and the Mississippi State Board of Health.

1.36.06 **MATERIALS AND GROWTH CONSTITUTING PUBLIC HEALTH AND/OR SAFETY HAZARDS PROHIBITED:** No rubbish, salvage materials, junk or hazardous waste materials, including inoperable vehicles and parts and any combustible matter, shall be openly stored, allowed to accumulate, or kept in the open, and no weeds or other growth shall be allowed to go uncut within any district when the same shall be determined by the appropriate City Official (the Zoning Administrator, Fire Chief, or other authorized City employee) or health official to constitute a menace to the public health and/or a safety.

1.36.07 **REQUIRED ENCLOSURE OF GARBAGE DISPOSAL FACILITIES:** Upon the effective date of this ordinance , all garbage disposal facilities (i.e., garbage cans, dumpsters, etc.) located on the site of existing (at the effective date of this ordinance) or new multi-family residential mobile home parks, commercial, industrial, or public/ quasi-public uses shall be enclosed at least three sides by solid fencing or other material in a manner that prevents direct visibility of the garbage cans, dumpster, etc., from the street side (or sides) of such uses. Failure to maintain such garbage disposal facilities in a neat and sanitary manner shall constitute a violation of this ordinance and be subject to the penalties

imposed herein. All site plans for multi-family residential, mobile home parks, commercial, industrial, or public/quasi-public uses proposed following the effective date of this ordinance shall indicate the location of garbage disposal facilities on the site and the manner (material, etc.) to be used to enclose such facilities.

SECTION 1.37 - OFF-STREET PARKING. LOADING SPACE AND ACCESS REQUIREMENTS

1.37.01 **PURPOSE OF THIS SECTION:** The purpose of this section is to establish requirements regarding: (1) sufficient space for the off-street parking; (2) sufficient space for loading (or unloading) of all motor vehicles; and (3) design standards for accessways within the City of Canton. The purpose of these requirements is to reduce or avoid congestion of streets and to provide a more suitable living and working environment. Such space for parking or loading of motor vehicles, provisions for ingress and egress, and required landscaping shall be provided at the time of the erection of any principal structure, or at the time any principal structure is enlarged or increased in capacity by the addition of dwelling units, guest rooms, floor area, or seats. The responsibility for meeting the requirements established by this ordinance shall be that of whoever establishes the use to which it is appurtenant.

1.37.02 **OFF-STREET PARKING:**

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

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

2. **Non-residential Uses and Off-site Parking:** Off-street parking space for all non-residential land uses shall be provided on the same parcel of land as the use to which the parking space is appurtenant; PROVIDED, however, that, following site plan review in accordance with Section 1.600.11 of this ordinance, the Mayor and Board of Aldermen may authorize in writing an alternative off-site location to the required parking space for such non-residential land uses if:

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

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

3. **Provision of Access and Maneuver Space:** In calculating any required parking area, other than for parking spaces required for single and two-family dwellings, sufficient access and maneuver space shall be provided to permit the parking and removal of any vehicle without moving other vehicles. Furthermore, all parking spaces shall be designed and regulated so that no parking or maneuvering incidental to parking shall be on any public street, sidewalk, or alley.

4. **Parking Space Near Fire Hydrants:** Under no circumstances shall any parking space be provided with fifteen *(15)* feet of a fire hydrant.

B. **Schedule of <u>Off-Street Parking Requirements</u>**: For the purpose of this ordinance, an "off-street parking space" shall consist of a space sufficient in size to store one full size automobile (minimum of 162 square feet in area) with room for opening doors on both sides. When computing parking space requirements on the basis of the number of persons expected to be on the premises of a particular land use, the maximum number of occupants, practitioners, patrons or employees anticipated to be on the premises <u>at any one time</u> shall be used. When the application of the requirements of this Section would result in a fractional space, any such fraction shall be counted as one space. In the case of mixed, compatible subcategories of land use (e.g., as shopping centers containing a grocery store, a furniture store, a motion picture theater, etc.), the parking space required by the schedule below shall equal the sum of the requirements for each of the various uses (subcategories) computed separately. Off-street space for parking and storage of vehicles shall be provided in accordance with the following schedule:

1. **All Residential Uses Other Than Multiple Family Residential:** Two spaces per dwelling unit.

2. **Multiple-Family Residential Uses:** Two spaces per dwelling unit.

3. **General Business, Commercial or Service**

Establishments Catering to the Retail Trade: One parking space for each 200 square feet of GROSS floor area, except for the following prescribed uses:

a. **Hotels and motels**: - One space for each guest room plus one space for each employee.

b. **Restaurants and similar establishments serving food and beverages** - One space for each 75 square feet of floor area devoted to patron use, plus one space for each employee.

c. **Offices of physicians and dentists** - Four spaces for each professional staff member.

d. **Other business and professional offices (other than physicians or dentists)** - One space for each 300 square feet of gross floor area.

e. **Furniture and appliance stores** - One space for each 400 square feet of gross floor area.

f. **Theaters, auditoriums and other commercial places of assembly** - One space for every four fixed seats.

g. **Gasoline service stations** - One space for each employee and five spaces for each wash rack, lubrication rack, repair bay, or similar facility for servicing and incidental repair

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

i. **Motor vehicle repair shops, body shops, etc**. - One space for each regular employee, plus one space for each 300 square feet of floor area used for mechanical or body repair.

j. **Motor vehicle sales, machinery sales and equipment**

sales establishments. Two parking spaces (one customer and one employee) for each 1,000 square feet utilized for the display of vehicles, machinery or equipment for sale, one space shall be provided for each employee of the establishment, whether mechanic, salesman, or other, plus one space for every 1,000 square feet of sales display area and one space for every 300 square feet of floor area used for repair).

k. **Grocery stores (excluding convenience type grocery stores)** . One parking space (for employees and customers) for each 100 square feet of non-storage floor area.

l. **Convenience-type grocery stores** . A minimum of four parking spaces for any such use plus one space for each 400 square feet of non-storage area.

m. **Skating rinks and other commercial places of amusement or assembly without a fixed seating arrangement** One parking space for each 75 feet of floor area devoted to use by patrons.

n. **Bowling alley** Five spaces for each bowling lane.

o. **Elementary and junior high schools (or those schools generally educating students through the age of 14)** . One space for every four students or one space for every four fixed seats (if provided) in any auditorium, gymnasium or other facility for public assembly, whichever is greater, to accommodate parent/visitor parking needs; PLUS one space for each staff member or other employee of the school.

p. **High Schools (or those schools generally educating students 15 years of age or older)** . One space for every three students or one space for every three fixed seats in any auditorium, gymnasium or other facility for public assembly, whichever is greater, to accommodate student and parent/visitor parking needs; PLUS one space for each staff member or other employee of the school.

4. **Warehouse, Wholesale and Manufacturing Uses NOT Catering to the Retail Trade:** One parking space for each

1,000 square feet of gross floor area, or one parking space for each two employees on the largest shift, whichever is greater; plus one space for each vehicle operating from the premises.

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

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

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

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

d. **Libraries, art galleries, and museums, both public and private** - One space for each 200 square feet of floor area (excluding storage rooms).

e. **Other public/quasi-public facilities and uses not listed above** - The off-street parking requirements for public/quasi- public uses not listed above shall be determined on the basis of a Site Plan submitted in accordance with Section 1.600.11 of this ordinance.

C. **<u>Design Standards for Off-Street Parking</u>:** All off-street parking shall be provided in accordance with the design standards for off-street parking as prescribed in the latest edition of the *Traffic Engineering Handbook*, published by the Institute of Transportation Engineers (formerly the Institute of Traffic Engineers), Washington, D.C., or in accordance with other design standards adopted by the Mayor and Board of Aldermen, City of Canton, Mississippi.

1.37.03 **<u>OFF-STREET LOADING SPACE REQUIREMENTS</u>:** Adequate off-street space for the loading and unloading of vehicles and for vehicles temporarily

stopped ("standing") while waiting to be loaded, unloaded, or serviced, shall be provided and maintained for all commercial and industrial uses and any other use involving the receipt or distribution by vehicles of materials, merchandise or other matter on a regular basis. Said space shall be provided and designated, so as not to be construed as the otherwise generally required parking space on the same premises with the use to which it is appurtenant, unless with a recommendation from the Public Works Director and Building Official, the Mayor and Board of Aldermen authorize in writing an alternative location for such loading or unloading. Unless otherwise specified in this ordinance, loading, unloading, or standing space shall be provided according to the use as recommended by the Public Works Director and Building Official.

1.37.04 **ACCESS WAYS:** Developers of public/quasi-public uses, multi-family residential uses, all commercial uses and all industrial uses shall control access along arterial streets upon which the use abuts in accordance with the following regulations:

A. **Access Barrier:** Each lot, with its buildings, other structures and parking and loading areas shall be physically separated from each adjoining street by a curb or other suitable barrier against unchannelled motor vehicle ingress or egress. Except for the accessways permitted below, such barrier shall be continuous for the entire length of any lot line adjoining a street.

B. Number of Accesswavs Per Lot: A minimum of one accessway per lot, or one accessway for every 100 feet of street frontage.

C. Width of Accesswavs: The width of any accessway shall not be less than 20 feet. The alignment of accessways shall be approved in accordance with Site Plan Review procedures specified under Section 1.600.12.

D. Distances between Accessways and Minimum Setbacks from Street Intersections: The spacing of accesswavs shall conform to the following: (1) at its intersection with the lot line, no part of any accessway shall be nearer than 20 feet to any other accessway on the same lot, nor shall any part of the accessway be nearer than ten feet to any side or rear property line; (2) at intersections with other streets, no part of an access- way shall be permitted within 50 feet of the intersecting streets right-of-way line; and (3) no part of an accessway shall be permitted within a corner radius.

E. Reduction of Traffic Hazards at Accesswavs: Accessways shall be constructed so that vehicles will not have to back into the roadway. In addition, the location and number of accessways shall be so arranged that they will reduce the possibility of traffic hazards as much as possible.

F. Corridor Accessways: Accessways along the defined corridors will be limited to rear access except for public streets. Access cannot be obtained directly from the corridor.

SECTION 1.40 - NONCONFORMITIES

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

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

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change of plans, construction, or designated use of any building on which ACTUAL CONSTRUCTION WAS LAWFULLY INITIATED PRIOR TO THE EFFECTIVE DATE OF ADOPTION OR AMENDMENT OF THIS ORDINANCE and upon which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially initiated preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be "actual construction", provided that work shall be carried on diligently.

1.40.02 TYPES OF NONCONFORMITIES: Where the definition of a nonconformity has been given in Section 21 and under Section 40, such nonconformities shall be further defined according to one of the types of nonconformities listed below, or combination thereof, for the purpose of regulation.

A. Nonconforming Undeveloped "Lot of Record": This type of nonconformity is an undeveloped "lot of record" (i.e., part of a subdivision, the map of which has been recorded in the office of the

Chancery Clerk of Madison County, Mississippi, or a lot described by metes and bounds, the description of which has been recorded in said office) the dimensions of which, subsequent to the passage of this ordinance, do not meet the area or width requirements, or both, of the district wherein such lot is located.

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

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

D. **Classification of Nonconforming Uses and Structures:** Nonconforming uses and structure are those that do not conform to a provision or requirement of this ordinance but were lawfully established prior to the time of its applicability. Upon findings that continuance thereof would not be contrary to the public health, safety or welfare, or the spirit of this ordinance, that the use or structure does not and is not likely to significantly depress the value of nearby properties, that the use or structure was lawful at the time of its inception and that no useful purpose would be served by street application of the provisions or requirements of this ordinance with which the use or structure does not conform.

1.40.03 REGULATIONS CONCERNING NONCONFORMING UNDEVELOPED LOTS OF RECORD:

A. **Erection of Single-Family Dwellings Allowed on Single Nonconforming Undeveloped (or Vacant Lots of Record in Separate Ownerships:** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any SINGLE nonconforming undeveloped (or vacant) lot of record after the effective date of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in SEPARATE OWNERSHIP and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such single lot of record fails to meet the requirements for area or width,

or both, that are generally applicable in the district, PROVIDED THAT:

The required yard dimensions and other requirements (than those applying to lot area or width, or both) of the proposed single-family residential use shall conform to the regulations in the district in which such single nonconforming lot of record is located.

Variance of yard requirements shall be obtained only through action of the Mayor and Board of Aldermen (See Section 600.08 of this ordinance).

(NOTE: Subsection 1.40.03-A provides the explicit guarantee that a single-family dwelling can be erected on any lot of record in a district where single-family dwellings are permitted, provided that yard and other requirements NOT INVOLVING AREA OR WIDTH are met. This complies with the established legal principle that an individual must be allowed to do something with his lot. Furthermore, if such lot is too narrow to build a house and yet provide the side yards specified for a particular district, the correct procedure would be for the individual owning the lot to apply for a building permit to the Zoning Administrator. The Zoning Administrator, however, has no discretion in the matter and must refer the request to the Mayor and Board of Aldermen for a determination as to whether a Variance should be allowed.)

B. **Two or More Nonconforming Undeveloped (or Vacant) Lots of Record with Continuous Frontage Changing Ownership After the Effective Date of This Ordinance:** If two or more undeveloped (or vacant) lots in single ownership with continuous frontage are "of record" at the time of enactment of this ordinance, and if, subsequent to the passage of this ordinance, such lots become non- conformities in the district where they are located; and if such lots change ownership (except by inheritance or as a gift) after the enactment of this ordinance, the lands involved shall be considered as UNDIVIDED PARCEL for the purposes of this ordinance; and no portion of said parcel shall be used in a manner which diminishes compliance with the lot width and/or lot area requirements established by this ordinance, nor shall any division of any parcel be made that creates a lot width or area (or both) below the requirements stated in this ordinance.

The provisions of this subsection shall not apply to two or more undeveloped lots of record in single ownership with continuous frontage which remain in the same ownership (or if the lots are conveyed by inheritance or as a gift) following enactment of this ordinance. Such lots not changing ownership shall continue to be considered divided parcels; and the owner of such lots may erect single-family dwellings on each lot in districts where single-family dwellings are permitted, subject to the regulations imposed by subsection 1.40.03-A. However, further division

of such nonconforming lots of record shall be prohibited.

(NOTE: Subsection 1.40.03-B is intended to prevent the construction of dwelling units at too high a density by individuals purchasing two or more nonconforming vacant lots in continuous frontage after the effective date of this Ordinance. At the same time, it is intended to avoid undue harshness with regard to persons who owned such lots prior to the effective date of this Ordinance.)

C. AVERAGE DEPTH OF FRONT YARDS:

1. **Interior Lots** in R-1 and R-2 Residential Districts where the average depth of two or more existing front yards or lots within 150 feet in either direction of the lot in question and within the same block front is less than the required minimum front yard, the depth of the front yard on such lot shall not be less than the average depth of said existing front yards or the average depth on the two lots immediately adjoining; provided, however, that the depth of a front yard in any "R" district shall be at least ten feet.

2. **Corner Lots** in R-1 and R-2 Residential Districts where the average depth of two or more existing front yards on lots within 150 feet of the lot in question and within the same block front is less than the required minimum front yard, the depth of the front yard on such lot shall not be less than the average depth of said existing front yards or the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of a front yard in any "R" District shall be at least ten feet and not block the line of sight for motorists.

1.40.04 REPAIRS AND MAINTENANCE OF NONCONFORMING STRUCTURES AND/OR STRUCTURES CONTAINING NONCONFORMING USE: On any nonconforming structure and/or a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on wiring, or plumbing, to an extent not exceeding 10 percent of the current replacement cost of the nonconforming structure and/or such structure containing a nonconforming use, provided that the cubic content existing when it became nonconforming shall not be increased.

If a nonconforming structure and/or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to

be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. (Note: This provision is intended to reinforce the Standard Building Code adopted by the City of Canton.)

NOTHING IN THIS ORDINANCE SHALL BE DEEMED TO PREVENT THE STRENGTHENING OR RESTORING TO A SAFE CONDITION OF ANY BUILDING OR PART THEREOF DECLARED TO BE UNSAFE BY ANY OFFICIAL CHARGED WITH PROTECTING THE PUBLIC SAFETY, UPON ORDER OF SUCH OFFICIAL.

1.40.05 **REGULATIONS CONCERNING SIGNS AS NONCONFORMING STRUCTURES AND/OR NONCONFORMING LAND USES:** See ***Sign Ordinance of the City of Canton*** for regulations concerning nonconforming signs.

1.40.06 **PERMITTED CONDITIONAL USES CONSTITUTE ONFORMING USES:** Any land use which is permitted as a conditional use in a particular district under the terms of this ordinance (OTHER THAN APPROVAL BY ACTION OF THE MAYOR AND BOARD OF ALDERMEN ALLOWING A CHANGE FROM A NONCONFORMING LAND USE TO ANOTHER NONCONFORMING USE shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

ARTICLE IV

ESTABLISHMENT OF ZONING DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP; REGULATIONS FOR ZONING DISTRICTS

SECTION 1.100 - ZONING DISTRICTS

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

A-1	Agricultural/ Rural District
HR	Historic Residential District
R-E	Residential Estate
R-1	Single-Family Residential District
R-2	Single-Family Residential District
R-3	Medium Density Residential District (For patio home and duplex subdivisions)
R-4	Multi-Family Residential District
RM	Manufactured Home Residential District
PUD	Planned Unit Development District
HC-1	Historic Commercial District
MX	Mixed Residential and Commercial District
C-1	Restricted Commercial District
C-2	General Commercial District
C-3	Major Thoroughfares Commercial District
C-4	Adult Entertainment Commercial District
C-5	Canton West Special Planned District
C-5(M)	Canton Crossing Medical Overlay District
I-1	Limited Industrial District
I-2	Heavy Industrial District
S-1	Retirement Village Special Use District
S-2	Medium Density Special Use District
S-3	Special Planned Highway Corridor District
S-5	Canton West Overlay District

SECTION 1.101 - OFFICIAL ZONING MAP

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

1.101.01 **Map Certified**: The Official Zoning Map shall be identified by the signature of the Mayor of Canton, and attested by the City Clerk, and shall bear the seal of the City under the following words:

"This is to certify that this is the Official Zoning Map of the City of Canton, Mississippi, as adopted by the Mayor and Board of Aldermen. (Month, Day, Year)."

1.101.02 **Location of Official Zoning Map**: Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be prepared or printed, the Official Zoning Map bearing the certificate specified under Section 1.101.01 and located in the City Hall of Canton shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in the City of Canton.

1.101.03 **Public Inspection of Map:** Public Inspection of Map: The Official Zoning Map shall be available for public inspection as provided by law during normal business hours of the City Hall of Canton.

1.101.04 **Map Amendment**: If, in accordance with the provisions of this Code and Statutes of the State of Mississippi, changes are made in the zoning district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made WITHIN THIRTY (30) DAYS AFTER THE AMENDMENT HAS BEEN APPROVED. If inside the corporate limits of Canton, said amendment shall be made within thirty (30) days of approval by the Mayor and Board of Aldermen.

A. Since the Official Zoning Map is part of this Code, any amendments to the Official Zoning Map shall be accomplished in accordance with state statutes relating to passage of ordinances. Therefore, before the Official Map may be amended, an "Ordinance of Rezoning" shall be drafted and passed by the Mayor and Board of Aldermen in accordance with state law.

B. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under Section 1.600.18.

SECTION 1.102 - REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, the Mayor and Board of Aldermen (by ordinance), shall designate a new

Official Zoning Map, which shall replace the prior zoning map. The new Official Zoning Map may correct drafting errors or other omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words:

"This is to certify that this Official Zoning Map replaces the Official Zoning Map adopted as part of the Zoning Ordinance of the City of Canton, Mississippi, on _____."

SECTION 1.103 - RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

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

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

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

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

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

F. Boundaries indicated as parallel to or extensions of features indicated in Section 1.103, Subsections (a) through (h) above shall be so construed.

G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Section 1.103, the Zoning Administrator shall interpret the district boundaries.

H. Where a district boundary line divides a lot which was in a single ownership at the time of passage or amendment of this Code, the Mayor and Board of Aldermen may permit, as a special exception, the extension of the use not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

SECTION 1.150 - AGRICULTURAL/ DISTRICT (A-1)

1.150.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to conserve land for agricultural use, to prevent the premature development of land, and to prevent urban and agricultural land use conflicts. It is the intent of this Code that such districts be located primarily in those areas of the City of Canton that are not served by the public sewer system. It is further the intent of this Code to prevent disorderly scattering of residences on small lots and to prevent the establishment of other urban land uses that would require unreasonable expenditures for public improvements and services.

1.150.02 **LAND USES PERMITTED:**

A. Single-family detached dwellings. Only one principal dwelling per lot may be erected in A-1 districts.

B. Accessory buildings and structures associated with the use of the land for residential purposes. See Section 1.31.05: Accessory Buildings or Uses.

C. Breeding, raising, and feeding of livestock (i.e., horses, cattle, sheep, goats, mules, pigs, etc.), provided that each such animal herein defined as "livestock" shall be kept on a tract or lot of three acres of land or greater for each such animal. Barns, pens, corrals, and other buildings or enclosures for the keeping of livestock are permitted accessory uses, provided that such buildings or enclosures (excluding open pastures) are located no closer than 150 feet from any adjoining property lines or existing street right-of-way line. However, in accordance with the Animal Control Ordinance of the City of Canton (Section 10-6), no hogs, pigs, or other swine shall be kept inside the City of Canton.

D. Breeding, raising and feeding of chickens, ducks, turkeys, geese, or other fowl, provided that if more than two such fowl are kept on any lot, they shall be kept at least 150 feet from any adjoining property line or existing/proposed street right-of- way line.

E. Forestry and horticultural uses. The sale of vegetables, fruits and other plants on the premises of a lot in an A-1 zone shall only be allowed if permitted as a special exception (see Section 1.600.02).

F. Public or private recreational or open space facilities, excluding country

clubs, which shall be regulated as public/quasi-public facilities or utilities subject to the provisions of Section 1.33 of this Code.

G. Home occupations in compliance with Section 1.35 of this Code.

1.150.03 SPECIAL EXCEPTIONS AS PROVIDED IN SECTION 1.600.09

A. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this Code.

B. Child care facilities.

C. Inns or "bed and breakfast inns".

D. Stables and riding academies, providing that there shall be at least three acres of land for each horse normally kept on the premises.

E. Plant nurseries and other horticultural uses where vegetables, fruit and other plants are grown on the premises or brought to the premises and maintained there for the purpose of retail sales from said premises. Such other additional products shall be permitted to be sold from the premises as are customarily incidental to the operation of a plant nursery.

F. Commercial catfish production.

G. Extraction of minerals, including sand and gravel, provided that when "open-pit" operations are conducted, the operator must obtain required State of Mississippi permits and approvals and provide the Canton Mayor and Board of Aldermen with written proof of same.

H. Veterinary hospitals and kennels in compliance with the adopted Animal Control Ordinance of the City of Canton.

I. Animal cemeteries (small domestic animals such as cats and dogs).

1.150.04 DIMENSIONAL REQUIREMENTS

A. Maximum Building Height: There shall be no height limitations for barns and agricultural storage buildings provided they do not contain space intended for human occupancy. No habitable floor of any other building shall exceed a height of 35 feet above the finished ground elevation measured at the front line of the building.

B. Minimum Lot Area:

1. For lots where City of Canton sanitary sewerage service is NOT available: three acres, subject to Madison County Health Department approval of all on-site wastewater disposal systems.

2. For lots where City of Canton sanitary sewerage service IS available: one acre. However, if livestock and fowl are to kept on the property, see Section 1.150.02 (c) and (d).

C. Minimum Lot Width: 100 feet; however, see Section 1.150.02 (c) and (d) when livestock or fowl are to be kept on the premises.

D. Minimum Yards:

1. Front yard: 40 feet from the existing right-of-way line to the building setback line.

2. Side yard and rear yards: 25 feet, except where Section 1.150.02 (c) or (d) requires a minimum yard of 150 feet from any adjoining property line.

E. Maximum Buildable Area: No limitation on buildable area.

1.150.05 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of any provision of the Zoning Ordinance text, or of the boundaries of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.175 – HISTORIC RESIDENTIAL DISTRICT (HR)

1.175.01 **PURPOSE OF THIS DISTRICT:** In accordance with the adopted Goals and Objectives of the Comprehensive Plan for the City of Canton, an "Historic Residential District" (HR) is hereby created to promote this area, as delineated on the Official Zoning Map, as a major focal point of historic residential life in Canton. The purpose of this district is to preserve the character of historic buildings within the Historic Preservation District by review of architectural style, materials and colors, including the properties nominated by Mississippi Department of Archives and History for listing on the National Register of Historic Places.

It is further the purpose of this district to prevent the deterioration of the historic residential area as the result of inappropriate land uses and incompatible architectural design. This district is intended to encourage the development of selected residential activities that are compatible with historic structures, public/quasi-public sector uses. Uses first permitted in the R-3 Medium-density Residential District, or R-4 Multi-family Residential District shall not be permitted here.

Finally, it is the purpose of this district to alleviate the substandard building conditions and preserve property valves in the HR district by requiring that any person proposing additions or rehabilitation to existing buildings not only comply with the Building Code but also apply for a Certificate of Appropriateness as required by the Canton Historic Preservation Ordinance. This requirement is intended to ensure compatibility of such additions or repairs with other uses in the district, thereby preserving the property values of other dwellings and businesses.

1.175.02 **LAND USES PERMITTED WITHIN HISTORIC RESIDENTIAL DISTRICT:** The following uses are permitted outright in the HR district, subject to the regulations prescribed herein:

A. All uses permitted outright in the R-1 Single-family Residential District.

B. All uses permitted outright in the R-2 Single-family Residential District.

1.175.03 **SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION 1.700.09:**

A. Public or quasi/public facilities and utilities in compliance with Section

1.33 and other regulations of this ordinance.

B. Inns or "Bed and breakfast inns."

Minimum space between separate (detached) buildings on the same lot. Must meet requirements of the Southern Building Code.

1.175.04 DIMENSIONAL REQUIREMENTS FOR HISTORIC RESIDENTIAL DISTRICT:

A. Maximum Buildings Height: 35 feet, unless greater height is approved by Mayor and Board of Aldermen.

B. Minimum Lot Area: 12,000 square feet in historic R-1 District and 8,000 square feet in the historic R-2 District.

C. Minimum Lot Width: 90 feet in historic R-1 district and 75 feet in historic R-2 district.

D. Minimum Yards:

1. Historic Residential (HR-1)

a. Front Yard: 40 feet from the street right-of-way line to the building set back line.

b. Side yard: 10 feet from the side property line.

c. Rear yard: 25 feet from the rear property line.

2. Historic Residential (HR-2)

a. Front yard: 30 feet from the street right-of-way line to the building set back line.

b. Side yard: 10 feet from the side property line.

c. Rear yard: 25 feet from the rear property line.

1.175.5 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED:

Proposed land uses not specifically prohibited or permitted under the

provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of any provision of the Zoning Ordinance text, or of the boundaries or district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02. In any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a Public Hearing on the proposed use, the Zoning Administrator shall call for a Public Hearing pursuant to provisions of the Unified Development Code.

SECTION 1.200 - RESIDENTIAL ESTATE DISTRICT (R-E)

1.200.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide for large lot, low-density residential development for persons desiring the amenities afforded by more spacious surroundings. No R-E district shall be located in areas that do not have public sewerage.

1.200.02 **LAND USES PERMITTED:**

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

B. Accessory uses and structures associated with the use of land for residential purposes. See Section 1.31.05: Accessory Buildings or Uses.

C. Horticultural uses not involving the sale of produce on the premises.

D. Home occupations in compliance with Section 1.35 of this Code.

E. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.33 of this Code. All lakes associated with this or any other usage shall comply with the Subdivision Regulations found in this code.

F. Breeding, raising, and feeding of grazing livestock (i.e., horses, cattle, sheep, goats, mules, etc.), provided that each such animal herein defined as "grazing livestock" shall be kept on a tract or lot of one (1) acre of land or greater (one acre of land per animal is required). Barns, pens, corrals, and other buildings or enclosures for the keeping of grazing livestock are permitted accessory uses, provided that such buildings or enclosures (excluding open pastures) are located no closer than 50 feet from any adjoining property lines or street right-of- way line. In accordance with the Animal Control Ordinance of the City of Canton, no hogs, pigs, or other swine shall be kept inside the City of Canton.

1.200.03 **SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:**

A. Public or quasi-public facilities and utilities in conformance with Section 1.33 and other regulations of this Code.

B. Child care facilities.

C. Inns or "bed and breakfast inns".

D. Breeding, raising and feeding of chickens, ducks, turkeys, geese, or other fowl, provided that if more than two (2) such fowl are kept on any lot, they shall be kept at least 150 feet from any adjoining property line or existing/proposed street right-of-way line.

1.200.04 DIMENSIONAL REQUIREMENTS:

A. **Maximum Building Height**: 35 feet.

B. **Minimum Lot Area**: One acre.

C. **Minimum Lot Width**: 150 feet.

D. **Minimum Yards**:

1. **Front yard**: 35 feet from the existing or proposed street right-of-way line to the building setback line.

2. **Side yards**: 10 feet, except where Section 1.200.03-D requires a greater setback.

3. **Rear yard**: 25 feet, except where Section 1.200.03-D requires a greater setback.

1.200.05 SWIMMING POOLS: Swimming pools, if constructed, shall be located behind the front line of the house, and there shall be a minimum of ten feet between all property lines or recorded easements and the rim of the swimming pool. All swimming pools shall be enclosed by a structure or fencing. Fencing shall be at least four feet high (see Section 1.30 of this ordinance) and shall have a self-latching gate.

1.200.06 OFF-STREET PARKING REQUIREMENTS: See Section 1.37 for off-street parking and loading requirements for residential and other uses allowed in residential districts.

1.200.07 REQUIREMENTS REGARDING EXISTING NARROW STREETS AND PROPOSED NEW STREETS: See the Subdivision Regulations in this code.

1.200.08 **SIGNS:** See the sign regulations in this code.

1.200.9 **LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED**

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.210 - SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1)

1.210.01 **PURPOSE OF THIS DISTRICT**: The purpose of this district is to promote the preservation and establishment of areas of low density residential development with a minimum lot size of 12,000 square feet. No R-1 districts shall be located in areas that do not have public sewer. All family dwellings shall have drive ways made of concrete or asphalt.

1.210.02 **LAND USES PERMITTED:**

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

B. Accessory uses and structures associated with the use of the land for residential purposes. See Section 1.31.05: Accessory Buildings or Uses.

C. Horticultural uses not involving the sale of produce on the premises.

D. The keeping of animals in compliance with the City of Canton Animal Control Ordinance.

E. Home occupations in compliance with Section 1.35 of this Code.

F. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.33 of this Code.

1.210.03 **SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:**

A. Public or private recreational or open space facilities, excluding country clubs and the like that shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.600.09 of this ordinance. All lakes associated with this or any other usage shall comply with the Canton Subdivision Regulations in this code.

B. Child care facilities.

C. Inns or “bed and breakfast inns.”

D. Railroads and railroad spur tracks.

E. Personal Care Homes.

F. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this ordinance.

1.210.04 DIMENSIONAL REQUIREMENTS:

A. **Maximum Building Height:** 35 feet.

B. **Minimum Lot Width:** 90 feet.

C. **Minimum Lot Area:** 12,000 square feet.

D. **Minimum Yards**:

1. Front yard: 40 feet from the street right-of-way line to the building setback line.

2. Side yard: 10 feet.

3. Rear yard: 25 feet.

1.210.05 SWIMMING POOLS: Swimming pools, if constructed, shall be located behind the front line of the house, and there shall be a minimum of 5 (five) feet between all property lines or recorded easements and the rim of the swimming pool. All swimming pools shall be enclosed by a structure or fencing. Fences shall be at least four feet in height and shall have a self-latching gate.

1.210.06 OFF-STREET PARKING REQUIREMENTS: See Section 1.37.

1.210.07 SIGNS: See Sign Ordinance of the City of Canton, Mississippi.

1.210.08 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is

in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1. 220 - SINGLE- FAMILY RESIDENTIAL DISTRICT (R-2)

1.220.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide areas for the development of medium density, single-family detached dwellings and related compatible uses in relatively spacious surroundings that provide ample, usable open space for leisure time activities. No R-2 district shall be located in areas that do not have public sewerage. All family dwellings shall have a driveway made of concrete or asphalt.

1.220.02 **LAND USES PERMITTED:**

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

B. Accessory uses and structures associated with the use of the land for residential purposes. See Section 1.31.05: Accessory Buildings or Uses.

C. Horticultural uses not involving the sale of produce on the premises.

D. The keeping of animals in compliance with the City of Canton's Animal Control Ordinance.

E. Home occupations in compliance with Section 1.35 of this ordinance.

1.220.03 **SPECIAL EXCEPTION/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:**

A. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.33 of this ordinance. All lakes associated with this or any other usage comply with the Canton Subdivision Regulations found in this code.

B. Child care facilities.

C. Inns or "bed and breakfast inns."

D. Railroads and railroad spur tracks.

E. Personal Care Homes.

F. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this ordinance.

1.220.04 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: 35 feet.

B. Minimum Lot Area: 8,000 square feet.

C. Minimum Lot Width: 75 feet.

D. Minimum Yards:

1. Front yard: 30 feet from the street right-of-way line to the building setback line.

2. Side yards: 10 feet.

3. Rear yard: 25 feet.

1.220.05 SWIMMING POOLS: Swimming pools, if constructed, shall be located behind the front line of the house, and there shall be a minimum of five feet between all property lines or recorded easements and the rim of the swimming pool. All swimming pools shall be enclosed by a structure or fencing. Fences shall be at least four feet in height and shall have a self-latching gate.

1.220.06 OFF-STREET PARKING REQUIREMENTS: See Section 1.37 for off-street parking and loading requirements for residential and other uses allowed in R-2 districts.

1.220.07 SIGNS: See Sign Ordinance of the City of Canton, Mississippi.

1.220.08 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the

proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.230 - MEDIUM DENSITY RESIDENTIAL DISTRICT (R-3)

1.230.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide areas for the development of single-family detached and attached (duplexes) houses on smaller lots in which site use efficiency is achieved through design and planning controls including relaxing one side yard requirement. Through design and planning controls, higher densities can be accommodated without sacrificing usable open space, privacy or environmental quality (up to eight dwelling units per acre).

This district is also designed to provide suitable areas for high density residential development where sufficient urban facilities are available or where such facilities will be available prior to development. Most generally this district will be characterized by such residential structures as single-family detached homes (zero lot line homes and patio homes) and single-family attached dwellings (duplexes, townhouses, and multi-family dwellings).

However, it is the intent of this ordinance to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone lot and open space on such lot relative to the number of dwelling units thereon. This district is intended also to permit community facility and public utility installations that are necessary to service and do service specifically the residents of the district, or which installations are benefited by and compatible with a residential environment.

It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise. However, special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1.230.02 **LAND USES PERMITTED:** The following uses and their accessory uses are permitted in R-3 districts:

A. Patio home dwellings.

B. Zero lot line dwellings.

C. Townhouse dwellings.

D. Duplex/two-family dwellings.

E. Board and rooming houses.

F. Customary accessory buildings including private garages and non-commercial workshops provided they are located in the rear yard and not closer than eight feet to any lot line. See Section 1.31.05: Accessory Buildings or Uses.

G. Home occupations in compliance with Section 1.35 of this Code.

H. Essential public transport, communication, government, and utility services.

I. Horticultural uses not involving the sale of produce on the premises.

J. The keeping of animals in compliance with the City of Canton's Animal Control Ordinance.

1.230.03 **SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:** In the R-3, Medium-density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Section 1.600.09.

A. Public or quasi-public facilities and utilities in conformance with Section 1.33 and other regulations of this Code.

B. Community Assembly.

C. Religious Facilities.

D. Educational Facilities.

E. Cultural and Recreation Services.

F. Planned developments as regulated in Section 1.275.

G. Associations for physically or mentally handicapped persons.

H. Family and Group Care facilities.

I. Nursing Homes.

J. Retirement or Rest Homes.

K. Orphanages.

L. Family Day Care Home.

M. Administrative Services.

N. Mobile home parks as regulated in Section 1.250.

O. Radio and television towers, transmission facilities, water storage facilities, and water and sewage treatment plants.

P. Family day care home.

1.230.04 **USES PROHIBITED:** Uses not specifically permitted or uses not permitted on approval as a special exception.

1.230.05 **DIMENSIONAL REQUIREMENTS:**

A. **Minimum Lot Size:**

Area - Patio home dwellings	6,000 sq. ft.
- Zero lot line dwellings	6,000 sq. ft.
- Duplex dwellings	12,000 sq. ft.
- Townhouse end dwellings	6,000 sq. ft.
- Townhouse interior dwellings	3,500 sq. ft.

Area Per Family - Patio home dwellings	6,000 sq. ft.
- Zero lot line dwellings	6,000 sq. ft.
- Duplex dwellings	6,000 sq. ft.
- Townhouse	3,500 sq. ft.

Lot Width at Building Setback Line	
- Patio Home	60 ft.
- Zero Lot Line Dwellings/ Duplexes	75 ft./37.5 ft. for each duplex dwelling
- Townhouse Dwellings	75 ft.

B. **Minimum Size of Development**: Five acres.

C. **Minimum Yard Requirements:**

1. Front Yard: 25 feet from the right-of-way line to the building setback line.

2. Side Yard: 7 ½ feet for patio homes, duplexes, and zero lot line homes; 15 feet for townhouses and multi-family dwellings.
3. Rear Yard: 20 feet.

D. **Maximum Lot Coverage:** On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed 50 percent of the total area of such lot or parcel.

E. **Maximum Height Requirements:** No building shall exceed three stories or 35 feet in height, except as provided in Section 1.31.07. In no case shall F.A.A. glide path building height restrictions be exceeded.

1.230.05 **SWIMMING POOLS:** Swimming pools, if constructed, shall be located behind the front line of the house, and there shall be a minimum of five feet between all property lines or recorded easements and the rim of the swimming pool. All swimming pools shall be enclosed by a structure or fencing. Fences shall be at least four feet in height and shall have a self-latching gate.

1.230.06 **OFF-STREET PARKING REQUIREMENTS:** See Section 1.37 for off-street parking and loading requirements for residential and other uses allowed in R-2 districts.

1.230.07 **SIGNS:** See Sign Ordinance of the City of Canton, Mississippi.

1.230.08 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** The developer of any subdivision in an R-3 zone shall comply with the Landscaping Ordinance for the City of Canton regarding the provision of landscaping along arterial streets upon which the use abuts. Where permitted as special exceptions, the developers of public/quasi-public facilities shall comply with SECTION 1.33.

1.230.09 **REQUIRED RESERVATION OR DEDICATION OF OPEN SPACE FOR PATIO HOME SUBDIVISIONS**: Where a developer proposes a patio home subdivision, the developer shall provide common open space amounting to 20 percent of the total gross area of the subdivision. Such common open space shall consist of land reserved exclusively for the recreational use of the residents of the patio home subdivision. However,

public streets, parking lots and utility easements shall not be considered in meeting the open space requirements of this Section. The area from the back of curb to the right-of-way/property line can be considered green space only if the developer is providing improvements such as sidewalks, street trees, fencing, etc. The development plan shall indicate the location and area (in acres) to be so reserved or dedicated for open space or recreational facilities.

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

1.230.11 **Steep Slopes:** In reviewing the preliminary subdivision plat for a proposed patio home subdivision, the Zoning Commission shall determine if any land containing slopes of twelve percent (12%) or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope land. The Zoning Commission shall make a recommendation to the Mayor and Board as to whether or not any steep slope land should be approved for use in meeting the requirements of this Section.

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

1.230.13 **Staged Development of a Patio Home Subdivision:** If a patio home subdivision is to be developed in stages or parts, ten percent of EACH PART must be reserved for open space. However, in order to provide usable open space, the amount reserved shall not be less than three quarters (3/4) acre. Thus, if a developer proposes to ultimately develop 20 acres of land for patio homes and the first phase will only contain three acres, the developer must reserve at least (3/4) acre for open space for the first part--- even though 20 percent of three acres is less than 3/4 acre.

1.230.14 **Performance Bond:** Prior to the sale of any lot in a patio home

subdivision, the developer may be permitted, at the discretion of the Mayor and Board of Aldermen to post with the City a performance bond of sufficient surety to insure the completion of all proposed open space improvements (where applicable). Such performance bonds must be issued by a company that is licensed and permitted to do business in the State of Mississippi. The Director of Public Works, the Building and Development Director, and the City Engineer shall determine the amount of the performance bond after reviewing the construction plans for all improvements.

1.230.15 **MAINTENANCE/LIABILITY IN THE OPERATION AND USE OF COMMON OPEN SPACE AND RECREATION AREAS NOT DEDICATED TO THE CITY OF CANTON:** Authority granted by the City of Canton for the development of a patio home subdivision shall not be construed as nor constitute an obligation on the part of Canton either for maintenance or liability in the operation and use of common open space and recreational facilities located in the subdivision. At the time the final subdivision plat is submitted for the patio home subdivision, the developer shall submit with his application for final plat approval a legal instrument or instruments which state that the responsibility for liability insurance, taxes, and maintenance of open space and other common facilities shall rest with the owners of the several lots or parcels of land located within the patio home subdivision. In order to insure the integrity of the open space so that it will remain genuinely open, the legal instrument(s) shall specify that the open space restrictions are permanent, not just for a period of years. See also the Homeowners Association language in the PUD section.

1.230.16 **SPECIAL PROVISIONS FOR PARTY WALLS:** Within the R-3 zoning district zero-lot line dwellings may be located upon appropriate zone lots, and such dwellings may be subdivided by party wall into two separate zone lots, provided that a preliminary subdivision plat of such development or conversion is approved by the Zoning Commission along with the necessary subdivision plat(s). Moreover, two separate personal, professional, and/or business service oriented land uses connected by a zero lot line may be located on two separate zone lots, being adjoined together by party wall within commercial, or professional and office zoning districts, provided that a plot plan of such development or conversion is approved by the Zoning Commission along with the necessary subdivision plat(s). In granting approval of the plot plan, the Zoning Commission shall be guided by the following criteria:

A. Other than the zero lot line separating the two dwelling units, office units,

commercial units or zone lot, all other minimum lot, yard, and density requirements of the zoning district shall be met.

B. No zero side yards shall be adjacent to any public or private right-of-way.

C. No portion of a dwelling or architectural features of a structure shall project over any property line.

D. Where the same interior property line is utilized for the zero side yard construction of any dividing structure, such dividing structure shall consist of double walls separated by a minimum air space of two inches.

E. Where the same interior property line is utilized for the construction of any zero side yard structure, all the provisions of the Standard Building Code shall be met, and all such fire walls shall have a rating of not less than two hours duration.

F. At all points of attachment, such buildings shall be separated from each other by firewalls extending from footings to the underside of the roof deck without openings that would permit the spread of fire.

G. Individual water and sewer services for each zone lot shall be required.

H. All the requirements of the Canton Subdivision Regulations shall be met.

I. All current requirements of the fire code must be satisfied.

1.230.17 DEED COVENANT REQUIREMENTS: Other information that shall be provided relating to deed covenants is as follows:

A. An agreement covering the status, including the ownership, maintenance, etc., of the common wall separating the units or zone lots.

B. Adequate language to assure proper maintenance etc., of any portion of the structure where maintenance must be shared (ex. common roof).

If the correction of a maintenance problem incurred in the dwelling unit or structure on the zone lot on one parcel necessitates construction work or access on the dwelling unit or structure of the other parcel, either parcel owner shall have an easement on the property of the other for the purpose of this construction. Each party shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or

omissions.

C. Adequate language to assure that any property divided under this provision shall be continuously subject to the unified plan under which it was originally approved. Such language shall so specifically include clear and precise statements whereby the purchaser is informed that the property may not be used in any manner that would have the effect of negating the unified plan under which original approval was granted and language indicating that the purchaser of any such parcel understands that in no instance within any R-3 zoning district will any such parcel or zone lot be viewed as a separate independent parcel for zoning purposes, other than for the purpose or specific use under which said parcel was originally approved. In relation to commercial and professional and office zero lot line developments, the variation in the setback requirements as cited within the appropriate zoning district shall apply only to the project as originally approved.

D. Adequate language covering any and all cross access and utility easements as are necessary to assure the proper use and maintenance of all ingress and egress areas, as well as all utility services.

E. If a fire wall is destroyed or damaged by fire or other casualty, any owner may restore it and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions.

Either parcel owner shall have an easement on the property of the other for the purpose of reconstruction and protection of the remaining unity from the elements.

1.230.18 DEVELOPMENT STANDARDS THAT APPLY TO DUPLEX RESIDENTIAL DWELLINGS, AS WELL AS ZERO LOT LINE TWO-FAMILY DWELLINGS:

A **Purpose**: The provisions set forth herein are intended to apply to all two-family detached dwellings (duplex and zero lot line two-family dwellings) as defined by this ordinance regardless of the district in which such use may be located. It is the express purpose of these provisions to establish design criteria and to provide for the implementing of these provisions by the planning staff in the review of the plot (site) plan required in Section 1.600.11 for all zero lot line two-family dwelling developments, or by

way of appropriate notations, as well as by architectural and/or perspective illustrations if required by the planning staff or Zoning Commission, in reviewing the required building permits or subdivision plats pertaining to duplex dwellings. Provided, however, that in any instance where this use is located within a planned unit development, this requirement may be fulfilled by submission of the plans required by the requirements as cited in Section 1.600.11.

B. Design Criteria:

1. All two-family detached units constructed on individual lots shall be designed to closely resemble in appearance the other housing units in the neighborhood. Particular attention should be paid to locating only one entrance door servicing the front of the structure.

2. Exterior building materials shall be of the same type and quality of other dwelling units in the neighborhood or on adjoining lots.

3. Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, as well as the screening of objectionable views or uses, and the reduction of noise when required by the Zoning Commission and/or planning staff.

4. The appearance and character of the site shall be preserved, as appropriate, and enhanced by retaining and protecting existing trees and other site features. Additional new plant material shall be added for privacy, to enhance the beauty of buildings and grounds, and to screen objectionable features.

C. Lots: The minimum lot size required for any such dwelling shall be as stipulated by the development area per dwelling unit as provided in each respective district.

D. Parking:

1. These requirements shall supplement the parking provisions contained in Section 1.37.

2. No off-street parking areas shall be located in the front of the structure. Every effort shall be made to locate some of the required off-street parking in the rear yard, as well as in the side

yard.

3. Garages/carports are required and must be located in the rear of the dwellings.

1.230.19 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.240 - MULTI-FAMILY RESIDENTIAL DISTRICT R-4

1.240.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide areas for the development of higher density multi-family (i.e., three or more) residential uses with adequate, usable open space to prevent overcrowding. It is the intent of this ordinance that these districts be care-fully located only in areas where the infrastructure of the City (i.e., the street/highway system, storm drainage and water and sanitary sewer systems) is adequate to serve such higher density housing. NO SITE PLAN FOR THE DEVELOPMENT OF HIGH DENSITY MULTI-FAMILY RESIDENTIAL USES SHALL BE APPROVED BY THE MAYOR AND BOARD OF ALDERMEN UNLESS ALL SUCH INFRA-STRUCTURE IS ACTUALLY IN PLACE AT THE TIME OF SUCH SITE PLAN APPROVAL.

The use of this district is appropriate as a transition between low density (R-1) or moderate density (R-2 or R-3) residential districts and higher intensity uses, such as commercial uses or limited industrial (I-1) uses, that are not compatible with lower density residential environment. Multi-Family Residential districts (R-4) shall have access directly onto streets/highways that are classified as principal arterials or minor arterials on the adopted Thoroughfares Plan; such access shall not be provided by means of a driveway through land zoned for other purposes or by means of a driveway through other property that is not a part of the proposed multi-family development.

All multi-family residential uses shall be properly landscaped and screened from other uses and access/egress to apartment or condominium complexes shall be provided in accordance with the landscaping chapter of this Ordinance.

Entrances to all units must be through an interior hallway. No outside entrance will be allowed including patio entrances on ground floors.

1.240.02 **LAND USES PERMITTED:** The following uses are permitted outright in R-4 districts subject to the regulations prescribed herein.

A. Multi-family dwellings including apartments and condominiums as defined in the Definitions Section of this ordinance.

B. Accessory uses or structures in multi-family residential complexes,

including laundromats, vending machine centers, recreational buildings, swimming pools, tennis courts, and similar uses and structures incidental to multi-family buildings. Such uses and structures shall be reserved exclusively for use by residents and guests of residents of the multi-family complex. See also Section 1.31.05: Accessory Buildings or Uses.

C. The keeping of animals in compliance with the City of Canton's Animal Control Ordinance.

D. Home occupations in compliance with Section 1.35 of this ordinance.

1.240.03 SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:

A. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this ordinance.

B. Child care facilities.

C. Railroads and railroad spur tracks.

1.240.04 DIMENSIONAL REQUIREMENTS FOR ALL MULTI-FAMILY USES:

A. Maximum Height: Two stories, unless additional stories are specifically approved by the Mayor and Board of Aldermen at the time the site plan is approved.

B. Minimum Lot Area: Five acres, but not more than 20 acres and not adjacent to existing or proposed multi-family housing.

C. Maximum Density: Ten dwelling units per gross acre.

D. Minimum Lot Width: 200 feet at the required building setback line.

E. Minimum Yards:

1. Front yard: 200 feet from the right-of-way line. This yard shall be a landscaped open area with no encroachments permitted including parking lots, patios or swimming pools, or other paved areas except for entrance/exit driveways.

2. Side and rear yards: 50 feet from each side lot line or rear lot line

to any building, EXCEPT where a side or rear lot line abuts an R-1, R-2 district, in which case the side yard or rear yard shall be 100 feet from any building to the lot line abutting the R-1, or R-2 district. This yard shall be a landscaped open area with no encroachments permitted including driveways, parking lots, patios or swimming pools, or other paved areas.

3. Minimum Space Between Buildings: No principal building or accessory building shall be constructed nearer than 50 feet to any other principal building or accessory building.

1.240.05 **REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS:** For reasons of fire safety all proposed apartment or condominium complexes shall provide at least two separate points of ingress/egress to/from the complex. Spacing requirements for these access points are provided under Section 1.37. Developers of any proposed apartment or condominium complex or permitted special exception shall comply with parking and loading requirements included under Section 1.37. All roads and parking areas shall be curbed and guttered.

1.240.06 **SIGNS:** See Ordinance of the City of Canton, Mississippi.

1.240.07 **SITE PLAN REQUIRED:** The developer of any apartment or condominium complex shall submit a site plan to the Zoning Commission in accordance with Section 1.600.11 in this ordinance.

1.240.08 **REQUIRED OPEN SPACE RESERVATION FOR ALL MULTI-FAMILY RESIDENTIAL DEVELOPMENTS:** A minimum of 30 percent of the gross site area to be developed for a condominium or apartment complex shall be devoted to open space. In calculating this open space requirement, the front, side, and rear yards may be included. Parking lots and driveways, however, may not be included in calculating this required open space. Such common open space shall consist of land reserved exclusively for the recreational use of the residents of the apartments or condominiums. The site plan shall indicate the location and area (in acres) to be so reserved or dedicated for open space or recreational facilities. On-site maintenance, management and security is also required.

1.240.09 **MAXIMUM AMOUNT OF COMMON OPEN SPACE COVERED BY WATER:** No more than 50 percent of the required amount of open space may be covered by lakes or ponds.

1.240.10 **STEEP SLOPES:** In reviewing the preliminary subdivision plat for a proposed apartment or condominium complex, the Zoning Commission shall determine if any land containing slopes of 12 percent or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope land. The Zoning Commission shall make a recommendation to the Mayor and Board as to whether or not any steep sloped land should be approved for use in meeting the requirements of this Section.

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

1.240.12 **STAGED DEVELOPMENT OF A MULTI-FAMILY RESIDENTIAL DEVELOPMENT:** If a multi-family residential development is to be developed in stages or parts, 30 percent of the gross site area of each part shall be reserved for open space.

1.240.13 **PERFORMANCE BONDS:** Prior to the sale of any condominium or the rental/ lease of any apartment, the developer may be permitted, at the discretion of the Mayor and Board of Aldermen, to post with the City a performance bond of sufficient surety to insure the completion of all proposed open space improvements (where applicable). The Director of Public Works, the Building and Development Director, and the City Engineer shall determine the amount of the performance bond after reviewing the construction plans for all improvements.

1.240.14 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** Developers of multi-family residential uses in R-4 zones shall comply with the Landscaping Chapter of this ordinance regarding the provision of landscaping along arterial streets upon which the use abuts. Where permitted as special exceptions, the developers of public/quasi-public facilities or child care facilities shall also comply with Section 1.600.09.

1.240.15 **WATER AND SEWER CONNECTIONS:** Canton Municipal Utilities will notify developer of water and sewer connections and type of meters.

1.240.16 **REFUSE COLLECTION FACILITIES:** The owner, or his authorized

representative, of a multi-family residential development shall provide adequate refuse collection stations approved by the City of Canton for the proper storage of all refuse produced by residents of the multi-family residential development, and shall be responsible for the cleanliness of the premises. The owner shall be responsible for the removal/collection of any refuse deposited at the collection stations.

1.240.17 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.250 - MANUFACTURED HOME PARK RESIDENTIAL DISTRICT (R-M)

1.250.01 **PURPOSE OF THIS DISTRICT**: The purpose of this district is to provide for properly planned manufactured home parks on medium lots. It is the intent of this Code that these districts may be located only in such areas as to not adversely affect the established residential subdivisions and residential densities in the City. Such location, however, shall have necessary public services; a healthful living environment and normal amenities associated with residential zones and comply with all the ordinances and regulations of the City of Canton.

(NOTE: This zone will be considered a "floating zone" and any person desiring to establish a manufactured home district would have to locate the development in a medium density residential district according to the Land Use Plan, which currently does not specifically identify areas for this type of business, and an amendment to the Official Zoning Map.)

1.250.02 **LAND USES PERMITTED:**

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

B. Single-family manufactured homes, either owner-occupied or on a rental or lease basis.

C. Home occupations in compliance with Section 1.35 of this ordinance.

D. Accessory uses and structures as defined under Section 1.31.05 of this ordinance.

E. The keeping of animals in compliance with the City of Canton's Animal Control Ordinance.

F. Public or private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.33 of this ordinance. Lakes deeded to a homeowner's association shall comply with the Canton Subdivision Regulations.

G. Horticulture uses not involving the sale of produce on the premises.

1.250.03 **SPECIAL EXCEPTION/CONDITIONAL USES AS PROVIDED IN**

SECTION 1.600.09:

A. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this Code. An example of a quasi-public building in an R-M district might involve a manufactured home park owner who wishes to allow a civic club to use a building on the same property with the manufactured home park for meetings, etc.

B. Railroads and railroad spur tracks.

C. Child care facilities.

1.250.04 DIMENSIONAL REQUIREMENTS:

A. **Minimum Size of Development:** 5 acres.

B. **Maximum Density:** The maximum density shall not exceed 5.4 manufactured homes per gross acre.

C. **Maximum Building Height Within Manufactured Home Districts:** 25 feet.

D. **Minimum Manufactured Home Space (Lot) Area Within the District:** 8,000 square feet.

E. **Minimum Lot Width:** 75 feet measured at the front set-back line.

F. **Required Set-Backs for Individual Manufactured Home Lots Within the District:**

1. Front yards: There shall be a minimum distance of 35 feet between an individual manufactured home and the proposed or existing right-of-way of any street or road.

2. Side yards: There shall be a minimum distance of 8 feet between all manufactured homes and the side yard lot lines of each manufactured home space (lot). On corner lots there shall be a minimum side yard of 25 feet on the corner side.

3. Rear yards: There shall be a minimum distance of 25 feet between all manufactured homes and the rear yard lot lines of manufactured space (lot).

G. **Accessory Buildings or Uses:** Accessory buildings shall be located in the rear yard. Accessory buildings or uses shall be located a minimum distance of 10 feet away from all manufactured homes and side and rear lot lines.

1.250.05 OFF-STREET PARKING REQUIREMENTS: See Section 1.37 for the off-street parking requirements of this ordinance.

1.250.06 SIGNS: See Sign Ordinance of the City of Canton, Mississippi.

1.250.07 BUILDING PERMIT REQUIRED: Prior to the connection of utilities (water, sewer, gas, electricity) to serve any manufactured home located in a manufactured home district, the owner of the manufactured home, or the owner (or his authorized representative) of the manufactured home development, shall apply for a building permit. All electrical wiring, plumbing and gas connections will be performed in accordance with the National Electrical Code (latest edition) and the Standard Plumbing Code and Standard Gas Code prepared by the Southern Building Code Congress International, Inc. (latest edition) by qualified, licensed, and bonded electricians and plumbers.

Furthermore, any person responsible for placing a manufactured home in a manufactured home district shall comply with the tie down standards prescribed in the Standard Building Code (latest edition) prepared by the Southern Building Code Congress International, Inc.

1.250.08 MANUFACTURED HOME STANDS OR "PADS": Each manufactured home stand or "pad" shall be provided with permanent paved runners, patio, parking area (concrete or asphalt driveway) and a permanent skirting made of brick or stone.

1.250.09 COMPATIBILITY REQUIREMENTS OF ALL MANUFACTURED HOMES:

A. **Roof Pitch:** The roof shall have a pitch of not less than five inch vertical rise for each 12 inches of horizontal run.

B. **Roof Materials:** Wood shakes, asphalt shingles, composition or wood shingles, or tile.

C. **Roof Overhang:** Minimum 12 inch overhang.

D. **Siding Materials:** Exterior siding shall be made of nonreflective or

nonmetallic materials; acceptable siding materials include wood, stucco, brick, stone or other masonry materials or any combination of these materials.

E. **Skirting and Foundation Wall Materials:** Materials for a foundation wall or skirting shall be made of brick or stone. All manufactured homes shall be placed on a permanent foundation required by 42 U.S. Code 5401 et. sec.

F. **Driveway Materials:** All manufactured homes shall have a driveway made of concrete or asphalt.

G. **Minimum Width:** Double Wide.

H. **Garage:** All home sites shall be required to have a rear load garage that matches the existing architectural features; including but not limited to, roof pitch, color, siding, shingles or shakes.

1.250.10 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.275 - PLANNED UNIT DEVELOPMENT ("PUD") DISTRICT

1.275.01 **PURPOSE OF THIS DISTRICT:** The purposes for establishing Planned Unit Development ("PUD") districts are:

A. To provide for the development of relatively large land areas as total cohesive and coordinated units, rather than development on a lot-by-lot basis.

B. To permit more flexible and advantageous use of sites, especially with regard to natural features of the landscape, through the relaxation of conventional zoning requirements including minimum lot size and minimum lot width, while at the same time retaining approximately the same overall density as would ordinarily apply if the same areas were developed by conventional methods. (Note: However, minimum yard requirements are the same as for conventional districts.)

C. To help reduce the cost of residential development by allowing more dwelling units per gross acre than could be built in a conventional low density subdivision (due to the extensive space requirements of streets rights-of-way, utility easements, etc., in a conventional subdivision) and by reducing the length of streets and utility extensions through concentration or clustering of housing.

D. To provide for the development of sites in which land not used for structures and yards but not required by the basic zoning of the site shall be reserved collectively in contiguous units accessible to all dwellings within the PUD as open space; this open space will provide recreational opportunities for the residents of the PUD, and will also afford improved, safer pedestrian circulation within the PUD.

1.275.02 **LAND USES PERMITTED:** The following uses are permitted outright in PUD districts subject to the regulations prescribed herein:

A. Single-family detached dwellings (only one main structure per lot).

B. Accessory uses and structures as defined under Section 1.31.05 of this Code.

C. Horticultural uses not involving the sale of produce on the premises.

D. The keeping of animals in compliance with the City of Canton's Animal Control Ordinance.

E. Home occupations in compliance with Section 1.35 of this Ordinance.

1.275.03 CONDITIONAL USES AND STRUCTURES (SPECIAL EXCEPTIONS) AS PROVIDED IN SECTION:

A. Public or quasi-public facilities or utilities may be considered for location in a PUD district in compliance with Section 1.33 of this ordinance.

B. Child care facilities.

C. Railroads and railroad spur tracks.

D. Private recreational or open space facilities, excluding country clubs and the like which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.33 of this Code. Lakes deeded to a homeowner's association or dedicated (public) to the City of Canton shall comply with Canton Subdivision Regulations.

1.275.04 DIMENSIONAL REQUIREMENTS:

A. Minimum Size of PUD: The minimum size of any PUD shall be five (5) acres.

B. Maximum Residential Development Density: The basic control of residential development density shall be the density requirement of the particular conventional district (i.e., R-1 or R-2) over which the PUD is superimposed. The maximum density shall be calculated by dividing 43,560 square feet by the minimum lot size and then multiplying that quotient by the total gross acreage to be included in the PUD. EXAMPLE: If a subdivider proposes to develop a 30 acre tract zoned "R-1" as a PUD, the basic control of density is that of the R-1 district: 43,560 square feet divided by 12,000 square feet (minimum lot size in R-1 districts), resulting in a quotient of 3.6 lots or dwelling units; 30 acres multiplied by 3.6 = 108 lots or single-family detached dwelling units. (Note: This method for calculating residential development density can not be used for conventional subdivisions, since conventional subdivisions require more land for street rights-of-way, utility easements, etc., than do PUDs in which development is concentrated.)

C. Minimum Lot Size: No minimum.

D. Minimum Lot Width: No minimum.

E. Maximum Height: 35 feet, unless greater height is specifically approved by the Mayor and Board of Aldermen.

1.275.05 **SWIMMING POOLS:** Swimming Pools shall meet the requirements of R-1 or R-2 zoning, whichever the property is zoned.

1.275.06 **REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL:** See Section 1.37 Regarding parking, loading and access control requirements.

1.275.07 **SIGNS:** See Sign Ordinance of the City of Canton, Mississippi.

1.275.08 **PLANNED UNIT DEVELOPMENTS SHALL BE SUPERIMPOSED DISTRICTS:** A Planned Unit Development shall be a superimposed designation on an existing low density residential district (R-1, or R-2), thereby providing a broader latitude of design of design to achieve the purposes stated under Section 1.275.01. As a superimposed designation, Planned Unit Developments shall be subject to the overall density requirements of the low density residential district over which they are superimposed. The maximum residential density shall be calculated as prescribed under Section 1.275.04-A.

1.275.09 **PRELIMINARY SUBDIVISION PLAT APPROVAL REQUIRED PRIOR TO DESIGNATION OF PLANNED UNIT DEVELOPMENT ON OFFICIAL ZONING MAP:** Any person desiring to subdivide land for purposes of creating a PUD shall first prepare and submit a sketch plat (or "Development Plan" if the PUD is proposed to contain uses other than single-family detached residences) to the Director of Building and Development in accordance with the Subdivision Regulations. All sketch plats for proposed PUD shall be reviewed by the Zoning Commission as well as the Director of Public Works and the City Engineer.

1.275.10 **REZONING REQUIRED FOR DEVELOPMENT OF PORTION OF PUD FOR TOWNHOUSES, PATIO HOMES, MULTI-FAMILY RESIDENTIAL OR COMMERCIAL USES:** If a person desires to reserve a portion of a proposed Planned Unit Development for townhouses, patio homes, or multi-family residential uses (condominiums or apartments), and such areas are not zoned appropriately for such densities, he shall submit an application for rezoning in accordance with Section 1.600.10 of this ordinance indicating which areas he desires to be rezoned to R-3, R-4.

Likewise, portions of a PUD may be reserved for commercial use by applying for the appropriate commercial zoning if the subject land is not zoned commercial on the official Zoning Map.

If the sub-divider wishes to reserve portions of the proposed PUD for moderate density or high density residential development or commercial use, such areas shall be shown on a sketch plat or "Development Plan," which shall be submitted with an application for rezoning. A rezoning to permit such residential densities or commercial uses shall only by approved upon the condition that the preliminary plat and individual site plans (for the high density residential or commercial development) substantially conform to the sketch plat or development plan.

1.275.11 **DIMENSIONAL REQUIREMENTS FOR TOWNHOUSES, PATIO HOMES, MULTI-FAMILY RESIDENTIAL AND COMMERCIAL PORTIONS OF A PUD:** If an application for rezoning is approved to allow portions of a PUD to be used for townhouses, patio homes, condominiums or apartments, or some commercial classification, the dimensional requirements of the appropriate district shall apply.

1.275.12 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS**: See the Landscaping Chapter of this Code regarding the provision of landscaping along arterial streets upon which the Planned Unit Development abuts.

1.275.13 **COMMON OPEN SPACE REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS:** Common open space shall be provided as a condition to the approval of a Planned Unit Development. Such common open space shall consist of land reserved exclusively for the recreational or environmental amenity for collective enjoyment by the PUD residents and owned and maintained by the residents through a Homeowner's Association. Common open space shall be integrated throughout the PUD, easily accessible to all the residents. The sketch plat or Development Plan shall indicate the location and area (in acres) to be so reserved for open space or recreational facilities.

A. Minimum Percentage of Land Reserved as Common Open Space: In any PUD the amount of land not used by residential buildings, accessory structures and yards, but required by the residential zoning of the site shall be reserved as common open space. Common open space shall comprise at least twenty-five percent (25%) of the gross area (total acreage) of the PUD as shown on the required development plan. Public or private streets, driveways, parking lots (for example, a parking lot for a PUD

recreational building), or utility easements shall not be considered in meeting the open space requirements of this Section.

B. Maximum Amount of Common Open Space Covered By Water: No more than fifty percent (50%) of the required amount of open space may be covered by water (lakes, ponds, streams, etc.)

C. Steep Slopes: In reviewing the preliminary subdivision plat for a proposed Planned Unit Development, the Planning Commission shall determine if any land containing slopes of twelve percent (12%) or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope land. The Zoning Commission shall make a recommendation to the Mayor and Board as to whether or not any steep slope land should be approved for use in meeting the requirements of this Section.

D. Physical Improvements: Common open space shall be suitably improved for the intended use, but open space containing natural features worthy of preservation may be left unimproved if such unimproved areas are approved by the Mayor and Board of Aldermen as part of the preliminary subdivision plat review process.

All open space improvements shall be shown on the sketch subdivision plat or Development Plan (approximate locations and dimensions and proposed use) and the preliminary and final plats (precise locations and dimensions and proposed use). Open space improvements may include pedestrian (nature trails) trails, tennis courts, include or bicycle recreational buildings and swimming pools or similar facilities.

E. Staged Development of a Planned Unit Development: If a Planned Unit Development is to be developed in stages or parts and the first part is to consist of the minimum of 5 acres, 20 percent must be reserved for open space, or 1.0 acres. The open space requirements for subsequent parts or phases shall be calculated based upon the total open space requirement for the entire subdivision, including the initial phase or phases. Thus, if a developer proposes to ultimately develop 40 acres of land for a Planned Unit Development and the first phase will only contain 5 acres, the developer must reserve a total of at least 8 acres for the entire subdivision, which may include the 1.0 acres reserved for the first part.

F. Performance Bond Required: Prior to the sale of any lot in a Planned Unit Development, the developer shall post with the City a performance bond of sufficient surety to insure the completion of al proposed open space

improvements (where applicable). The Director of Public Works and the City Engineer in conjunction with the developer shall determine the amount of the performance bond after reviewing the construction plans for all improvements.

G. Areas Not Dedicated to the City of Canton: Authority granted by the City of Canton for the development of a PUD shall not be construed as nor constitute an obligation on the part of Canton either for maintenance or liability in the operation and use of common open space and recreational facilities located in the PUD.

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

H. Maintenance of Common Open Space: As a part of the plans proposed for the PUD, the developer shall submit a set of covenants running with the land providing for a Maintenance Organization to maintain the common open space. The provisions establishing the Maintenance Organization shall include, but not be limited to, the following:

1. The Maintenance Organization must be set up before the homes are sold.
2. Membership must be mandatory for each home buyer and any successive buyer.
3. The open space restrictions must be permanent, not just for a period of years.
4. The organization must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
5. Home owners must pay their pro rata share of the cost; the assessment levied by the organization can become a lien on the property.

No PUD shall be approved until the foregoing legal instrument setting forth a plan for permanent care and maintenance of common open space areas and recreational facilities is approved by the City Attorney as to legal form and effect.

I. Coordination with Subdivision Regulations:

1. A detailed development plan of the proposed PUD shall be submitted to the Mayor and Board of Aldermen for site plan review in accordance with Section 1.600.11 of this ordinance.
2. Subdivision review under the Subdivision Ordinance shall be carried out simultaneously with the review of the PUD development plan under this section of the Zoning Ordinance.
3. The development plans submitted under this section shall be submitted in a form that will satisfy the requirements of the Subdivision Ordinance for preliminary and final plats.
4. There shall be no deviation from the approved development plan until such deviation has been approved by the Mayor and Board of Aldermen.
5. The Mayor and Board of Aldermen have the authority to require reasonable changes to the development plan as a prerequisite to approval.

J. **Sidewalks:** If developer installs sidewalks and street plantings, the space between the sidewalk and right-of-way may be counted as part of the required greenspace.

1.275.14 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.300 - HISTORIC COMMERCIAL DISTRICT (HC-1)

1.300.01 **PURPOSE OF THIS DISTRICT**: In accordance with the adopted Goals and Objectives Element of a Comprehensive Plan for the City of Canton, an "Historic Commercial District" (HC-1) is hereby created to promote this area, as delineated on the Official Zoning Map, as a major focal point of community life in Canton. The purpose of this district is to preserve the character of historic buildings within the Historic Preservation District by review of architectural style, materials and colors, including the properties nominated by the Mississippi Department of Archives and Historic for listing on the National Register of Historic Places.

It is further the purpose of this district to prevent the deterioration of the Canton central business district as the result of inappropriate land uses and incompatible architectural design. This district is intended to encourage the development of selected commercial activities that are compatible with historic structures, public/quasi-public sector uses. Uses first permitted in the C-2 General Commercial District, or C-3 Major Thoroughfares Commercial districts shall not be permitted here.

Finally, it is the purpose of this district to alleviate the substandard building conditions and preserve property values in the HC-1 district by requiring that any person proposing additions or rehabilitation to existing buildings not only comply with the Building Code but also apply for a Certificate of Appropriateness as required by Canton Historic Preservation Ordinance. This requirement is intended to ensure compatibility of such additions or repairs with other uses in the district, thereby, preserving the property values of other dwellings and businesses.

1.300.02 **LAND USES PERMITTED WITHIN HISTORIC COMMERCIAL DISTRICT:** The following uses are permitted outright in the HC-1 district, subject to the regulations prescribed herein:

A. Specialty Shops i.e. antique stores, hand crafted stores.

B. All uses permitted outright in C-1 Restricted Commercial Zones.

C. Commercial uses in which the services performed and merchandise offered for sale are conducted or displayed within enclosed structures, EXCEPT FOR THE DISPLAY OF SMALL ARTICLES (i.e., those that can generally be hand-carried by one or two persons OUTSIDE THE

COMMERCIAL USE that are for sale.

D. Full service restaurants. Tables located on sidewalks shall not impede pedestrian traffic, except perhaps during the Canton Flea Market Days. Fast food restaurants, as defined by this ordinance, are prohibited in this district.

E. Accessory buildings and uses customarily incidental to the aforementioned uses. See also Section 1.31.05: Accessory Buildings or Uses.

F. Single-family detached residences. (Only one main structure per lot).

1.300.03 SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION 1.600.09:

A. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this ordinance.

B. Inns or "bed and breakfast inns."

C. Railroads and railroad spur tracks.

Minimum space between separate (detached) buildings on the same lot: Must meet requirements of the Southern Standard Building Code.

1.300.04 DIMENSIONAL REQUIREMENTS FOR HISTORIC COMMERCIAL DISTRICT (INCLUDING SINGLE-FAMILY RESIDENTIAL USES) :

A. Maximum Building Height: 35 feet, unless greater height is approved by the Mayor and Board of Aldermen.

B. Minimum Lot Area: No minimum lot area required.

C. Minimum Lot Width: No minimum lot width required.

D. Minimum Yards: No required, as approved by the Historic Preservation Commission.

1.300.05 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning

Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.305 – MIXED RESIDENTIAL AND COMMERCIAL DISTRICT (MX)

1.305.01 **PURPOSE OF THIS DISTRICT**: The purpose of this district shall be to create an area in which different types of residential uses and certain limited commercial uses may be intermixed provided that such uses conform to the requirements of this ordinance. This district may only be established in those older areas along major thoroughfares, which by custom and tradition the intermixing of residential and certain limited commercial uses has been found to be necessary and desirable.

1.305.02 **LAND USES PERMITTED**:

A. Business and professional offices of all types and related uses.
B. Light or limited manufactured uses conducted wholly within enclosed structures, including storage of materials to be processed. There shall be no external evidence of the manufacturing activity being performed, such as noise, vibration, odors, smoke, or dust.
C. Private educational and technical training facilities of all types except those that require outdoor space.
D. General commercial uses.
E. Public or quasi-public facilities and utilities.
F. Specialty shops, i.e. antique stores, hand crafted stores.
G. Residential uses of all types except manufactured homes.
H. Accessory uses.

1.305.03 **PROHIBITED USES:**

A. All prohibited uses listed in the C-5 Canton West Special Planned District.
B. Motels and Hotels.
C. Drive-in restaurants.
D. Mortuaries.
E. Horticultural nurseries.
F. Automotive and small engine repair services.
G. Tattoo parlors.
H. Fortune telling businesses as defined by this ordinance.
I. Pawn shops.
J. Check cashing businesses (also called “Pay-Day Loan Agency”).
K. Cash for title stores.
L. Tax refund anticipation loan offices.

1.305.04 **SPECIAL EXCEPTIONS/CONDITIONAL USES:**

A. Big box retail stores.
B. Supermarkets
C. Convenience stores

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

1.305.05 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: 45

B. Minimum Lot Area: 10,000 square feet.

C. Minimum Lot Width: 50 feet at the set back line.

D. Minimum Yards:

1. Front yard: 35 feet. The first ten (10) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain open except for entrance/exit driveways and shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; no parking shall be permitted in driveways within the first ten (10) feet of the front yard setback.
2. Side yards where not abutting a residential district or Agricultural (A-1) district: Fifteen (15); the first five (5) feet inside this side yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking or other paved areas.
3. Rear yards where not abutting a residential district or Agricultural (A-1) district: Twenty (20) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.
4. Side yards and rear yards where abutting any residential district or Agricultural (A-1) district: Twenty-five (25) feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; or 15 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi and a fence approved by the Zoning Administrator along side or rear yards abutting such residential district. All side or rear yards shall be landscaped open areas with no encroachments permitted including driveways, parking lots, or other paved areas.

E. Minimum Space Between Buildings on the Same Lot: 30 feet. No more than two-thirds (66 2/3 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscaped Ordinance of the City of Canton, Mississippi.

F. Minimum Green Space: Each lot shall have a minimum of fifteen percent (15 %) green space maintained by the property owner.

1.305.06 **SITE PLAN REQUIRED**: A site plan shall be submitted to the Zoning Commission in accordance with Section 1.600.11 of this code.

1.305.07 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** See the Landscaping Chapter of this code regarding the provision of landscaping along arterial streets.

1.305.08 **REQUIRED OFF-STREET PARKING, LOADING AND ACCESS CONTROL:** See Section 1.37 for off-street parking, loading, and access control requirements.

1.305.09 **SIGNS:** See Sign Chapter of this ordinance of the City of Canton, Missississi.

1.305.10 **LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED:**

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.310 - RESTRICTED COMMERCIAL DISTRICT (C-1)

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

1.310.02 **LAND USES PERMITTED**: The following uses are permitted outright in C-1 districts subject to the regulations prescribed herein:

A. Business and professional offices including medical facilities and headquarters, of all types.

B. Personal services such as hair styling shops and photographic portrait studios.

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

D. Instructional services such as studios for the teaching of fine arts, photography, music, drama and dance; business and stenographic schools; barber and beauty schools; and similar facilities.

E. Restaurants, cafeterias, delicatessens, coffee shops and carry-out food establishments if located within an office building or freestanding if approved by the Mayor and Board of Aldermen.

F. Educational and technical training facilities of all types except for those

which require outdoor space and/ or industrial type structures or those that involve trucking or similarly sized equipment; included are conference center facilities.

G. Privately-owned and operated museums, libraries, galleries, and similar facilities. (NOTE: Public or quasi-public facilities of this nature are permitted in ANY district as special exceptions).

H. Residential facilities (e. g., care-taker residences) and ancillary uses commonly associated with any permitted use.

I. Those uses that are allowed in HC-1 are prohibited.

1.310.03 SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION UNDER SECTION 1.600.09:

A. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this Code.

B. Railroads and railroad spur tracks.

C. Outside playgrounds or teaching facilities for educational uses.

1.310.04 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: 45 feet.

B. Minimum Lot Area: 10,000 square feet.

C. Minimum Lot Width: 50 feet at the set back line.

D. Minimum Yards:

1. Front yard: 35 feet. The first ten (10) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain open except for entrance/exit driveways and shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; no parking shall be permitted in driveways within the first ten (10) feet of the front yard setback.

2. Side yards where not abutting a residential district or Agricultural (A-1) district: Fifteen (15) feet; the first five (5) feet inside this side yard setback (adjacent to the property line) shall be

landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

3. Rear yards where not abutting a residential district or Agricultural (A-1) district: Twenty (20) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

4. Side yards and rear yards where abutting any residential district or Agricultural (A-1) district: Twenty-five (25) feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; or 15 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi and a fence approved by the Zoning Administrator along side or rear yards abutting such residential district. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways, parking lots, or other paved areas.

E. Minimum Space Between Buildings on the Same Lot: 30 feet. No more than two-thirds (66 2/3 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi.

F. Minimum Green Space: Each lot shall have a minimum of fifteen percent (15 %) green space maintained by the property owner.

1.310.05 **SITE PLAN REQUIRED:** A site plan shall be submitted to the Zoning Commission in accordance with Section 1.600.11 of this code.

1.310.06 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** See the Landscaping Chapter of this code regarding the provision of landscaping along arterial streets.

1.310.07 **REQUIRED OFF-STREET PARKING, LOADING AND ACCESS CONTROL:** See Section 1.37 for off-street parking, loading, and access control requirements.

1.310.8 **SIGNS:** See Sign Chapter of this ordinance of the City of Canton, Miss.

1.310.09 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.320 - GENERAL COMMERCIAL DISTRICT (C-2)

1.320.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to promote the development of well planned shopping centers and independent commercial uses within carefully selected areas of the City of Canton. The commercial activities permitted in this district include uses of a higher intensity than those first allowed in Restricted Commercial districts (C-1). Although shopping center uses permitted in this zone require access to an arterial street, such uses are not "highway oriented" like those first allowed in the Major Thoroughfares Commercial District (C-3). Uses first permitted in C-3 Major Thoroughfares Commercial districts shall not be permitted in the C-2 district.

It is also the intent of this district that commercial uses permitted in C-2 districts be limited to those in which services performed and merchandise offered for sale be conducted or displayed entirely within enclosed structures as defined by this code. Furthermore, uses of a "convenience" nature, which involve high traffic volumes and higher levels of noise and increased litter, be first permitted in C-3 Convenience Commercial Districts.

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

1.320.02 **LAND USES PERMITTED:** The following uses are permitted outright in C-2 districts subject to the regulations prescribed herein:

A. All uses allowed in C-1 Restricted Commercial District.

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

C. Shopping centers located on minimum sites of three (3) acres on an

existing or proposed arterial street as shown on the adopted Thoroughfares Plan; shopping centers may contain any of the uses permitted outright in C-2 zones.

D. Hotels and motels.

E. Restaurants.

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

G. Branch banks.

H. Other similar or related uses specifically approved by the Mayor and the Board of Aldermen.

I. Child care facilities, dry cleaners, automatic teller machines, banks.

J. Automotive Maintenance Services. All operations shall be conducted within an enclosed building (service bay doors may be open during hours of operation). Vehicles awaiting service without an operator present: shall not be parked on the site overnight unless enclosed on all sides within the service bays, and shall not be parked on a public street. Additionally, an on-site area for parking vehicles awaiting repair or pickup shall be provided outside the normal flow of traffic.

K. Accessory Uses. See Section 1.31.05: Accessory Buildings or Uses.

1.320.03 <u>SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION 1.600.09</u>:

A. Mortuaries or funeral homes provided such uses shall be located on an existing or proposed arterial street as shown on the adopted Thoroughfares Plan.

B. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this ordinance.

C. Railroads and railroad spur tracks.

D. Yard and garden centers shall be considered only as conditional use in C-2 districts because much of the activity associated with these uses is conducted out-of-doors.

E. Mini-warehouses.

1.320.04 **CONDITIONAL USES:** No conditional uses are allowed in the C-2 overlay district.

1.320.05 **DIMENSIONAL REQUIREMENTS**

A. Maximum Building Height: 45 feet, unless greater height is approved by the Mayor and Board of Aldermen.

B. Minimum Lot Area:

1. Shopping centers: Three (3) acres.

2. Independent commercial uses: 10,890 feet.

C. Minimum Lot Width:

1. Shopping centers: 200 feet.

2. Independent commercial uses: 100.

D. Minimum Yards: The minimum yard requirements for all uses permitted in a C-2 district shall be as follows:

1. Front Yard: 35 feet. The first ten (10) feet inside this front yard setback shall remain open except for entrance/exit driveways and shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; no parking shall be permitted in driveways within the first ten (10) feet of the front yard setback.

2. Side Yard where not abutting a residential district or an Agriculture (A-1) district: fifteen feet, the first five (5) feet inside the side yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

3. Rear yards where NOT abutting a residential district: twenty (20) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The

remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

4. Side yard and rear yards where abutting ANY residential district or Agricultural (A-1) district: 25 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; OR 15 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi AND a fence approved by the Zoning Administrator along side or rear yard abutting such residential district. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways, parking lots, or other paved areas.

E. Minimum Space between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (66 2/3 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi.

F. Minimum Green Space: Each lot shall have a minimum of 15 percent green space maintained by the property owner.

1.320.05 SITE PLAN REQUIRED: The developer of any use in a C-2 General Commercial district shall submit a site plan to the Zoning Commission in accordance with Section 1.600.11 of this ordinance.

1.320.06 REQUIRED LANDSCAPING ALONG ARTERIAL STREETS: See the Landscaping Chapter of this ordinance regarding the provision of landscaping along arterial streets.

1.320.07 REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL: See Section 1.37 for off-street parking, loading and access control requirements.

1.320.08 SIGNS: See Sign Ordinance of the City of Canton, Mississippi.

1.320.09 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development

Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.330 - MAJOR THOROUGHFARES COMMERCIAL DISTRICT (C-3)

1.330.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide relatively spacious areas for the development of vehicle-oriented commercial activities that typically require direct auto traffic access and visibility from major thoroughfares, including Interstate 55, Mississippi 43, and U.S. Highway 51. This district is intended to encourage those commercial activities that function relatively independent of intensive pedestrian traffic and proximity to other commercial establishments. Outdoor commercial uses (i.e., those in which all or much of the business is conducted out-of-doors) are first permitted in these C-3 districts.

These districts are appropriate for the fringes of retail districts and only along major thoroughfares designated as arterial streets on the adopted Thoroughfares Plan. Uses first permitted in I-1 Limited Industrial and I-2 Heavy Industrial districts shall not be permitted in C-3 districts.

1.330.02 **LAND USES PERMITTED:** The following uses are permitted outright in the C-3 districts subject to the regulations prescribed herein:

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

B. Food product carry-out and delivery stores.

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

D. Shopping centers located on minimum sites of three acres on an existing or proposed arterial street; shopping centers may contain any of the uses permitted outright in C-2 General Commercial zones.

E. Drive-in restaurants (fast food).

F. Hotels and Motels.

G. Veterinary clinics, excluding outside runs.

H. Indoor recreational uses, including skating rinks, bowling alleys, and

similar enterprises.

I. Banks, including branch banks and dry cleaners.

J. Commercial printing establishments, newspaper publishing and specialty printing providing that the business is conducted in an enclosed building and does not require outside storage of materials or products.

K. Automotive (new) and related sales and servicing, provided that automobile sales shall not be allowed on a lot of less than three acres.

L. Mortuaries.

M. Horticultural nurseries.

N. Automotive Repair Services. All operations shall be conducted within an enclosed building. All damaged or wrecked vehicles awaiting repair shall be effectively screened (as approved by the Architectural Review Board) so as not to be visible from surrounding property or from any adjoining public street or walkway. No damaged or wrecked vehicles shall be stored for purposes other than repair and shall not constitute a vehicle wrecking, dismantling, or impounding yard, or junk or salvage.

O. Accessory Buildings. See Section 1.31.05: Accessory Buildings or Uses.

1.330.03 <u>SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION 1.600.09</u>:

A. Public or quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this code.

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

C. Building materials sales, automotive sales (used), manufactured home sales and similar types of outdoor sales, where some or all such materials are displayed outdoors or visible from streets or highways. Minimum acreage per site shall be two acres.

D. Heavy construction equipment sales and service.

E. Truck stops.

F. Veterinary clinics with outside dog runs.

G. Railroads and railroad spur tracks.

H. Yard and garden centers, nurseries, and greenhouse operations.

I. Service stations including vehicle repairs (except body repairs), provided that all vehicle repairs except those of a minor nature (e.g., change of fan belt, minor carburetor adjustments, tire repairs) are conducted entirely within an enclosed building and provided that all such service stations are located on an arterial street designated as such by the adopted Thoroughfares Plan.

J. Convenience stores and gas stations.

K. Car washes/vacuum cleaner stations and quick car-care clinics (lubrication, tune-up, etc.).

L. Photomats, laundromats.

M. Free-standing "game rooms," for electronic video games, pool tables, etc.

N. Other similar enterprises or businesses of the same nature that are not more obnoxious or detrimental to the welfare of the particular area than the enterprises permitted above, not to include those uses that are first permitted in the I-1 District. Uses not specifically listed above shall be reviewed by the Zoning Commission and approved by the Mayor and Board of Aldermen.

O. Mini storage buildings with a two acre minimum site.

1.330.04 COMMERCIAL CORRIDOR OVERLAY DISTRICT CONDITIONAL USES: No conditional uses are allowed in the overlay district.

1.330.05 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: 45 feet, as measured from the average of the finished ground elevations at the front line of the building, and unless greater height is approved by the Mayor and Board.

B. Minimum Lot Area: 10,890 square feet.

1. Shopping centers, automotive sales, manufactured home sales, farm equipment and similar types of outdoor sales: three acres.

C. Minimum Lot Width:

1. Shopping centers, automotive sales, manufactured home sales, farm equipment and similar types of outdoor sales: 200 feet.

2. Independent commercial uses: 100 feet.

D. Minimum Yards: The minimum yard requirements for all uses permitted in a C-3 district shall be as follows:

1. Front yard: 35 feet. The first ten (10) feet inside this front yard setback shall remain open except for entrance/exit driveways and shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; no parking shall be permitted in driveways within the first ten (10) feet of the front yard setback.

2. Side yards where not abutting a residential district or Agricultural (A-1) district: fifteen (15) feet; the first five (5) feet inside this side yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

3. Rear yards where not abutting residential district or Agricultural (A-1) district: twenty (25) feet; the first five (5) feet inside this rear yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the rear yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

4. Side yards and rear yards where abutting any residential district or Agricultural (A-1) district: 50 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; OR 25 feet which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi and a fence approved by the Zoning Administrator along side or rear yards abutting such residential district. All side or rear yards shall be landscaped open area with no encroachments permitted including driveways,

parking lots, or other paved areas.

E. MINIMUM SPACE BETWEEN SEPARATE (DETACHED) BUILDINGS ON THE SAME LOT**:** 30 feet. No more than two-thirds (66 2/3 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi.

F. Minimum Green Space: Each lot shall have a minimum of 15 percent green space maintained by the property owner.

1.330.06 SITE PLAN REQUIRED: The developer of any use in a C-3 Major Thoroughfares Commercial district shall submit a site plan to the Zoning Commission in accordance with Sections 1.600.11 of this ordinance.

1.330.07 REQUIRED LANDSCAPING ALONG ARTERIAL STREETS: Developers of commercial uses in this district shall comply with Section 1.35 of this ordinance regarding the provision of landscaping along arterial streets upon which the use abuts. Where permitted as special exceptions, the developers of public/quasi-public facilities shall comply with Section 1.35.

1.330.08 REQUIRED FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL: See Section 1.37 for off-street parking, loading and access control requirements.

1.330.09 SIGNS: See Sign Ordinance Chapter of this Code.

1.330.10 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.340 - ADULT ENTERTAINMENT DISTRICT (C-4)

1.340.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to regulate the operation and location of adult entertainment establishments, as defined by this ordinance, for the purposes of: (1) stemming a potential increase in criminal activities and disturbances of the peace and good order of the City of Canton; (2) maintaining property values; (3) preventing injuries to residential neighborhoods and other commercial districts; (4) protecting and preserving the quality of life through effective land use planning.

The Canton Mayor and Board of Aldermen have found that there is substantial evidence, including numerous studies, reports and findings on the potentially harmful effect of adult entertainment uses made by cities, experts, urban planners, etc. These studies, reports, and findings document that such uses adversely affect property values cause an increase in crime, encourage businesses to move elsewhere, and contribute to neighborhood blight.

Therefore, this district is intended to regulate adult entertainment uses to insure that these adverse effects will not contribute to blighting or downgrading of surrounding neighborhoods.

1.340.02 **LAND USES PERMITTED:** The following uses are permitted outright in the C-4 districts subject to the regulations prescribed herein:

A. Any uses permitted outright in C-1, C-2, and C-3 commercial districts.

B. Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion picture theaters, and other adult entertainment activities as defined by this ordinance. However, no such establishment shall be located within 250 feet of the property line of any other such use. Furthermore, no such establishment shall be located within 1,000 feet of the property lines of any existing residential use or any residentially-zoned property, church, school, hospital, convalescent or nursing home, cemetery, civic organization building or facility, charitable organization building or facility, or public or private park or playground.

C. Accessory Uses. See Section 1.31.05: Accessory Buildings or Uses.

1.340.03 **CONDITIONAL USES (SPECIAL EXCEPTIONS) AND**

STRUCTURES

A. Public or quasi-public facilities and utilities in compliance with other regulations of this ordinance. However, see Section 1.340.03 above for minimum distances between adult entertainment uses and certain public/quasi-public facilities.

B. Other uses that may be considered as special exceptions for location in C-1, C-2, and C-3 districts.

1.340.04 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: 45 feet, unless greater height is approved by the Mayor and Board of Aldermen.

B. Minimum Lot Area: 10,890 square feet.

C. Minimum Lot Width: 100 feet.

D. Minimum Yards: The minimum yard requirements for all uses permitted in a C-4 district shall be as follows:

1. Front yard: 40 feet. The first ten feet inside this front yard setback shall remain open except for entrance/exit driveways and shall be landscaped in accordance with the city's Landscaping Ordinance; no parking shall be permitted in these driveways.

2. Side yards and rear yards: 20 feet; the first five (5) feet inside this side or rear yard setback (adjacent to the property line) shall be landscaped in accordance with standards adopted by the City of Canton. This 20 foot side or rear yard setback shall be in addition to the minimum distance (1,000 feet) required between all existing residential uses, residential zones, any public/quasi-public uses.

E. Minimum Space Between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (66 2/3 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with standards adopted by the City of Canton.

1.340.05 SITE PLAN REQUIRED: The developer of any use in a C-4 Adult Entertainment Commercial District shall submit a site plan to the Zoning Commission. As part of this requirement, 15 percent of the site must be set aside as green space.

REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL: See Section 1.37 for off-street parking, loading and access control requirements.

1.340.06 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.350 - CANTON WEST SPECIAL PLANNED DISTRICT. C-5

1.350.01 PURPOSE OF DISTRICT: The purpose of this district is to provide for modern, attractive, and efficient but limited retail, personal, and professional commercial facilities with access needs which demand location along major arterial roadways. Uses permitted in this district are frequently automobile-oriented, and, as such, this district is most appropriately located along or at intersections of urban arterial or collector roadways, as identified on the Transportation Plan. It is also intended to promote light industries and research and development type industries in high-quality, campus-like settings rather than on a lot-by-lot basis. The uses and standards in this district are intended to promote flexibility and innovation in site design and enhance the natural or scenic qualities of the environment and to assure the compatibility of the district with adjacent land uses. Also, since these corridors are major entryways and focal points in the City, landscape and buffer standards are instituted to provide commercial development which is more compatible and visually pleasing with adjacent residential areas. A preliminary site plan for the development of the entire area is required, but the development may occur in stages.

1.350.02 CANTON WEST DISTRICT IS A PLANNED DISTRICT:

1. The Canton West District is a planned district, that is, all proposed developments must be evaluated through the site plan review process in accordance with Section 1.600.11 of this ordinance.

2. The Canton West District encompasses an area west of Interstate 55, generally from Ragsdale Road to Old Jackson Road, then north to the half-section line of Section 33, then west along the half-section line to the center of the section, then north along the center line of section 33 and section 28 to the section line between section 28 and section 21, then east along this section line to the corner of sections 21, 22, 27, and 28, then north along the section line to a point above Virlillia Road, then east to the quarter section line, then north to the section line, then east to the Interstate right-of-way line.

1.350.03 LAND USES PERMITTED:

1. Uses permitted in the C-3 District under permitted uses.
2. Business and professional offices of all types and related uses.
3. Only those research and laboratory facilities existing at the time this ordinance was adopted.

4. Private educational and technical training facilities of all types except those that require outdoor space.
5. Only those light or limited manufacturing uses existing at the time this ordinance was adopted and that are conducted wholly within enclosed structures. The temporary storage of materials to be processed may be permitted if adequately screened or buffered. There shall be no external evidence of the manufacturing activity being performed, such as noise, vibration, odors, smoke, or dust.
6. Only those Warehousing and wholesale establishments (conducted wholly within enclosed structures), excluding "self-storage or mini-warehouses."
7. General Commercial uses in which services performed and merchandise offered for sale are conducted or displayed within enclosed structures except for the display of small articles (i.e., those that can generally be hand-carried by one or two persons) outside the commercial use.
8. Shopping centers, as defined herein, located on minimum sites of 3 acres.
9. Home Improvement Centers or building material sales where some of the products for sale are displayed outdoors.
10. Convenience commercial uses such as: service stations, convenience carwashes/vacuum cleaner stations, and quick car-care clinics, fast food restaurants, branch banks, laundry and dry-cleaning pickup stations, and photomats.
11. Public or quasi-public facilities and utilities within the S-5 Overlay District and only within the designated area for public/quasi-public uses.
12. Sale, rental or lease and service of vehicles (new or used), including automobiles, trucks, and recreational vehicles. This classification does not include heavy equipment sales and service, such as tractors, dump truck, bulldozers, etc.
13. R-1 Single-Family Residential and R-3 Medium Density Residential uses within the S-5 Overlay District and only within the designated areas for these two use types.
14. Accessory Uses. See Section 1.31.05: Accessory Buildings or Uses.

1.350.04 <u>PROHIBITED USES</u>:

Uses specifically prohibited in the Canton West District shall be as follows:

1. Building material sales where all of the building materials, such as bricks, lumber, concrete culverts, etc. are displayed outdoors.
2. Heavy construction equipment sales and service, such as tractors,

dump trucks, bulldozers, etc.

3. Sale, lease or rental and service of mobile homes.
4. Bus terminals.
5. Manufacturing uses where all or part of the activity is conducted outdoors (such as brick or concrete manufacturing, etc.) or those industrial uses that emit noise, vibration, odors, smoke, or dust detectable off the premises.
6. Veterinary clinics and pet kennels with outside dog runs.
7. Animal feed lots.
8. Junk yards, salvage yards, or automobile wrecking yards.
9. Adult entertainment
10. Night Clubs, Bars, and Taverns.

1.350.05 **PRELIMINARY SITE PLAN REQUIRED:** The Canton West District shall be established only upon application, after public hearing as specified in the amendatory procedures in this ordinance, and shall require an approved plan as provided below in order to provide for modern commercial centers of integrated design.

Site Plan Information. A preliminary site plan shall be prepared and submitted to the Planning Commission. The preliminary site plan shall be drawn to a scale of not less than 200 feet to the inch and shall include the following information:

(a) Property boundary lines and dimensions, topography (5' contour intervals), location map.
(b) Arrangement and dimensions and elevations of buildings and the general use of the property.
(c) Areas to be developed for parking, unloading, drives, walkways, recreation, or other uses.
(d) A general grading and landscape plan including the location of major existing growth that is to be retained. The landscape plan shall include specific information pertaining to bufferyards and required landscaped areas, including walls and fences and open space
(e) General locations and types of utilities and easements including storm drainage as well as general details of all surfaced areas.
(f) Estimates of traffic volumes and all access points, including access to arterials.
(g) Existing adjacent land uses of abutting property.
(h) A preliminary time schedule for completion of the entire project.
(i) A statement regarding the proposed method of operating and maintaining the project.
(j) A statement of financial responsibility to assure construction of the

planned district within the proposed time schedule.

1.350.06 SITE DEVELOPMENT REGULATIONS: Landscaped Bufferyard Requirements. The following landscape bufferyards shall be provided in this District:

1. **Purpose**. The bufferyard and screening provisions are included in this section to improve the physical appearance of the district; to improve the environmental performance of new development by contributing to the abatement of heat, glare, or noise and by promoting natural percolation of storm water and improvement of air quality; to buffer potentially incompatible land uses from one another; and to conserve the value of property and neighborhoods with the city.

2. **Applicability**. The provisions of this section shall apply to all new development on each lot, site, or common development upon application for a building permit, except for the following:
   (a) Reconstruction or replacement of a lawfully existing use or structure following casualty loss.
   (b) Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures or the location and design of parking facilities or other site improvements.
   (c) Additions or enlargements of existing uses or structures, except surface parking, which increase floor area or impervious coverage by less than twenty (20) percent. Where such additions or enlargements are twenty (20) percent or greater, these provisions shall apply only to that portion of the lot, site, or common development where the new development occurs.

3. **Conflicts**. Any conflict between this section and another chapter of this ordinance shall be resolved in favor of the more restrictive provision.

4. **Definitions**. The following definitions shall be used for terms contained within this article:
   (a) Bufferyard: A landscaped area provided to separate and partially obstruct the view of two (2) adjacent land uses or properties from one another.
   (b) Landscaped Area: That area within the boundaries of a given lot consisting primarily of plant material, including, but not limited to, grass, trees, shrubs, flowers, vines, ground cover, and other organic plant materials. Inorganic materials, such as brick, stone, or aggregate, may be used within landscaped areas, provided that such material comprises no more than thirty-five (35) percent of the area of the

required landscaped area. Flat concrete or asphalt, other than walkways five (5) feet or less in width, may not be used within a required landscaped area.

(c) Tree: A woody plant having at least one (1) well-defined trunk or stem and a more or less definitely formed crown, usually attaining a mature height of at least eight (8) feet.

5. **General Standards.**

(a) Location and Design: Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated, or reserved public or private street or right-of-way.

The bufferyard is normally calculated as parallel to the property line. However, the building official may permit design variations in the bufferyard; but, in no case, shall the average depth of the bufferyard be less than that required of this section. Average depth shall be measured at the two end points of the buffer and two additional points that are approximately one-third of the total linear distance from the end point. At his/her sole discretion, the building official may determine that these measuring points do not represent a fair approximation of the average depth of the buffer, and he/she may include additional measuring points to provide a more definitive approximation of the average depth of a proposed bufferyard. Where a required drainage, utility, or other easement is partially or wholly within a required bufferyard, the developer shall design the buffer to minimize plantings within the required easement.

The building official, the Planning Commission, and the governing authority may require additional bufferyard area or additional plantings of the developer in such instances to ensure that the screening purpose of the bufferyard is maintained. Any buffer approved by the Planning Commission shall be included on the site plan.

(b) Use of Bufferyards: A bufferyard may be used for some forms of passive recreation. It may contain pedestrian, bike, or equestrian trails, provided that:

(1) No required plant material is eliminated.
(2) The total depth/width of the bufferyard is maintained.
(3) All other regulations of this chapter are met. In no event, however, shall the following uses be allowed in bufferyards: accessory buildings, sheds, garages, playfields, stables, swimming pools, tennis courts, or similar active recreation uses.

(c) Ownership of Buffers: Bufferyards may remain in the ownership of the original owner/developer (and assigns) of a developing property. Bufferyards may be subjected to deed restrictions and subsequently be freely conveyed. They may be transferred to any consenting grantees, such as owners associations, adjoining land owners, a park district, the City, or any conservation group, provided that any such conveyance adequately guarantees the protection of the bufferyard for the purposes of this article.

6. **Bufferyard Requirements**: When nonresidential uses abut residential uses, the following standards shall apply:

(a) All of the structures for the nonresidential uses shall be set back a minimum of 50 from the residential property line and a 25-foot landscape buffer meeting the standards set forth in this section shall be located between the residential and non-residential uses; or

(b) All of the structures for the nonresidential uses shall have a minimum 25-foot landscape buffer meeting in the standards set forth in this section and a masonry wall or a fence, as approved by the Mayor and Board of Aldermen, located between the residential and nonresidential uses.

(c) Existing plant material may be counted as contributing to the total bufferyard requirement. The bufferyards specified are to be provided on each lot or parcel independent of adjoining uses or adjoining bufferyards.

(d) Should a developed parcel increase in intensity or zoning classification from a given zoning district to a more intense zoning district (e.g., from C-1 to C-3), the Planning Commission shall, during the site plan or subdivision review process, determine if additional bufferyard is needed and, if so, to what extent and type.

(e) Additional Bufferyard Provisions: In addition to the requirements provided in this section, the following bufferyard provisions shall apply to proposed development parcels. In general, the owner, developer, or operator of a proposed use within a development parcel shall install and maintain a landscaped bufferyard on his/her lot, site, or common development, as set forth in this section. Any buffers approved by the Planning Commission shall be included in the site plan.

(1) Parcels with Intervening Major Street:

When an arterial or collector street (as identified on the Transportation Plan for the City of Canton) separates adjacent development parcels requiring a bufferyard, the required bufferyard shall be or fifteen (15) feet. Relief from this provision may be recommended by the Planning Commission.

(2) Parcels with Intervening Local Street:
When a local street (as identified on the Transportation Plan for the City of Canton,) or any other public right-of-way separates adjacent development parcels requiring a bufferyard, the required bufferyard shall be twelve (12) feet.

(3) Transitional Bufferyard Landscaped Area and Minimum Width Regulations:

A. General Design Standards: The following general provisions shall apply to the design and construction of transitional bufferyards as defined herein:

1. The layout, design, and arrangement of the prescribed numbers and types of landscape materials within a bufferyard shall be in accordance with this section.
2. In those bufferyards which require the construction of a berm, wall, or similar opaque barrier, the following provisions shall apply:

a. An opaque barrier, at the height prescribed in the specific bufferyard design type standards in this section, shall be provided which visually screens the potentially offensive development parcel uses from the adjacent properties as follows:

i) A masonry wall, a minimum of three (3) feet in height, of a design approved by the planning director.
ii) A hedge-like screen or a random or informal screen plantings of broadleaf evergreen shrubs or approved deciduous plant material, capable of providing a substantially opaque barrier and attaining a minimum height of four (4) feet within three (3) years of planting. Hedges shall be planted initially at minimum spacings and sizes to adequately provide a substantially opaque barrier within two years of planting.
iii) A landscaped earth berm with a maximum slope of 3:1, rising no less than two and one-half (2.5)

feet above the existing grade at the lot line separating the development parcel from adjacent properties. Landscape materials to be included on the berm are identified in this section.

iv) Any combination of these methods that achieves the cumulative minimum height prescribed in each bufferyard type.

(4) Additional Landscaping Requirements.

In addition to the landscape material requirements provided in this Section, the following landscaping materials shall be required of all developments in the Canton West district:

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

(b) For lots of greater than twenty thousand (20,000) square feet in area, a minimum of five (5) percent of the lot area shall be permanently maintained landscaped area (exclusive of the required bufferyards).

(c) For every five hundred (500) square feet of landscaped area on a lot/site, a minimum of one medium deciduous or ornamental tree shall be provided (exclusive of the required bufferyard landscape requirements).

(5) Visibility Areas at Entrances/Intersections.

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

(6) Traffic Access Control Standards.

In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply.

(a) Maximum Width of Driveway Opening at Property Line: 35 feet

(b) Minimum Throat Length of Driveway (measured from property line to first parking aisle): 50 feet for access to "Urban Arterial," 30 feet for all other public rights-of-way.

(c) Location of Driveways: Driveways shall be so located that vehicles entering or leaving the establishment will not interfere with the free movement of traffic or create a hazard on the public right-of-way. Where feasible, they shall be located where there are not sharp curves and steep grades and where sight distance is adequate for safe traffic operation. Driveways should not be located within intersections, interchanges, or on highways immediately approaching them. They shall be so located that they will not interfere with the placement of signs, signals, or other devices that affect traffic operation.

All proposed developments shall utilize the following guidelines in the preparation of a site plan in the district. The city engineer shall approve all driveway locations for proposed developments.

(d) Driveway Standards:

(1) GENERAL PERFORMANCE STANDARDS: It shall be unlawful to construct or use any direct access driveway that does not meet the following criteria:

A. Any driveway design must allow an entering vehicle turning speed of 15 mph to help reduce interference with through street traffic.

B. Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal weekday peak traffic period as determined by a competent traffic survey.

C. There must be sufficient on-site storage to accommodate at least three queued vehicles waiting to park or exit without using any portion of the street right-of-way in any other way interfering with street traffic.

D. Provisions for circulation between adjacent parcels should be provided through coordinated or joint parking systems, or other methods as specified in the city's Comprehensive Plan.

E. Driveway entrances must be able to accommodate all vehicle types having occasion to enter the site, including delivery vehicles.

F. Driveway placement should be such that loading and unloading activities will in no way hinder vehicles ingress or egress.

G. Direct-access driveway placement must be such that an exiting vehicle has an unobstructed sight distance according to the following schedule:

Highway Design Speed (mph)	Sight Distance (feet)
30	200
35	225
40	275
45	325
50	380
55	435
60	505

H. Driveway design must be such that an entering vehicle will not encroach upon the exit lane of a two-way driveway. Also, a right-turning exiting vehicle will be able to use only the first through-traffic lane available without encroaching into the adjacent through lane.

(2) STANDARDS FOR RIGHT-TURN LANES AND TAPERS: Right-turn lanes and tapers will be required when:

A. Expected right-turn ingress movements meet or exceed 50 per hour during a typical weekday peak traffic period.

B. Driveway volumes are expected to meet or exceed 1,000 vehicles per day.

C. The City Engineer can document, through traffic analysis, that such treatment is necessary to avoid congestion and/or unsafe conditions on the public thoroughfare.

(3) DRIVEWAY PROFILE: Driveway profiles shall be determined using the following criteria:

A. The grade of a two-way, one-way, or divided commercial driveway shall not exceed 1.5 percent for a minimum distance of 25 feet

from the edge of the pavement. Beyond this distance, the grade shall not exceed eight percent.

B. If the highway is curbed and if the sidewalk is 10 feet or less from the edge of the pavement, the grade of a driveway shall be the grade required to meet the sidewalk elevation, but, if that grade would exceed the maximums specified in paragraph 1, the sidewalk shall be either tilted or inclined.

C. If the highway is uncurbed, the grade of the driveway between the highway edge of pavement and the edge of the shoulder shall conform to the slope of the shoulder to the edge of the driveway approach.

D. For a driveway on an upgrade towards the highway, a grade of 1.5 percent for a distance of 100 feet from the edge of the pavement is required. Beyond this distance, the grade shall not exceed 40 percent and the difference in grades where there is a change of grade shall not exceed three percent.

E. Vertical curves with a minimum length of 15 feet shall be provided at a change of grade of four percent or more.

F. If the sidewalk elevation has to be adjusted to meet the driveway, the sidewalk shall be inclined at a rate not to exceed one-foot vertical for every 24 feet horizontal.

(4) DRIVEWAY SPACING: Minimum Driveway spacing is needed to help mitigate traffic congestion on arterial roads. Driveway spacing will be determined as a function of arterial highway operating speeds. Spacing will be determined according to the following schedule:

Highway Speed Limit (mph)	**Minimum Spacing (feet)**
25	105
30	125
35	150
40	185
45	230
50	275

These spacings are based on average vehicle acceleration and deceleration rates and are considered necessary to maintain safe traffic

operation. Spacing will be measured from the midpoint of each driveway. In the event that a particular parcel or parcels lack sufficient arterial frontage to maintain adequate spacing, the landowner(s) have one of two options:

A. They can seek a variance from the zoning administrator for minimum spacing, but in no case can the variance be greater than the next lowest minimum spacing on the table above.

B. The adjacent landowners may agree to establish a common driveway. In such cases, the driveway midpoint should be the property line between the two parcels. The driveway must meet standard specifications, and the estimated driveway volume will be the sum of the trip-generation rate of both land uses in question.

(5) NUMBER OF DRIVEWAYS PER PARCEL:

A. A maximum of one driveway opening shall be permitted to a particular site from each of any one or two abutting streets.

B. When in the opinion of the county or the City Engineer, and in the view of the permittee, it is in the interests of good traffic operation, the Planning Commission may permit one additional driveway entrance along a continuous site with frontage in excess of 300 feet or two additional driveway entrances along a continuous site with frontage in excess of 600 feet.

C. Where a dual-service driveway is used, it will be considered, for purposes of this section, to be only one direct-access driveway.

D. In the case of dual one-way driveways, one pair may be used per 250 feet of frontage. Only one pair of one-way drives may be used per street frontage.

(6) CORNER CLEARANCE: All direct-access driveways shall be constructed such that the point of tangency of the curb return radius closest to a signalized or stop-sign-controlled intersection shall be at least 40 feet from the perpendicular curb face of the intersecting street. Using a 15-foot driveway radius, the edge of the driveway radius, the edge of the driveway throat shall be 55 feet from the curb face of the perpendicular intersecting street. The driveway radius shall not compound with the intersection corner radius.

1.350.07 GENERAL STANDARDS

(a) LOADING AREAS SCREENED: Loading areas shall be screened and located on side or rear yards.

(b) OUTDOOR STORAGE: Outdoor storage shall not be allowed in the district.

(c) ACCESS TO PROPERTY: Access to the property shall be approved by the City Engineer, Planning Commission, and Mayor and Board of Aldermen.

(d) OFF-SITE TRAFFIC IMPACT: The off-site impact of the site-generated traffic shall be based on a study performed by the developer using the latest edition of the Highway Capacity Manual. The results of the corresponding impacts shall be evaluated relative to the computed levels of service at various time frames and durations as defined in the manual. A plan for mitigating any adverse effects shall be proposed by the developer and approved by the City Engineer, Planning Commission, and Mayor and Board of Aldermen prior to the issuance of any building permits. The Traffic Mitigation Plan shall be based on the results of the traffic study and shall include proposed improvements, a cost estimate, a construction schedule, and the extent of participation by the proposed development.

(e) HALF OR PARTIAL STREETS: New half or partial streets shall be prohibited in new developments. When a tract to be developed borders an existing street having a right-of-way width insufficient to conform to the minimum width standards required by these regulations, such additional right-of-way shall be platted and dedicated in such a way as to make the resulting street conform.

(f) LANDSCAPING STANDARDS: Persons wishing to development property within the entranceway corridor district shall comply with the landscaping standards as follows:

(1) Existing natural landscaping material shall not be disturbed within 25 feet of the property line that adjoins the street right-of-way. This area shall be labeled as open space setback. No structures, fences, walls, or parking are allowed in this setback;

(2) Landscaping shall be provided in the open space setback where landscaping has been disturbed and shall be provided surrounding buildings and parking areas at a minimum width of five feet. The intensity

of landscaping shall be two plants per 30 square feet of landscaped area. One-half of vegetation shall be at least four-feet high, and one-half shall be one-half shall be one-foot high at the time of planting. Trees shall be a minimum of 10 percent of the total planting. If parking is provided in the front setback, it shall be effectively screened by earth berms or landscaping, which shall be at least four feet above parking lot grade; and

(3) In order to preserve natural landscaping on stream banks, an undisturbed setback of 10 feet shall be retained next to the major streams where 100-year floodplains have been recorded.

(G) LIGHTING STANDARDS: Any lighting in the Canton West District used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjacent residential property. Specifically, lights with no cutoff-type luminaire shall be no higher than 10 feet and shall have a minimum illumination, measured at the lot line at ground level, of .20 candlepower.

Lights with a cutoff-type luminaire shall be no higher than 20 feet with a maximum illumination, measured at the lot line ground level, of .30 candlepower.
Lights with a luminaire of less than 90-degree cutoff shall be no higher than 20 feet, with a maximum illumination, measured at the lot line at ground level, of .50 candlepower. The burden of proof of the candlepower provided shall be upon the developer.

(H) SIGN STANDARDS: Signs in the Canton West District shall meet the standards in the sign chapter of this code.

(I) ARCHITECTURAL STANDARDS: All commercial and multi-family structures in the Canton West District shall meet the city's architectural design review guidelines. In addition, all commercial and multi-family structure shall meet the following standards:

A. Roof shall be flat or nearly flat and concealed by horizontal parapets;
B. No more than 60 percent of the façade facing the Canton West District may be glass or reflective material; and
C. A minimum of 80 percent of the surface material, excluding doors and windows, shall be brick or split block.

1.350.08 Review and Approval:

1. The Planning Commission shall study the preliminary plan and supporting data and may make suggestions for changes and adjustments. After the Commission

approves the preliminary plan and construction schedule, it shall submit same with a brief report to the governing authority. Whenever the governing authority approves the preliminary plan and supporting material, one copy shall be filed in the office of the Commission and one copy shall be given to the Owner. Upon receipt of the approved preliminary plan, the Owner may proceed with final plans and specifications for all or for any portion of the project that is agreed upon. The final plans and specifications shall be reviewed and approved by the Commission and transmitted to the governing authority for approval. Upon approval by the governing authority, one copy shall be filed in the Planning Commission office. No building permit shall be issued until a final plat of the proposed development, or portion thereof, is approved, filed, and recorded.

2. Modification of Site Plan: The Planning Commission or the governing authority may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than district regulations and may include, but not be limited to, provision for additional bufferyards, landscaping and screening, installation of erosion control measures, improvement to access and circulation systems, rearrangement of structures or uses within the site, and location and character of signs and other modifications deemed necessary to ensure compatibility with the surrounding environment and to protect public health, safety, and welfare.

3. Lapse of Approval: A site plan approval shall become void two (2) years after the date on which the approval became effective unless the applicant receives a building permit and diligently carries out construction prior to expiration of that period, or a specific time extension is requested of and approved by the governing authority. A site plan approval may establish a longer effective period as a specific condition of the application. The Planning Commission may grant one (1) year extension of a site plan approval, provided that the applicant files a written request for an extension stating the reasons for the request prior to the date of expiration of the approval.

4. Modification of Site Plan Approval: The Planning Commission may approve an application for modification of a previous site plan approval if it is determined that the modification does not affect findings relating to the criteria described herein, leading to the original approval.

5. New Applications Following Denial or Revocation: No application for approval of the same or substantially the same site may be filed within one (1) year of the date of denial of a site plan review by the Planning Commission and/or the governing authority.

6. Approval to run with the Land: A site plan approval pursuant to these provisions shall run with the land and shall continue to be valid upon change of ownership of

the site or structure that was the subject of the application.

7. Site Plans Approved Under Prior Regulations: Any site plan approved administratively or approved by ordinance under regulations in effect before the effective date of this regulation shall be considered on approved site plan subject to any conditions imposed at the time of original approval. A pre-existing site plan approval shall be subject to the provisions of this section regarding lapse of approval, modification, or revocation.

1.350.09 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.360 – CANTON CROSSING MEDICAL OVERLAY DISTRICT C-5 (M)

1.360.01 **PURPOSE OF THIS DISTRICT**: The Canton Crossing C-5 (M) Medical Overlay District is established to facilitate and encourage activities related to and supportive of health care and higher education. Specifically, the district is intended to encourage and maximize the opportunity for the development health care related enterprises that include, but are not limited to, pharmaceuticals, biologics, biotechnology, diagnostic imaging, medical supply, medical equipment, medicine and related manufacturers and processors, medical service providers, medical product distributors and lab testing facilities. Other complementary uses and activities include supporting retail and research establishments. In addition to these activities and uses, the district allows for certain housing opportunities and is connected transportation facilities that include provisions for cyclists, pedestrians and vehicles. The uses and standards in this district are intended to promote flexibility and innovation in site design and enhance the natural or scenic qualities of the environment and to assure the compatibility of the district with adjacent land uses.

1.360.02 **SITE PLAN REQUIRED:** The Canton Crossing Medical District C-5(M) is a planned district. All proposed developments must be evaluated through the site plan review process in accordance with Section 1.600.11 of this ordinance.

1.360.03 **COORDINATION**: The Canton Crossing Medical District C-5(M) shall be considered an integral part of the Madison County Healthcare Zone Overlay District as part of the larger Healthcare Master Plan Initiative directed by the Mississippi Health Care Industry Zone Act. Changes to these ordinances shall be coordinated with Madison County, and the State of Mississippi.

1.360.04 **LAND USES PERMITTED:** The following uses are permitted by-right in the C-5(M) district subject to the regulations prescribed herein:

A. Commercial Uses

(1) Uses permitted in the C-1 District;
(2) Banks;
(3) Hotels with internally access rooms;
(4) Parking;
(5) Athletic Club, gym, fitness center.

B. Medical and Health Care Related Uses

(1) Pharmaceuticals;
(2) Biologics;
(3) Biotechnology;
(4) Diagnostic Imaging;
(5) Medical Supply;
(6) Medicine and related manufacturers;
(7) Medical service providers;
(8) Medical product distributors;
(9) Lab testing facilities;
(10) Hospitals;
(11) Clinics;
(12) Rehabilitation Center;
(13) Ambulance Service.

C. Educational and Research Uses

(1) Private or public educational and technical training facilities of all types except those that require outdoor space.
(2) Research and laboratory facilities existing at the time this ordinance was adopted.

D. Residential Uses

(1) Residential uses are allowed above a first story office or commercial use.

(2) Nursing Homes.

(3) Personal Care.

E. Public or quasi-public facilities and utilities.

F. Accessory Uses. Section 1.31.05: Accessory Buildings or Uses.

1.360.05 **<u>PROHIBITED USES</u>**: Uses specifically prohibited in the C-5(M) shall be as follows:

A. Building material sales where all of the building materials, such as bricks, lumber, concrete culverts, etc. are displayed outdoors.

B. Heavy construction equipment sales and service, such as tractors, dump trucks, bulldozers, etc.

C. Sale, lease or rental and service of mobile homes.

D. Bus terminals.

E. Manufacturing uses where all or part of the activity is conducted outdoors (such as brick or concrete manufacturing, etc.) or those industrial uses that emit noise, vibration, odors, smoke, or dust detectable off the premises.

F. Veterinary clinics and pet kennels with outside dog runs.

G. Animal feed lots.

H. Junk yards, salvage yards, or automobile wrecking yards.

I. Adult entertainment.

J. Self-storage or mini-warehouses.

K. Sale, rental or lease and service of vehicles (new or used), Including automobiles, trucks, and recreational vehicles.

1.360.06 <u>DEVELOPMENT STANDARDS</u>

A. PURPOSE: The purpose of these standards and guidelines is to contribute to the development of a well-planned urban environment by fostering the creation of visually compatible building elements. Their intent is to:

(1) Create and maintain a strong community image, identity and sense of place.

(2) Create and maintain a positive visual ambiance for the community.

(3) Enhance and sustain property values.

(4) Promote a high degree of compatibility between surrounding structures and land uses.

(5) Establish and promote a standard for quality design and

enduring quality development.

(6) Foster civic pride and community spirit by maximizing the positive impact of quality development.

B. Base Standards, Enhanced Standards (Architectural Criteria) and Architectural Standards Definitions.

(1) Base Standards – consist of existing, or hereafter amended, development standards presently contained in the City of Canton Code of Ordinances.

(2) Enhanced Standards – consist of the development standards hereafter set forth below.

(3) Architectural Standards – consist of the Base Standards plus the Enhanced Standards. In case of a conflict in the applicability between Base Standards and Enhanced, the more stringent of the two shall apply.

C. APPLICABILITY: The Architectural Standards shall apply to all New development and redevelopment within the Canton West Architectural district of the City, further identified as the area within the city limits, west of Interstate-55, with the following exceptions:

(1) Single-family and two-family dwellings, except for Section (m) Utilities. Where served by existing power, such dwellings shall be exempt from these aforesaid enhancements.

(2) Additions, renovations, replacement or redevelopment of an existing structure or project, where the cost of such additions, renovations, replacement or redevelopment does not exceed 50 percent of the value of the existing structure(s), of 35 percent of the square.

D. SUBMITTAL AND APPROAVAL REQUIREMENTS:

Submission and approval of project plans shall be in accordance with the applicable sections of the City's Code of Ordinances. In addition, the following is required:

(1) Architectural drawings (complete front, sides, and rear elevations and overhead view of roof) of all structures shall be a required exhibit of any site plan required exhibit of any site plan required to be submitted for development approval.

(2) Such drawings shall be rendered in color prior to final project review by the Architectural Review committee and shall include:

(a) construction material specifications,
(b) color charts,
(c) structure dimensions,
(d) service area and mechanical equipment locations,
(e) outdoor storage area locations,
(f) screening devices,
(g) site lighting plan,
(h) any other information as determined necessary by the City to ensure consistency with the intent of this ordinance.

(3) Final approval of all required project design submittals shall be the city as part of the development approval process. Such approval shall include, but not be limited to, building elevations, roof type, construction materials, lighting, screening, colors and building orientation.

1.360.07 **ENHANCED STANDARDS (ARCHITECTURAL CRITERIA):** See Section 1.580.05 Enhanced Architectural Standards for the C-5 Canton West Special Planned District – Enhanced Standards (Architectural Criteria).

1.360.08 **VARIANCE PROCEDURE**: See section 1.600.08 DIMENSIONAL VARIANCES.

SECTION 1.400 - LIMITED INDUSTRIAL DISTRICT (I-1)

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

1.400.02 **LAND USES PERMITTED:** The following land uses shall be permitted in I-1 districts provided such uses conform to standards established by appropriate federal and state regulatory agencies:

A. Any uses permitted in C-3 Highway Commercial Districts, subject to all of the regulations of the C-3 Districts.

B. Light or limited manufacturing conducted wholly within completely enclosed buildings, except that the temporary storage of articles, materials, or other matter to be processed, assembled, or otherwise changed may be permitted if conducted in I-1 districts shall, in general, be dependent upon raw materials refined elsewhere.

The following limited manufacturing uses shall be permitted, provided they are not offensive to neighboring land uses due to the emission of dust, gas, smoke, noise, fumes, odors, vibrations, fire hazards, or other objectionable influences:

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

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

wood (excluding sawmills).

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

F. Manufacturing of pottery or similar ceramic products (using only previously prepared or pulverized clay, and kilns fired only by electricity or natural gas).

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

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

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

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

1.400.03 <u>SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION 1.600.09</u>:

A. Public and quasi-public facilities and utilities may be allowed in this district in compliance with Section 1.33 of this ordinance and subject to any limitations and restrictions deemed necessary by the Mayor and Board of Aldermen.

B. Conditional uses listed under the C-3 Major Thoroughfares Commercial District, subject to C-3 regulations.

C. Television, cellular phone, and radio transmitters.

D. Warehousing and storage, provided that all storage is within enclosed structures; such warehousing may include the storage of goods

manufactured on the premises as well as goods manufactured off the site; includes "mini-warehouses" or "self-storage warehouses."

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

F. Railroads and railroad spur tracks.

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

1.400.04 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: No structure shall exceed 35 feet in height as measured from the average of the finished ground elevations the front line of the building. Any building or structure proposed to be constructed or erected above the maximum height shall require site plan review in accordance with Section 1.600.11.

B. Minimum Lot Area: 20,000 square feet.

C. Minimum Lot Width: 100 feet.

D. Minimum Yards:

1. Front yard: 100 feet. The first fifteen (15) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain open except for entrance/exit driveways and shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; no parking shall be permitted in driveways within the first fifteen (15) feet of the front yard setback.

2. Side yards where not abutting a residential district or Agricultural (A-1) district: twenty-five (25) feet; the first ten (10) feet inside this side yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the side yard (between the landscaped five feet and the structure) may be used for driveways, parking, or other paved areas.

3. Rear yards where not abutting a residential district or Agricultural (A-1) district: twenty-five (25) feet; the first ten (10) feet inside

this rear yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the rear yard (between the landscaped ten (10) feet and the structure) may be used for driveways, parking, or other paved areas.

4. Side yards and rear yards where abutting any residential district or Agricultural (A-1) district: 50 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; or 20 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi and a fence approved by the Zoning Administrator along side or rear property lines abutting such residential district. All side or rear yards shall be landscaped open area with no encroachments permitted driveways, parking lots, paved areas.

E. Minimum Space Between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (66.66 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi.

F. Minimum Green Space: Each lot shall have a minimum of 15 percent green space maintained by the property owner.

1.400.05 **SITE PLAN REQUIRED:** A site plan shall be submitted to the Zoning Commission in accordance with Section 1.600.11 of this ordinance.

1.400.06 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** See the Landscaping Chapter of this Ordinance regarding the provision of landscaping along arterial streets upon which the use abuts. Where permitted as special exceptions, the developers of public/quasi-public facilities shall comply with Section 1.33.

1.400.07 **REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL:** See Section 1.37 for off-street parking, loading and access control requirements.

1.400.08 **SIGNS:** See Sign Chapter of this Ordinance of the City of Canton, Mississippi.

1.400.09 **LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED**

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.410 - HEAVY INDUSTRIAL DISTRICT (I-2)

1.410.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide areas for the exclusive development of industrial uses that generally have extensive space requirements and/or generate substantial amounts of noise, vibration, odors, or possess other objectionable characteristics. It is the intent of this ordinance that such "heavy" industrial districts be located insofar as possible adjacent only to C-3 Major Thoroughfare Commercial or I-1 Limited Industrial Districts, which shall serve as transitional zones between 1-2 districts and residential uses and lower intensity commercial uses. Heavy industrial uses shall be located only in areas directly accessible to major thoroughfares or railroads. (See also Section 1.36.05 of this ordinance with regard to prohibited uses.)

1.410.02 **LAND USES PERMITTED:** The following land uses permitted in I-2 districts may include those located outside of enclosed structures as well as those within enclosed structures, subject to the regulations of the ordinance and standards established by appropriate Federal and State regulatory agencies. The following uses are permitted outright:

A. Any outright uses permitted in an I-1, subject to all of the Regulations of the I-1 District.

B. Heavy manufacturing uses which are not potentially hazardous or offensive to neighboring land uses due to the emission of dust, gas smoke, noise, fumes, odors, vibrations, or other objectionable influences shall be permitted by right in 1-2 districts, except that manufacturing uses of the "wet" type (i.e., those industries that require large amounts of water in processing or discharge large amounts of by-products through the sewer system) shall be permitted only as conditional uses (see Section 1.600.09).

C. Television, cellular phone, and radio transmitters.

1.410.03 **SPECIAL EXCEPTIONS/CONDITIONAL USES:**

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

B. Primary metal manufacturing, including: blast furnaces, steel works, and the rolling and finishing of ferrous metals; iron and steel foundries;

primary smelting and refining of non-ferrous metals; and similar activities.

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

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

E. Junk yards and auto salvage/wrecking yards.

F. Public and quasi-public facilities and utilities may be allowed in this district in compliance with Section 1.33 of this ordinance and subject to any limitations and restrictions deemed necessary by the Mayor and Board of Aldermen.

G. Railroads and railroad spur tracks.

H. Any other use of a heavy industrial nature that is not prohibited under Section 1.36.05 of this ordinance or otherwise prohibited by law may be initiated in I-2 districts, subject to any limitations and restrictions deemed necessary by the Mayor and Board of Aldermen.

1.410.04 DIMENSIONAL REQUIREMENTS:

A. Maximum Building Height: No structure shall exceed 35 feet in height as measured from the average of the finished ground elevations at the front line of the building. Any building or structure proposed to be constructed or erected above the maximum height shall require site plan review in accordance with Section 1.600.11.

B. Minimum Lot Area: One (1) acre or 43,560 square feet.

C. Minimum Lot Width: 150 feet.

D. Minimum Yards:

1. Front yard: 100 feet. The first fifteen (15) feet inside this front yard setback (adjacent to the street right-of-way line) shall remain

open except for entrance/exit driveways and shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; no parking shall be permitted in driveways within the first fifteen (15) feet of the front yard setback.

2. Side yards where not abutting a residential district or Agricultural (A-1) district: twenty-five (25) feet; the first ten (10) feet inside this side yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the side yard (between the landscaped ten (10) feet and the structure) may be used for driveways, parking, or other paved areas.

3. Rear yards where not abutting a residential district or Agricultural (A-1) district: twenty (20) feet; the first ten (10) feet inside this rear yard setback (adjacent to the property line) shall be landscaped in accordance with the Landscape Chapter of this Code (a.k.a. the Landscape Ordinance of the City of Canton, Mississippi. The remainder of the rear yard (between the landscaped ten (10) feet and the structure) may be used for driveways, parking, or other paved areas.

4. Side yards and rear yards where abutting any residential district or Agricultural (A-1) district: 50 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi; or 20 feet, which shall remain open and be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi and a fence approved by the Zoning Administrator along side or rear property lines abutting such residential district. All side or rear yards shall landscaped open area with encroachments permitted driveways, parking lots, and paved areas.

E. Minimum Space Between Separate (Detached) Buildings on the Same Lot: 30 feet. No more than two-thirds (66.66 percent) of the space between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscape Ordinance of the City of Canton, Mississippi.

F. Minimum Green Space: Each lot shall have a minimum of 15 percent green space maintain by the property owner.

1.410.05 SITE PLAN REQUIRED: A site plan shall be submitted to the Zoning

Commission in accordance with Section 1.600.11 of this ordinance.

1.410.06 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** See Landscaping Chapter of this ordinance regarding the provision of landscaping along arterial streets upon which the use abuts. Where permitted as special exceptions, the developers of public/quasi-public facilities shall comply with Section 1.600.09.

1.410.07 **REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL:** See Section 1.37 for off-street parking, loading and access control requirements.

1.410.08 **SIGNS:** See Sign Ordinance Chapter of this Code.

1.410.09 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.500 - RETIREMENT VILLAGE SPECIAL USE DISTRICT (S-1)

1.500.01 **PURPOSE OF THIS DISTRICT:** The purpose of this district is to provide land areas within the City of Canton for development of elderly housing and care facilities which, because of their size, institutional nature and unique characteristics, do not fit compatibly into other zoning districts of the City. Property zoned "S-1" (Special Use-1) shall consist only of Retirement Villages that constitute "self-contained communities" and may include: residential uses, related health care facilities, cultural and recreational facilities, support service operations, commercial outlets operated primarily for the benefit of the residents and staff of the Retirement Village (e.g., ancillary retail and service businesses, professional offices, etc.) and other similar uses on the property of the facility. Such "S-1" Retirement Village districts may be public, private, or institutional in ownership.

It is the intent of this ordinance to protect land zoned "S-1" Retirement Village from the intrusion of adjacent land uses that would be detrimental to the character of such districts; this shall be accomplished by the proper zoning of and adjacent to "S-1" Retirement Village Districts. At the same time, it is the intent of this ordinance to protect adjacent privately owned property (especially low density and moderate density residentially zoned property) from any intrusion of uses included in "S-1" districts that would be detrimental to the character of such adjacent private property.

It is further the intent of this ordinance to enable the Mayor and Board of Aldermen to exercise control over land zoned "S-1" Retirement Village in the event land so zoned is ever sold. The zoning of property to a "S-1" zoning classification will serve to alert the public as the possible character of the future development of land so zoned.

1.500.02 **LAND USES PERMITTED:** A multiplicity of uses related to the housing and care of elderly persons are permitted in the Retirement Village District. In addition, public streets and highways (i.e., those streets and highways not on the property of the Retirement Village) are understood to be permitted in "S-1" Retirement Village Districts. Land uses permitted outright in "S-1" districts include:

A. Single-family detached residences.

B. Duplexes.

C. Townhouses.

D. Multiple-family dwellings.

E. Congregate living facilities.

F. Nursing homes.

G. Hospitals.

H. Offices of physicians and dentists.

I. Hospices.

J. Outpatient aging services.

K. Day care facilities.

L. Facilities for the storage and maintenance of vans or buses used in conjunction with services offered by the retirement district.

M. Outpatient emergency facilities.

N. Outpatient surgery facilities.

O. Retail and office commercial activities primarily for the benefit of residents and staff of the retirement village.

P. Cultural and recreational facilities.

1.500.03 **SPECIAL EXCEPTIONS /CONDITIONAL USES :** Public and quasi-public facilities and utilities may be allowed on the property of a retirement village subject to any limitations and restrictions deemed necessary by the Mayor and Board of Aldermen.

1.500.04 **DIMENSIONAL REQUIREMENTS:**

A. Maximum Building Height: 45 feet, unless greater height is specifically approved by the Mayor and Board of Aldermen.

B. Minimum District Area: 40 acres.

C. Minimum Lot Area: Not regulated in this district.

D. Minimum Lot Width: Not regulated in this district.

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

F. Minimum Distance Between Buildings: 30 feet. No more than two-thirds (66 2/3) of the space provided between such buildings shall be paved; the remaining area shall be landscaped in accordance with the Landscape Ordinance Chapter of this Code.

G. Minimum Yards:

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

2. Side and rear yards: Not regulated

1.500.05 **LAKES AND DAMS:** Developers of retirement villages shall adhere to the guidelines established by the Mayor and Board of Aldermen concerning construction of lakes and dams stipulated in the subdivision regulations.

1.500.06 **SITE PLAN REQUIRED:** A detailed site plan shall be required for the established of a new retirement village as defined by this ordinance or for the construction or expansion of buildings in an existing retirement village. Furthermore, no building permit shall be issued until such site plan has been reviewed by the Zoning Commission and approved by the Mayor and Board of Aldermen. See Section 1.600.11.

1.500.07 **REQUIRED LANDSCAPING ALONG ARTERIAL STREETS:** See Landscaping Chapter of this Code regarding the provision of landscaping along arterial streets. Where permitted as special exceptions, the developers of public/quasi-public facilities shall comply with Section 1.600.09.

1.500.08 **REQUIREMENTS FOR OFF-STREET PARKING, LOADING AND ACCESS CONTROL:** See parking, loading and access requirements for S-1 districts under Section 1.37.

1.500.09 **SIGNS:** See Sign Ordinance Chapter of this Code.

1.500.10 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.525 – MEDIUM-DENSITY RESIDENTIAL SPECIAL USE DISTRICT (S-2)

1.525.01 PURPOSE OF THIS DISTRICT: The purpose of this district is to provide for properly planned affordable homes and areas for the development of medium density residential subdivisions containing single-family detached dwellings, either traditional site built homes or multi-sectioned manufactured housing that may not fit compatibly into or near residential zoning districts.

1.525.2 **LAND USES PERMITTED:**

A. Subdivisions for site-built home

B. Subdivisions for multi-section manufactured homes

C. Modular homes

D. Accessory uses and structures associated with the use of the land for residential purposes. See Section 1.31.05: Accessory Buildings or Uses

E. Horticultural uses not involving the sale of produce on the premises

F. Home occupations in compliance with Section 1.35 of this ordinance.

G. Private recreational or open space facilities, excluding country clubs and the like, which shall be regulated as public/quasi-public facilities and utilities subject to the provisions of Section 1.33 of this ordinance.

1.525.03 <u>SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:</u>

A. Public/quasi-public facilities and utilities in compliance with Section 1.33 and other regulations of this ordinance

B. Child care facilities.

1.525.04 REQUIRED DENSITY, LOT AREA, LOT WIDTH AND YARDS:

The Special Use Zone shall be superimposed designation on one or more of the residential districts. As such, it shall be subject to the overall density, lot area, lot width and yard requirements of said districts.

1.525.05 PRELIMNARY PLAT REQUIRED: A detailed preliminary plat shall be required for the established of a new subdivision under this district. Furthermore, no building permit shall be issued until such preliminary plat has been reviewed by the Canton Zoning Commission and approved by the Mayor and Board of Aldermen.

1.525.06 BUILDING PERMIT REQUIRED: Prior to the connection of utilities to serve any modular or manufactured home located in the Special Use Zone, the owner of the home shall apply for a building permit. All electrical wiring, plumbing, air conditioning and gas connections will be performed in accordance with the National Electrical Code and Standard Plumbing Code, Standard Mechanical Code and Standard Gas Code prepared by the Southern Building Code and by qualified, licensed, and bonded electricians and plumbers. Furthermore, all modular housing must comply with the City of Canton Building Code.

1.525.07 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED: Proposed land uses not specifically prohibited or permitted under the provision of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of any provision of the Zoning Ordinance text, or of the boundaries or district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

SECTION 1.550 – SPECIAL PLANNED HIGHWAY CORRIDOR DISTRICT S-3

1.550.1 **PURPOSE OF DISTRICT:** The general purposes of this section are to protect the integrity of and to provide for a superior environment along the highway corridors of Canton as stated in the Comprehensive Plan. As a matter of public policy the city aims to redevelop, enhance, and perpetuate those aspects of overlay districts that have aesthetic, architectural, cultural, and/or historical significance. Such development activities will promote and protect the health, safety, prosperity, and general welfare of persons living in Canton. Special Planned Highway Corridor Districts functions as an overlay district, which imposes a set of requirements in addition to those of the underlying residential, commercial, industrial or other district. All non-conforming buildings within the S-3 District shall have five years to comply with the requirements of subsection 1.550. All non-conforming building in which there is a change of ownership shall comply with the requirements of the S-3 District upon change of ownership.

Specifically, the corridor district guidelines are designed to encourage the following in the corridor districts.

A. To establish and enhance the "gateway" character of the district. Thereby increasing aesthetic and visual qualities, as well as, property values of the city;

B. To prevent the placement of inappropriate land uses along the entranceway corridors;

C. To promote uniformity, with regard to dimensional regulations (i.e., maximum height, lot area and lot width, density, setbacks, and open space);

D. To standardize landscaping requirements for private property within the corridor district;

E. To establish sign regulations to prevent the erection of outdoor advertising that would detract from the aesthetic quality of the entranceway districts, thereby diminishing property values;

F. To establish uniform off-street parking, service area, and access control regulations;

G. To enact exterior lighting regulations that will minimize glare, promote security, and provide vehicular traffic and pedestrian safety; and

H. To promote site plan review standards and procedures that encourages the highest quality of development while preventing unnecessary delays.

1.550.2 PLANNED CORRIDOR DISTRICTS ARE OVERLAY DISTRICTS

A. The Canton Planned Corridor Districts shall be established as "overlay districts," superimposed on the existing zoning district, and intended to supplement the regulations of the underlying base district and to provide harmony and compatibility of development over the length of the corridors.

B. The minimum width of the Planned Corridor Districts along state highway corridors is 300 feet on either side of the right-of-way. The depth of the Planned Corridors along U.S. Highways and Interstate highways is 600 feet on either side of the right-of-way between major intersections. Around major intersections, the Planned Corridor District may be somewhat larger.

C. The highway corridors included in the corridor district overlays are: Interstate 55, U.S. Highway 51, and state highways 16, 22, and 43.

D. A corridor district overlay will in many cases not cover an entire underlying zoning district or an entire lot or parcel. In those instances, the requirements of the overlay district affect only that part of a lot or parcel or district covered by the overlay. In the event the proposed development is not completely covered by the overlay district, then the applicant may petition the city to extend the overlay district so that the proposed is completely covered by the overlay district.

1.550.3 PERMITTED LAND USES:

Because the corridor districts overlay residential, commercial, and industrial zoning districts, the underlying permitted uses of the affected districts shall not be affected by the presence of the overlay.

1.550.4 SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED UNDER SECTION 1.700.09: Only those conditional uses that are specifically permitted in each of the affected underlying districts.

1.550.5 **<u>PROHIBITED CORRIDOR DISTRICT LAND USES</u>:** To maintain the integrity of this district the following uses are prohibited regardless of the type of district in which they are found. These uses apply only in the portions of each district covered by the overlay.

A. Group homes for the handicapped and personal care facilities

B. Child Care Centers

C. Mobile homes and mobile home sales lots.

D. Apartments

E. Coin laundry

F. Automotive service and repair establishments

G. Re-cycling collection point.

H. Car Wash

I. Bingo parlors

J. Palm readers, psychics, fortune tellers, soothsayers, tarot card readers, and similar businesses that foretell the future

K. Pawn shops

L. Title pledge office

M. Secondhand store

N. Bars not associated with restaurants

O. Mini-warehouses

P. Commercial communication towers

Q. Adult arcades, adult bookstores, adult cabarets, adult entertainment establishments, adult motel, and adult motion picture theaters

R. Truck terminals, warehouses and storage buildings

S. Wholesale and supply houses

T. Bulk storage and wholesale dispersing of products and materials
U. Wrecker services and junk yards.

1.550.06 **SITE PLAN REQUIRED**: The developer of any use in a S-3 Planned Highway Corridor District shall submit a site plan to the Zoning Commission in accordance with Section 1.700.11 of this ordinance.

1.550.07 **DIMENSIONAL REQUIREMENTS FOR SINGLE-FAMILY DETACHED DWELLINGS, PATIO HOMES AND TOWNHOUSES**

A. Dimensional requirements for single-family detached dwellings, patio homes, and townhouses shall be the same as the underlying district. No such dwellings shall front directly upon the corridor.

B. Dimensional requirements for Multi-family Residential Uses (apartments and condominiums) and Nonresidential Uses:

1. Maximum Building Height: 35 feet.

2. Minimum Lot Area and Lot Width: Subject to the regulations of the underlying district.

3. Maximum Density: The maximum density for residential development shall be 10.0 units per gross acre.

4. Minimum Yards (building setbacks):

    1. The minimum building setback from the edge of the right-of-way from the street shall be 40 feet.
    2. For any nonresidential permitted use, a minimum of 35 percent of the lot and, for any residential permitted use, a minimum of 50 percent of the lot shall be open space, which shall not include heated spaces, driveways, parking spaces, garages, portals, carports, accessory buildings, or any improvement surfaces. The average dimensions of the opposite sides of open space shall equal no less than 10 feet. Residential development shall, in addition, meet all applicable private and open space standards.

1.550.08 **GENERAL STANDARDS:**

A. Loading Areas Screened: Loading areas shall be screened and located on side or rear yards.

B. Outdoor Storage: Outdoor storage shall not be allowed in the district.

C. Access to Property: Access to the property shall be approved by the City Engineer, Planning Commission, and Mayor and Board of Aldermen.

D. Off-site Traffic Impact: The off-site impact of the site-generated traffic shall be based on a study performed by the developer using the latest edition of the Highway Capacity Manual. The results of the corresponding impacts shall be evaluated relative to the computed levels of service at various time frames and durations as defined in the manual. A plan for mitigating any adverse effects shall be proposed by the developer and approved by the City Engineer, Planning Commission, and Mayor and Board of Aldermen prior to the issuance of any building permits. The Traffic Mitigation Plan shall be based on the results of the traffic study and shall include proposed improvements, a cost estimate, a construction schedule, and the extent of participation by the proposed development.

E. Half or Partial Streets: New half or partial streets shall be prohibited in new developments. When a tract to be developed borders an existing street having a right-of-way width insufficient to conform to the minimum width standards required by these regulations, such additional right-of-way shall be platted and dedicated in such a way as to make the resulting street conform.

F. Buffer Standards: When nonresidential uses abut residential uses, the following standards apply:

1. All of the structures for the nonresidential uses shall be set back a minimum of 50 feet from the residential property line and a 25-foot landscaped buffer shall be located between the residential and nonresidential uses; or

2. All of the structures for the nonresidential uses shall have a minimum 25-foot landscaped buffer and a masonry wall or a fence, as approved by the Mayor and Board of Aldermen, located between the residential and nonresidential use.

G. Landscaping Standards: Persons wishing to development property within the entranceway corridor district shall comply with the landscaping standards of Chapter 6 of this ordinance as follows:

1. Developers of commercial or industrial uses in this district shall comply with Chapter 6 of this ordinance regarding the provision of landscaping along arterial streets upon which the use abuts. Where permitted as special exceptions, the developers of public/quasi-public facilities shall comply with Chapter 6.

2. Existing natural landscaping material shall not be disturbed within 25 feet of the property line that adjoins the street right-of-way. This area shall be labeled as open space setback. No structures, fences, walls, or parking are allowed in this setback;

3. Landscaping shall be provided in the open space setback where landscaping has been disturbed and shall be provided surrounding buildings and parking areas at a minimum width of five feet. The intensity of landscaping shall be two plants per 30 square feet of landscaped area. One-half of vegetation shall be at least four-feet high, and one-half shall be one-foot high at the time of planting. Trees shall be a minimum of 10 percent of the total planting. If parking is provided in the front setback, it shall be effectively screened by earth berms or landscaping, which shall be at least four feet above parking lot grade; and

4. In order to preserve natural landscaping on stream banks, an undisturbed setback of 10 feet shall be retained next to the major streams where 100-year floodplains have been recorded.

H. Lighting Standards: Any lighting in the Planned Corridor District used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjacent residential property. Specifically, lights with no cutoff type luminaire shall be no higher than 10 feet and shall have a minimum illumination, measured at the lot line at ground level, of .20 candlepower.

Lights with a cutoff-type luminaire shall be no higher than 20 feet with a maximum illumination, measured at the lot line ground level, of .30 candlepower. Lights with a luminaire of less than 90-degree cutoff shall be no higher than 20 feet, with a maximum illumination, measured at the

lot line at ground level, of .50 candlepower. The burden of proof of the candlepower provided shall be upon the developer.

I. Sign Standards: Signs in the Planned Corridor District shall meet the standards in the City of Canton's sign ordinance found in Chapter 5 of this ordinance.

J. Architectural Standards: All commercial, industrial, and multi-family structures in the Planned Corridor District shall meet the city's architectural design review guidelines. In addition, all commercial and multi-family structure shall meet the following standards:

1. Roof shall be flat or nearly flat and concealed by horizontal parapets;

2. A minimum of 80 percent of the surface material, excluding doors and windows, shall be brick or split block, etc. (see guidelines)

K. Required Information for Site Plans: When applying for a development permit in the Planned Corridor district, applicants shall submit, in addition to any other requirements, the following information.

1. A site plan drawn to scale showing drainage; storm water detention, significant natural features; all access points, including access to major arterials; arrangement, uses and dimensions and elevations of buildings; parking and loading; landscaping, walls and fences; open space; setbacks; and existing adjacent land uses of abutting property;

2. Developers requesting approval for residential projects with 50 units or more, or commercial projects with over 100 feet x 100 feet (square feet) or 1/4 acre, within the Planned Corridor Districts shall submit, as part of the application for the development plan, an approved traffic impact statement for the proposed development. The statement shall provide data on the traffic generated by the proposed development, using existing traffic counts generated by the county and other sources, and the methods set forth in the most recent edition of the Highway Capacity Manual. The statement shall also show the traffic network includes all the subcollectors and collectors from the point of the origin at the proposed development up to and including intersections with secondary or major arterials. The statement must show the impact of the proposed development on the level of service of the relevant streets in the traffic network. "Level of Service"

refers to the categories A through F set forth by the Highway Capacity Manual.

L. Driveway Standards:

1. General Performance Standard: It shall be unlawful to construct or use any direct access driveway that does not meet the following criteria:

a. Any driveway design must allow an entering vehicle turning speed of 15 mph to help reduce interference with through street traffic.

b. Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal weekday peak traffic as determined by a competent traffic survey.

c. There must by sufficient on-site storage to accommodate at least three queued vehicles waiting to park or exit without using any portion of the street right-of-way in any other way interfering with street traffic.

d. Provisions for circulation between adjacent parcels should be provided through coordinated or joint parking systems, or other methods as specified in the city's Comprehensive Plan.

e. Driveway entrances must be able to accommodate all vehicle types having occasion to enter the site, including delivery vehicles.

f. Direct-access driveway placement must be such that an exiting vehicle has an unobstructed sight distance according to the following schedule.

Highway Design Speed (mph)	**Sight Distance (feet)**
30	200
35	225
40	275
45	325
50	380

55	435
60	505

g. Driveway design must be such that an entering vehicle will not encroach upon the exit lane of a two-way driveway. Also, a right-turning exiting vehicle will be able to use only the first through-traffic lane available without encroaching into the adjacent through lane.

2. Standards for Right-Turn Lanes and Tapers: Right-turn lanes and tapers will be required when:

   a. Expected right-turn ingress movements meet or exceed 50 per hour during a typical weekday peak traffic period.

   b. Driveway volumes are expected to meet or exceed 1,000 vehicles per day.

   c. The City Engineer can document, through traffic analysis, that such treatment is necessary to avoid congestion and/or unsafe conditions on the public thoroughfare.

3. Driveway Profile: Driveway profiles shall be determined using the following criteria:

   a. The grade of a two-way, one-way, or divided commercial driveway shall not exceed 1.5 percent for a minimum distance of 25 feet from the edge of the pavement. Beyond this distance, the grade shall not exceed eight percent.

   b. If the highway is curbed and if the sidewalk is 10 feet or less from the edge of the pavement, the grade of a driveway shall be the grade required to meet the sidewalk elevation, but, if that grade would exceed the maximums specified in paragraph 1, the sidewalk shall be either tilted or inclined.

   c. If the highway is uncurbed, the grade of the driveway between the highway of pavement and the edge of the shoulder shall conform to the slope of the shoulder to the edge of the driveway approach.

   d. For a driveway on an upgrade towards the highway, a grade of 1.5 percent for a distance of 100 feet the edge of the

pavement is required. Beyond this distance, the grade shall not exceed 40 percent and the difference in grades where there is a change of grade shall not exceed three percent.

e. Vertical curves with a minimum length of 15 feet shall be provided at a change of grade of four percent or more.

f. If the sidewalk elevation has to be adjusted to meet the driveway, the sidewalk shall be inclined at a rate not to exceed one-foot vertical for every 24 feet horizontal.

4. Driveway Spacing: Minimum driveway is needed to help mitigate traffic congestion on arterial roads. Driveway spacing will be determined as a function of arterial highway operating speeds spacing will be determined according to the following schedule:

Highway Speed Limit (mph)	**Minimum Spacing (feet)**
25	105
30	125
35	150
40	185
45	230
50	275

These spacings are based on average vehicle acceleration and deceleration rates and are considered necessary to maintain safe traffic operation. Spacing will be measured from the midpoint of each driveway. In the event that a particular parcel or parcels lack sufficient arterial frontage to maintain adequate spacing, the landowner(s) have one of two options:

a. They can seek a variance from the zoning administrator for minimum spacing, but in no case can the variance be greater than the next lowest minimum spacing on the table above.

b. The adjacent landowners may agree to establish a common driveway. In such cases, the driveway midpoint should be the property line between the parcels. The driveway must meet standard specifications, and the estimated driveway volume will be the sum of the trip-generation rate of both land uses in question.

5. Bonus for Combining Access Points: When two adjacent property owners agree to combine access points, the county will grant an incentive bonus. The total lot size and road frontage normally required will each be reduced by 15 percent for both landowners. In addition, the required number of parking spaces will be reduced by 15 percent for each development. Site circulation and safety standards will still be enforced.

6. Number of driveways per parcel:

   a. A maximum of one driveway opening shall be permitted to a particular site from each of any one or two abutting streets.

   b. When in the opinion of the city or of the City Engineer, and in the view of the permittee, it is in the interest of good traffic operation, the Planning Commission may permit one additional driveway entrance along a continuous site with frontage in excess of 300 feet or two additional driveway entrances along a continuous site with frontage in excess of 600 feet.

   c. Where a dual-service driveway is used, it will be considered, for purposes of this section, to be only one direct-access driveway.

   d. In the case of dual one-way driveways, one pair of one-way drives may be used per street frontage.

7. Corner Clearance: All direct-access driveways shall be constructed such that the point of tangency of the curb return radius closest to a signalized or stop-sign-controlled intersection shall be at least 40 feet from the perpendicular curb face of the intersecting street. Using a 15-foot driveway radius, the edge of the driveway radius, the edge of the driveway throat shall be 55 feet from the curb face of the perpendicular intersecting street. The driveway radius shall not compound with the intersection corner radius.

1.550.09 LAND USES NOT SPECIFICALLY PROHIBITED OR PERMITTED

Proposed land uses not specifically prohibited under the provisions of this subsection shall be subjected to administrative interpretation by the Zoning Administrator pursuant to section 1.700.02 of the Unified Development Code. In the event there is a question as to the general intent or specific meaning of district designations or other matters relating to the Official Zoning Administrator shall have the power to make such administrative decisions. Section 1.700.02 in any case where the Zoning Administrator in the exercise of administrative interpretation of a proposed use believes it is in the best interest of the City of Canton to hold a public hearing on the proposed use, the Zoning Administrator shall call for a public hearing pursuant to provisions of the Unified Development Code.

1.570 – CANTON WEST OVERLAY DISTRICT S-5

1.570.01 **PURPOSE OF DISTRICT:** The purpose of this district is to provide for certain residential and public/quasi-public uses in the C-5 West Canton District to help serve the residential needs for some of the employees of the nearby hospital. It is the further purpose of this overlay district to provide specific and appropriate areas for the development of these residential and public/quasi-public uses, rather than to permit them to locate anywhere in the C-5 district next to more incompatible uses. This is an overlay district. That means that any regulations for this district are considered in addition to those of the underlying district.

1.570.02 **LAND USES PERMITTED**:

1. R-1 Single-Family residential uses and following the regulations of the R-1 Single-Family Residential District (Section 1.210 of this ordinance), to be located on the Zoning Map in areas designated as S-5/R-1.

2. R-3 Medium Density residential uses and following the regulations of the R-3 Medium Density Residential District (Section 1.230 of this ordinance), to be located on the Zoning Map in areas designated as S-5/R-3.

1.570.02 **SPECIAL EXCEPTIONS/CONDITIONAL USES AS PROVIDED IN SECTION 1.600.09:**

1. Public or quasi-public facilities and utilities in conformance with Section 1.33 and other regulations of this code. These uses are to be located on the Zoning Map only in those areas designated as S-5/Public.

SECTION 1.580 – ENHANCED ARCHITECTURAL STANDARDS FOR THE C-5 CANTON WEST SPECIAL PLANNED DISTRICT

1.580.01 PURPOSE AND INTENT: The purpose of these standards and guidelines is to contribute to the development of a well-planned urban environment by fostering the creation of visually compatible and harmonious streetscapes. Their intent is to: (a) create and maintain a strong community image, identity and sense of place consistent with the historical character of which Canton has come to be known; (b) create and maintain a positive visual ambiance for the community; (c) enhance and sustain property values; (d) promote a high degree of compatibility between surrounding structures and land uses, (e) establish and promote a standard for quality design and enduring quality development; and (f) foster civic pride and community spirit by maximizing the positive impact of quality development.

1.580.02 BASE STANDARDS, ENHANCED STANDARDS (ARCHITECTURAL CRITERIA) AND ARCHITECTURAL STANDARDS DEFINITIONS:

A. Base Standards – consist of existing, or hereafter amended, development standards presently contained in the City of Canton Code of Ordinances.

B. Enhanced Standards – consist of the development standards hereafter set forth in paragraphs a. through p. below.

C. Architectural Standards – consist of the Base Standards plus the Enhanced Standards. In case of a conflict in the applicability between Base Standards and Enhanced Standards, the more stringent of the two shall apply.

1.580.03 APPLICABILITY:

The Architectural Standards shall apply to all new development and redevelopment within the Canton West Architectural District of the City, further identified as the area within the city limits, west of Interstate-55, with the following exceptions:

A. Single family and two family dwellings, except for Section (m) Utilities. Where served by existing power, such dwelling shall be exempt from

these aforesaid enhancements.

B. Additions, renovations, replacement or redevelopment of an existing structure or project, where the cost of such additions, renovations, replacement or redevelopment does not exceed 50 percent of the value of the existing structure(s), of 35 percent of the square footage of the existing structure(s), unless the use of the structure(s) or project has ceased for a period of more than 365 consecutive days, or unless cumulative additions, renovations, replacement or redevelopment initiated during any five-year period meet the thresholds listed above, whereupon the provisions herein shall apply.

C. Properties on Waford Drive.

1.580.04 SUBMITTAL AND APPROVAL REQUIREMENTS:

Submission and approval of project plans shall be in accordance with the applicable sections of the City's Code of Ordinances. In addition, the following is required:

Architectural drawings (complete front, sides, and rear elevations and overhead view of roof) of all structures shall be a required exhibit of any site plan required to be submitted for development approval. Such drawings shall be rendered in color prior to final project review by the Architectural Review Committee and shall include construction material specifications, color charts, structure dimensions, service area and mechanical equipment locations, outdoor storage area locations, screening devices, site lighting plan, and any other information as determined necessary by the City to ensure consistency with the intent of this ordinance. Final approval of all required project design submittal shall be by the city as part of the development approval process. Such approval shall include, but not be limited to, building elevations, roof type, construction materials, lighting, screening, colors and building orientation.

1.580.05 ENHANCED STANDARDS (ARCHITECTURAL CRITERIA):

A. Architectural Style and Application. While no one particular architectural style is necessarily preferred over another, it is the intent of this ordinance to ensure a harmonious streetscape, compatibility between structures and well designed transitions between architectural styles from project to project. This shall be accomplished through utilization of the following techniques:

(1) Structures within the same parcel shall reflect similar styles, materials details and colors.

(2) Structures on different parcels, but within the same master development, shall reflect similar styles, and, at the discretion of the City, shall reflect similar materials, details, and colors.

(3) Structures on different parcels not within the same development shall reflect styles and materials that are similar to surrounding structures or, at the City's discretion, shall employ architectural techniques that provide for an aesthetically compatible transition between structures.

(4) In locations where there is no established architectural pattern between adjacent structures, or where a change in established patterns will result in improved aesthetics, the City shall determine the appropriate style, construction materials and colors for new development or redevelopment.

B. **Building Mass**. Building design shall be such that "boxy" and rectangular structures and blank walls are minimized. In order to accomplish this requirement, the techniques listed below shall be incorporated into project design.

(1) Building mass shall be varied by height and width so that it appears to be divided into distinct massing elements and architectural details can be viewed from a pedestrian scale.

(2) For structures less than 10,000 square feet in gross building area on the ground floor, building facades (whether flat or curved) shall have a change in plane every 35 linear feet or less, except for arched facades, which may have lengths of 60 linear feet.

(3) For structures greater than 10,000 square feet in gross building area on the ground floor.

(4) Projections and recesses from uninterrupted façade lengths shall have a minimum depth of 3 feet with a minimum of 25 percent of the uninterrupted façade being of varied length.

(5) All buildings shall have a minimum of one offset per façade length that is visible from the public right of way.

(6) Blank wall areas shall incorporate the use of landscaping or change in building material to break up the monolithic and monotonous appearance of such areas. Blank wall areas shall not exceed 10 feet in vertical direction or 20 feet in horizontal direction of any building façade, unless the City approves the use of landscaping as an alternative to the inclusion of wall area architectural design elements.

C. Design Detail. Buildings shall be designed to enhance the attractiveness of the city's streetscape and celebrate the historical character of the Canton Square. Buildings shall through use of architectural details and scale, have architectural features and patterns that provide visual interest from the perspective of the pedestrian. The following techniques shall be incorporated into building design in order to accomplish such requirements.

(1) All buildings shall be required to provide a minimum of four of the following exterior design treatments :

(a) Canopies or porticos, integrated with building massing and style;
(b) Overhangs;
(c) Arcades, a minimum of 8 feet clear in width;
(d) Sculptured artwork;
(e) Raised parapets;
(f) Peaked roof forms;
(g) Arches;
(h) Ornamental and historical architectural details, such as bays, Columns, gables, belt courses, lintels, pilasters and fascia;
(i) Clock towers, bell towers, cupolas and the like;
(j) Other similar treatments determined by the city to meet the intent of this section;
(k) Cornice or historical character and detailing.

(2) Building facades shall, on all sides that are, or will be exposed to the general public, Include a repeating pattern that shall consist of a minimum of two of the elements listed below. At least one of the elements shall repeat horizontally.

(a) Color change;
(b) Texture change;
(c) Material change;
(d) Pattern change;

(e) Architectural banding;
(f) Expression of architectural or structural bays, such as a reveal, an offset, or a projecting rib, through a change in plane of not less than 12 inches in width;
(g) Building setbacks or projection, a minimum of 3 feet in width, on upper level(s).

(3) Windows (real or false) shall be regularly placed along at least 50 percent of any façade that is visible from a public right of way. Windows shall be recessed or shall project at least one-half inch and shall include prominent sills, headers, shutters, stucco relief or other such forms of framing.

D. Entryways/customer entrance design. Entryways shall be designed to provide project focal points and to provide protection from the sun and adverse weather conditions. As such, entryways shall be designed in accordance with the techniques listed below. In the event that the entryway is not oriented toward the major road that, as determined by the City, provides access to the building, the side of the building facing such road also be designed to comply with Item (1) below.

(1) Entryways shall be differentiated from the remainder of the façade through the use of color, change in materials, application of architectural features (arches, columns, colonnades, etc.), setbacks, offsets, level changes and the like.
(2) Entryway design, except in industrially zoned districts, shall incorporate hardscape features such as low walls, decorative paving, water features and the like.
(3) Entryway design shall incorporate landscaping, landscape planters or wing walls with landscaped areas.
(4) Entryway areas shall be provided with structural or vegetative shading features and benches or other seating components.
(5) Lighting.

E. Building Orientation. Buildings shall be oriented so as to enhance the appearance of the city's streetscape. This requirement shall be met by incorporating the following techniques into project design.

(1) The building's entrance shall face parallel to the public road from which driveway access is provided. In the event that access is provided by two more roads, the building's entrance shall face parallel to the road that

is determined by the City to be a major road providing such access.
(2) The building's primary façade shall face parallel to the public road from which driveway access is provided. In the event that access is provided by two or more roads, the building's primary façade shall face parallel to the road that is determined by the city to be the major road providing such access. Where, because of site constraints or other factors, the building's primary façade is unable to be oriented parallel to the major road providing driveway access, each façade which is clearly visible from a public right-of-way or public area of adjoining properties shall be designed with full architectural treatment. Such treatments shall be consistent with the design requirements of this ordinance and shall incorporate door and window placements, façade architectural treatments and detail, roof design and building materials applications necessary to give the appearance that each visible façade is a primary façade.

(3) The architectural treatment requirements of Item (2) above shall also be applied to any building façade which, by nature of the site layout or location, is situated where it is clearly visible from a public right-of-way or public area of an adjoining building, unless the City approves the use of landscaping as an alternative to architectural treatment.

(4) Building orientation shall be such that service areas are placed out of view from public rights-of-way, parking areas and adjacent properties. Where, because of site constraints or other factors, service areas cannot be located in accordance with this requirement, such areas shall be screened from view by vegetative or structural means. Structural screening shall be architecturally compatible with the building in terms in terms, style, colors, construction materials and finish. Landscape screening shall be compatible with and integrated into the project's landscape plan.

(5) Façade Lighting.

F. Building Transition. Façade and height transitions between buildings are key elements in creating and maintaining an attractive streetscape. Height and scale of a new development and redevelopment shall be compatible with that of surrounding development. In order to accomplish appropriate façade transitions, and to maximize city streetscape aesthetics, the following transitional techniques shall be applied to new development and redevelopment when within 300 feet of an existing building.

(1) Buildings shall be designed to provide transitional elements and

architectural features (architectural style, scale, design details, construction materials and the like) that are architecturally compatible with adjacent structures. Buildings that are twice the height, or greater, than an adjacent structure shall also provide transitional elements and features that provide for transitional blending of heights.

(2) The pattern of placement, proportions and materials of windows and doors shall be harmonious with surrounding structures.

(3) The ratio of wall surface to openings and the ratio of width and height of windows and doors shall be consistent and compatible with surrounding structures.

(4) The requirements contained in Items (1), (2) and (3) above may be waived where the City determines that city aesthetics would be enhanced by a change in the pattern of development that has been previously established by adjacent structures. In such a case, the City shall determine the appropriate style and exterior materials for the new development and redevelopment.

G. Exterior Materials and Colors. Exterior building materials and colors contribute significantly to the visual impact of a building on a community, which, in turn, individually and collectively reflect upon the visual character and quality of a community. In order to project an image of high quality city aesthetics, building materials and colors shall conform to the following requirements:

(1) All buildings shall be faced with materials that exhibit a durable, high quality appearance.

(2) Materials shall be of a low maintenance type, retaining a consistent, clean appearance.

(3) Generally accepted exterior facing materials shall include, on all facades that are, or will be, exposed to the general public, brick, tinted and textured or split-faced concrete masonry blocks, exposed aggregate, stone, architectural concrete and cellulose fiber-reinforced cement building boards. Siding and wood shall not generally be permitted, but may be allowed on a case-by-case basis, if, in the City's determination, such materials are necessary to achieve design aesthetics or to facilitate transitioning of architectural styles. Pre-engineered metal buildings shall

not be permitted, except that in industrial zoning districts metal buildings shall be permitted so long as, horizontally, the exposed exterior metal surface does not exceed 50 percent of any façade. The primary façade of metal buildings shall not have an exposed metal surface. Stucco shall be permitted so long as, horizontally, the exposed exterior stucco surface does not exceed 50 percent of any façade.

(4) Exterior colors shall not be specifically limited, but shall be consistent with generally accepted tasteful architectural design. Gaudy, dayglow, florescent, and visually overwhelming colors that call undue attention to a building and which are in stark contrast to surrounding properties shall not be permitted. Color schemes must be submitted to the Site Review Committee for approval.

(5) Building materials and colors shall be consistent around the entire building. Exceptions to this provision may be made for portions of a structure that are not exposed to the general public.

(6) Synthetic stucco (EIFS) shall not be allowed to be used within 48 inches of ground surfaces.

H. Screening of Mechanical Equipment. Lack of or inadequate screening of mechanical equipment can have negative visual impacts of the city's streetscape, ambient landscape or community image. Such impacts shall be minimized through compliance with the following requirements:

(1) Mechanical equipment located on the ground, such as air Conditioning units, heating units, satellite dishes, irrigation pumps, propane tank displays and refilling areas, utilities lift stations and the like shall be screened from public view. Screening shall, at a minimum, be at the same height as the equipment. Structural screening shall be architecturally integrated into the overall project design and shall be compatible, in terms of style, construction materials, colors, and finish with the principle structure(s). Landscaping may be substituted for structural screening if plantings are compatible with the landscape plan for the project and are of such size and maturity as to be able to provide a fully opaque screen at time of planting.

(2) Equipment and appurtenances mounted on roof tops shall be kept to a minimum. All exposed roof top mounted equipment and appurtenances shall be fully screened from view from any public right-of-way. All

screening shall, at a minimum, be at the same height as the equipment and appurtenances. Screening shall be an integral part of the design of the building(s) and shall be architecturally consistent with the style, colors, construction materials and finish of the building(s). Painting of exposed appurtenances to blend with the color of adjacent materials of the building may be considered where utilization of approved roof designs precluded full screening of exposed surfaces.

I. **Utilities.** The location and aesthetic treatment of utilities is an important factor in creating an attractive urban environment. In order to enhance and maintain the image of quality in the urban environment, utilities construction and placement shall comply with the following requirements:

(1) All utility service lines, whether new or relocated, shall be installed underground. A variance or waiver may be obtained from this requirement of this ordinance upon appeal to, and determination by, the Mayor and Board and Aldermen that a building is unable to comply with installation of underground service lines.

(2) Utility conduit and utility panels/boxes shall be painted to match the color of the building on which they are placed.

(3) Water and sewer lift stations, pump houses and similar features shall be located at the rear of the project site and shall be fully screened from view by structural or vegetative means. Where screening is accomplished by structural means, such screening shall be compatible in design and color with the main building.

J. **Outdoor Storage.** Outdoor storage areas shall be located behind the front façade of the main building and shall screened from view by structural means, vegetative means, or a combination of earthen berms and vegetation. Where screening is accomplished by structural means, the structure shall be compatible in design and color with the main building.

K. **Accessory used and structures.** Structures and uses accessory to the principal structures and uses shall be integrated into project design in a manner such that they will not detract from site aesthetics. Such structures and uses shall comply with the requirements listed below:

(1) Accessory structures shall be designed and constructed so as to compatible with the architectural design of the principal structure(s).

Exterior finishes, colors and materials on accessory structures shall be similar to those used on the principal structure(s).

(2) Miscellaneous structures such as coin-operated rides and other amusement devises shall only be permitted within the principal structure.

(3) Outdoor garden supply areas shall be screened from view and shall be incorporated into the building architecture of the principal structure.

(4) Outdoor display and sales areas shall be limited to arcaded areas that are structurally integrate into the architectural design of the principal structure. Displays and sales in these areas shall not be of a permanent nature and shall not impede the flow of pedestrian or vehicular traffic.

(5) Site furnishings such as benches, bicycle racks, newspaper racks, trash receptacles and the like shall be compatible with the architectural design of the principal structure. Permanent shopping cart storage shall be contained within the principal structure.

(6) Tent sales, boat sales, car sales, recreational vehicle sales and the like shall not be permitted as an accessory use on either a temporary, seasonal or permanent basis, unless permitted by the City as a special event for public purpose.

L. Special Building Considerations. Certain uses such as gas stations, power supply facilities, commercial convenience stores, auto repair facilities and the like require special design considerations to integrate them into a quality community design fabric. Such facilities shall comply with the following requirements, in addition to the other requirements of this ordinance:

(1) Gas stations, auto repair facilities and commercial convenience stores shall be constructed with either gable or hip roof design, unless an alternate design is approved by the City for architectural transition purposes. Gas station canopies shall be constructed with the same roof design and materials as the main building and shall be attached to the main building. Canopy facing and support poles shall be constructed of the same material as the main building façade.

(2) Power supply facilities shall be, to the fullest practical extent, screened from public view through use of structural or vegetative means.

(3) Auto repair facilities shall be oriented on a site in such a fashion that open bays are not located parallel to the primary public road on which they are located. Facility site design shall utilize landscaping to help screen open bays. Bays that face residential areas shall utilize decorative finished masonry walls as approved by the Site Review Committee.

(4) Projects that contain attached buildings with multiple owners or tenants shall provide an arcaded façade treatment, a minimum of 8 feet in width, to facilitate pedestrian travel between businesses.

1.580.06 VARIANCE PROCEDURE

A variance or waiver may be obtained from individual requirements of this ordinance upon appeal to, and determination by, the Mayor and Board and Aldermen that a building is unable to comply with the ordinance. Prior to an appeal to the Mayor and Board and Aldermen, a request for variance or waiver from the individual requirements of this ordinance shall be reviewed by the Zoning Commission, which shall make a recommendation to the Mayor and Board of Aldermen regarding the request. The burden of proof shall be upon the requestor to demonstrate why the specific requirements of this ordinance, from which relief is being sought, cannot be met. Any variance or waiver granted shall be the minimum necessary to achieve the intent and purpose of the ordinance.

ARTICLE V

SECTION 1.600 - ADMINISTRATION AND ENFORCEMENT

1.600.01 **PURPOSE OF THIS ARTICLE**1.600.01PURPOSE OF THIS ARTICLE**:** It is the purpose of this Section to prescribe the legal devices and procedures for administering and enforcing this code and to define the duties, powers, limitations and scope of jurisdiction for the various persons and groups that are concerned with the administration and enforcement of this code.

1.600.02 **ADMINISTRATIVE INTERPRETATION BY THE ZONING ADMINISTRATOR**1.600.02ADMINISTRATIVE INTERPRETATION BY THE ZONING ADMINISTRATOR**:** The Building and Development Director is responsible for the administration, coordination, and maintenance of the zoning ordinance as well as other sections of this code. With these responsibilities, he is designated as the Zoning Administrator.

In the event there is a question as to the general intent or specific meaning of any provision of the ***Zoning Ordinance*** text, or of the boundaries or district designations or other matters relating to the ***Official Zoning Map,*** the Zoning Administrator shall have the power to make such administrative decisions and interpretation.

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

B. **Appeals from the Administrative Interpretation by the Zoning Administrator**: Appeals from said administrative interpretation shall be made as provided in Subsection 1.600.17-A of this Ordinance.

1.600.03 **ADMINISTRATIVE PERMITS ADMINISTRATIVE INTERPRETATION AND DETERMINATION OF NEW AND UNLISTED USES:** It is recognized that new types of land use will develop and forms of land use not anticipated and listed may seek to locate in the City of Canton. In order to provide for such changes and

contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

1.600.04 <u>ADMINISTRATIVE PERMIT APPLICATION PROCEDURES AND REVIEW STANDARDS</u>:

A. The question concerning any new or unlisted use shall be referred to the Zoning Administrator requesting an interpretation as to the zoning classification into which the use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves such characteristics as dwelling activity, sales, processing, type of product, storage, and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated, the general requirements for public utilities such as water and sanitary sewer, and the degree of compatibility of the use.

B. The Zoning Administrator must first determine if the proposed use is in harmony with the purpose and intent of this Ordinance.

C. The Zoning Administrator must then determine if the proposed use is in harmony with the purpose and intent of the district.

D. The Zoning Administrator may require conditions to be met to make the use compatible with the district.

E. The Zoning Administrator shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within such use should be permitted.

F. The Zoning Administrator shall keep a permanent record of the findings and determination for future reference.

G. The Zoning Administrator may, upon his own initiative, make such a determination.

H. Negative findings by the Zoning Administrator may be appealed to the Zoning Commission on grounds of error in his determination.

I. Upon making his determination, and if there is no appeal, the Zoning Administrator shall notify any other officer or agency of the city likely to be affected by such ruling. In particular, the Zoning Commission and the Planning Commission shall be notified to obtain their comments.

J. Such determinations are binding on all officers and agencies of the city as an administrative ruling, and may be included as an amendment to the Zoning Ordinance when subsequent amendment items are considered by the Mayor and Board of Aldermen, and if the proposed use is sufficiently common to justify a text amendment.

K. Uses deemed to be incompatible as permitted uses may be considered as uses allowed by special exception in that zone.

L. A formal application may be filed with the Zoning Administrator addressing all the characteristics listed in item "A" above, or an applicant may simply send the Zoning Administrator a letter describing his proposed use, buildings, structures, and site activities and requesting a tentative administrative determination.

M. New or unlisted uses may be allowed by right, by right with qualification, by special exception, as an ancillary or accessory use, or as a home occupation.

N. Decisions of the Zoning Administrator shall be deemed final unless, within not more than ten working days of the date such decision was rendered; a written notice of appeal is filed. Such notice of appeal, specifying the grounds thereof, shall be filed with the Zoning Administrator for transmission to the Zoning Commission and Planning Commission and docketed on their next available board meeting.

1.600.05 **DUTIES AND POWERS OF THE CANTON ZONING COMMISSION** : The following duties and powers shall be the responsibility of the Canton Zoning Commission:

A. Hold public hearings and make recommendations to the Mayor and Board of Aldermen on dimensional variances,

B. Hold public hearings and make recommendations to the Mayor and Board of Aldermen on conditional uses (special exceptions),

C. Review all site plans.

1.600.06 **DUTIES AND POWERS OF THE CANTON PLANNING COMMISSION:** The following duties and powers shall be the responsibility of the Canton Planning Commission:

A. Develop and maintain a Comprehensive Plan for the City of Canton,

B. Develop and maintain a Zoning Ordinance and Zoning Map,

C. Develop and maintain regulations governing subdivisions of land,

D. Make recommendations to the governing authorities regarding amendments to the comprehensive plan, the zoning ordinance and map, the subdivision regulations, and the capital improvements program,

E. Hold public hearings and make recommendations to the Mayor and Board of Aldermen on rezoning (proposed Official Zoning Map amendments) applications,

F. Review all preliminary plats for subdivisions.

1.600.07 **DUTIES OF THE MAYOR AND BOARD OF ALDERMEN IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE:** The Mayor and Board of Aldermen of the City of Canton shall have the final authority with regard to all matters involving this zoning Ordinance. The duties of the Mayor and Board of Aldermen shall include, but not necessarily be limited to:

A. Administrative review under which the Mayor and Board of Aldermen hears and decides appeals from actions of the Zoning Administrator.

B. Acting upon all applications for dimensional variances and special exceptions after receiving recommendations or appeals from the Zoning Commission.

C. Acting upon all applications for re-zonings (i.e., amendments to the ***Official Zoning Map).*** In accordance with Section 17-1-17 of the ***Mississippi Code of 19*** *72,* ***As Amended,*** "any party aggrieved with the recommendation of the (Zoning Commission) shall be entitled to a public hearing before the (Mayor and Board of Aldermen), with due notice

thereof after publication for the time and as provided by (the Mississippi Code)."

D. Acting upon all proposed amendments to the text of the Zoning Ordinance.

E. Accepting, rejecting, or conditionally approving site plans, preliminary subdivision plats or development plans.

F. Appointing the members of the Zoning Commission and Planning Commission.

1.600.08 **DIMENSIONAL VARIANCES**: Where the strict application of this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional hardship upon the owner of such property, the Mayor and Board of Aldermen is empowered to grant, upon an application relating to such property, a dimensional variance from such strict application so as to relieve such difficulties or hardships. Examples of such difficulties or hardships include exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of this Ordinance; or by reason of the location of trees, natural drainage course, lakes, or other desirable or attractive features, which condition is not generally prevalent in the neighborhood.

A. **Requirements for Granting Variances:** Any person desiring a dimensional variance from the terms of this Ordinance shall submit a written application (on a form furnished by the Zoning Administrator) demonstrating compliance with all of the following:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district.
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to

other lands, structures, or buildings in the same district.

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

6. That the granting of the variance will be in harmony with the general intent and purpose of the Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest.

7. Traffic visibility on adjoining streets will not be adversely affected

8. Drainage from proposed buildings and structures will not adversely affect adjoining properties and public rights-of-way.

B. <u>Corollary Guidelines for Determining Hardships</u>:

1. A variance is not the appropriate remedy for a general condition; when:

   (a) Such hardship is not shared generally by other properties in the same district and the same vicinity.

   (b) The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

2. Self-inflicted hardship is not grounds for a variance.

3. Personal hardship is not grounds for a variance. The hardship must relate to the physical character of the property:

   (a) The hardship is created by the physical character of the property, including dimensions, topography, or soil conditions, or by other extraordinary situation or condition of such property.

   (b) Personal hardship shall not be considered as grounds for a variance, since the variance will continue to affect the character of the neighborhood after title to the property has

passed to another owner.

4. Economic hardship in itself is not grounds for a variance. It may be considered as an element, but there must be other compelling considerations.

5. The hardship must be severe and unnecessary in achieving public purposes.

6. The variance must not adversely affect adjacent property or the character of the district. This limitation is clear in item 1.600.08-A above of the standards governing variances unless the Zoning Commission finds that the authorization of such variance will not be of substantial detriment to adjacent property, and that the character of the district will not be changed by the granting of the variance.

C. **Guidelines for Determining Practical Difficulties:** A practical difficulty is present where the requested dimensional change is minimal and the harm to the applicant denied a variance will be greater than the probable effect on neighboring properties if the variance is granted. The following factors shall be considered in evaluating the costs and benefits of granting the variance:

1. The nature of the zone in which the property lies.

2. The character of the immediate vicinity and the permitted uses.

3. Whether, if the variance were granted, neighboring property would be seriously affected.

4. Whether, if the variance were not granted, it would seriously hinder the owner's efforts to make normal improvements given the property's permitted use.

D. **Variances Granted by Zoning Administrator:** Many times applications for variances involve less than 10 percent of the required dimensions and usually have no problems connected with them. Therefore, the Zoning Administrator shall have the authority to grant variances of up to 10 percent of the dimensional requirement. Requests for variances over 10 percent must be heard by the Zoning Commission. Adjacent property

owners are notified of the application. If there is no objection, the Zoning Administrator may grant the modification without a public hearing.

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

(NOTE: Allowing the applicant to construct a building to conform with existing nonconforming buildings in the same area as the proposed variance would not be proper, since the other buildings, although allowed to remain as nonconformities, may be located much too close to the street right-of-way, side or rear property line, etc. for the purpose of this Ordinance. Therefore, the variance should prescribe conditions which are as close as possible to the dimensional requirements of this Ordinance.)

F. **Plot Plan Required:** Every applicant for a dimensional variance shall submit a plot plan to assist the Zoning Administrator and Zoning Commission and Mayor and Board of Aldermen in their review of the variance application. A plot plan is a scaled drawing of a lot, showing the actual measurements of the variance needed, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other such information.

G. **Public Hearing Required: A** public hearing shall be held in accordance with Section 1.600.15 of this Ordinance for all proposed dimensional variances.

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

I. **Conditions and Safeguards May Be Prescribed with Dimensional**

Variance: In granting any dimensional variance, the Mayor and Board of Aldermen may prescribe appropriate conditions and safeguards in conformity with this ordinance. When made a part of the terms under which the variance is granted, a violation of the conditions and safeguards shall be deemed a violation of this ordinance and punishable under Section 1.600.18 of this ordinance. The applicant for the dimensional variance shall be required to sign a statement that he/she accepts the conditions and safeguards prescribed by the Mayor and Board of Aldermen. This statement shall be notarized by a Notary Public. The original of this signed statement shall be kept on file by the Zoning Administrator.

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

1.600.09 CONDITIONAL USES (SPECIAL EXCEPTIONS) :

Applications for conditional uses shall be filed with the Zoning Administrator on forms and with supporting material as required by this ordinance. The Zoning Administrator receives, reviews, and makes recommendations to the Zoning Commission on each conditional use application. The Zoning Administrator shall then establish an agenda for public hearing cause notice of the time and place thereof to be published.

The Zoning Commission holds a public hearing and reviews each conditional use application and makes a recommendation for or against approval to the Mayor and Board of Aldermen for final disposition. The Mayor and Board of Aldermen are empowered to hear and decide whether or not proposed conditional uses (special exceptions) authorized under this Ordinance should be granted after reviewing the application and any recommendations from the Zoning Administrator and Zoning Commission.

If the Zoning Commission recommends disapproval of the conditional use, and the applicant desires to appeal the recommendation, the Mayor and Board of Aldermen shall then schedule a public hearing to hear and decide the case.

A. **Purposes of Conditional Uses:**

1. The development and implementation of this zoning Ordinance is based upon the division of the community into districts, within which the use of land and buildings, and the bulk and location and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics or nature, require special and intensive review to determine whether they should be permitted in specified locations.

2. These conditional uses also require review based upon standards and the application of special conditions and safeguards if permission is granted in such locations. Conditional use procedures and standards as provided herein are intended to assure that such review is made and that appropriate conditions and safeguards are attached. Conditional use procedures and standards shall be applied, and conditional uses granted, only in cases specified in this Ordinance.

3. Conditions are required for specified uses which must satisfy standards in addition to those generally applicable in a zoning district to eliminate or minimize the potentially harmful characteristics or impact of such conditional uses on the character of the zoning district in which they will be located.

4. In addition to zoning procedures and requirements relating generally to issuance of building permits and certificates of occupancy/zoning compliance, a conditional use system is hereby established. It is intended that this system shall assure special examination, review, and findings by appropriate agents, agencies or bodies in connection with proposed actions particularly specified in this Ordinance.

5. Conditional use procedures and standards as set forth herein are intended to apply in relation to use, occupancy, location, construction, design, character, scale manner of operation, or necessity for making complex or unusual determinations, and to assure consideration of the particular circumstances of each case and the establishment of such conditions and safeguards as are reasonably necessary for protection of the public interest generally, of adjacent properties, the neighborhood, and the jurisdiction as a whole.

6. For the purposes of this Ordinance, the term “requirements” refers to the restrictions which apply to all uses in a district, whether permitted as of right or only through a conditional use. They apply automatically to all uses in a zone. “Standards” are the guidelines for use by administrators in making decisions such as for rezonings or variances. They involve the application of stated criteria to given situations. “Conditions” are additional restrictions beyond the stated standards, applied to a particular use, which might govern, for example, hours of operation or the location of exits and entrances or the type of screening. A violation of the conditions is a violation of the Ordinance. The above distinctions help to define the way discretion is to be exercised in making the provisions of this Ordinance flexible to meet the needs of different situations in particular locations.

B. **General Procedures and Multiple Applications:** Applications for Conditional Uses may be accompanied by applications for rezonings and/or variances from the zoning Ordinance or other city Ordinances. When this happens, the administrative officer will schedule a simultaneous hearing between the bodies/agencies involved to hear and decide the applications with the special exception. These individual procedures must be followed:

1. All applications for Conditional Uses must first be submitted to the Zoning Administrator, who reviews them in light of all standards in Sections 1.600.09-D and 1.600.1 0-E. Afterwards, the Zoning Administrator forwards the application and his recommendations to the Planning Commission and the Zoning Commission for their review, comments, and recommendations.

2. If two or more applications are submitted by the same applicant and one is denied, the other application(s) is/are automatically withdrawn from consideration.

3. If one of the applications is approved but with major changes that change the basic premise of the applicant’s other applications, then the other applications (for variances, the site plan, air approach height exceptions, flood hazard encroachments) must be amended and re-filed.

4. After completing their review, the Zoning Commission then forwards the application and their recommendations to the Mayor and Board of Aldermen.

C. <u>Action by the Mayor and Board of Aldermen. Findings Required</u>:

1. The hearing shall be held, at which any party may appear in person or by agent or attorney. The Mayor and Board of Aldermen must make their decision within a reasonable time thereafter, not to exceed 30 days.

2. After receiving recommendations from the Zoning Commission and/or the Planning Commission and before granting any conditional use permit, the Mayor and Board of Aldermen must make written findings that it is empowered under specified sections of this Ordinance to grant the conditional use and that the granting of the Conditional Use will not adversely affect the public interest.

D. <u>General Standards: The Mayor and Board of Aldermen Shall Not Grant Any Conditional Use Unless All of the Following Findings Are Made:</u>

1. The conditional use is in conformity with the city's Comprehensive Plan generally or the Land Use Plan specifically; and with the purpose, intent and applicable standards of this Ordinance.

2. The proposed conditional use is designated by this Ordinance as a conditional use in the zoning district in which the property in question is located. Uses that are not specifically listed as conditional uses are prohibited.

3. The proposed conditional use will comply with all applicable regulations in the zoning district in which the property in question is located.

4. The proposed use will comply with all special regulations established by this Ordinance for such conditional use.

5. The establishment or maintenance of the conditional use shall not

be detrimental to the public health, safety, or general welfare.

6. The conditional use shall be located, designed, maintained, and operated to be compatible with the existing or intended character of the zoning district.

7. The conditional use must not depreciate property values.

8. The conditional use must not be hazardous, detrimental, or disturbing to present surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, erosion, vibration, general unsightliness, electrical interference, or other nuisance.

9. The conditional use must generate only minimal vehicular traffic on local streets and must not create traffic congestions, unsafe access, or parking needs that will cause inconvenience to the adjoining properties.

10. The conditional use must be served adequately by essential public services such as streets, police, fire protection, utilities, schools, and parks.

11. The conditional use must not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the city.

12. The conditional use shall preserve and incorporate the site's important natural and scenic features into the development design.

13. The conditional use shall cause minimal adverse environmental effects.

14. No conditions imposed on a special use as a result of these standards will be so unreasonably difficult as to preclude development of the use.

15. Other information as required by the Zoning Administrator or Building Official.

E. **<u>Site Design Related Standards</u>:** Before granting any application for a conditional use, the Mayor and Board of Aldermen shall make written findings that the granting of the permit will not adversely affect the public

interest. The Mayor and Board of Aldermen shall also make written findings certifying compliance with the specific rules and requirements governing individual special uses, and that, where applicable, satisfactory provision and arrangement have been made concerning the following:

1. That the size and shape of the site, and the capacity and bulk of the use to be in character with surrounding uses and the neighborhood. The size and shape of the site for the intended use must be adequate to accommodate the use, and for all the yards, setbacks, walls or fences, landscaping, and other features required by this (zoning Ordinance) to adjust the use with those on abutting land and in the neighborhood.

2. That the site for the proposed use relates to streets and highways properly, both as to width and type of pavement to carry the quantity of traffic generated by the subject use. No substantial additional traffic beyond that which would occur if any permitted uses were to locate on the site in the zone district. Traffic generated by the proposed conditional use must be compared to the existing traffic capacity of the streets immediately surrounding the use and to the most recent average daily traffic counts.

3. That in approving the subject use at the specific location, there will be no adverse effect on abutting property or the permitted use thereof.

4. That in requiring any of the conditions and safeguards in this subsection, the administrator deems such requirements to be the minimum necessary to protect the health, safety, and general welfare:

    (a) Vehicle circulation. There is ingress and egress to the property and proposed structures or uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe. This includes sidewalks, driveways, internal streets and drives, traffic signals, and turning lanes on abutting streets and arterials;

    (b) Off-street parking and loading areas are required with particular attention to the items in (1) above;

(c) Refuse and service areas, with particular reference to the items in (1) and (2) above;

(d) Control of noise, glare, odor, or other potentially adverse effects of the proposed use on abutting and nearby property, and screening and/or buffering on the periphery of the project to alleviate such effects. Such screening and buffering should also be compatible to abutting and nearby property;

(e) Control of drainage and erosion;

(f) Utilities, with reference to location, availability, and compatibility;

(g) Signs and lighting, with reference to glare, traffic safety, and compatibility and harmony with adjoining properties and the character of the area; preservation of existing trees and other attractive natural features of the land;

(h) Required yards and other open spaces and preservation of existing trees and other attractive natural features of the land;

(i) Regulation of time for certain activities; general compatibility with adjacent properties and other property in the area;

(j) Use of the site next to property lines, to minimize incompatibility with abutting properties. This might require applicant to shift on-site uses to different locations on the site to place less intensive and passive uses closer to abutting properties with less intensive uses;

(k) Safety of the proposed use, which includes dangerous and obnoxious industrial processes such as gas station fuel tanks, electrical substations, and natural gas pumping stations in residential areas. The administrator and, by extension, the city must assure that these safety problems are resolved;

(l) Impact on the capacity of public facilities, so that the proposed conditional use does not take an excessive share of the available capacity of the water and sewer systems, storm drainage channels, schools, and recreational facilities. The project may be required to scale back its proposals, provide the additional public facilities or contribute to the cost of meeting the excess overload;

(m) Minimal negative environmental and economic impact. The administrator shall impose conditions to mitigate negative impacts based on the known and significant probability that damage will occur in the future rather than the possibility it might occur;

(n) No encroachment upon flood hazard zones or airport approach zones;

(o) Where the conditional use application is denied, the record of the administrator must set forth, and the applicant shall receive written notice of, the specific grounds for denial.

F. **Conditions. Safeguards, and Assurances:** The Mayor and Board of Aldermen may impose such conditions relating to the conditional use as he may deem necessary in the particular case to protect the public interest, in relation to the items listed in Section 1.600.09-F above and as may otherwise be reasonably necessary, and may require a guarantee or bond to insure continued compliance with such conditions and continued maintenance of such safeguards. Violation of conditions or safeguards lawfully attached to any conditional use shall be deemed violations of this Ordinance. The conditional use approval may be revoked until all violations are corrected.

G. **Special Uses Apply to Property. Not Person:** When granted, a conditional use, together with any conditions or safeguards attached, shall apply to the land, structure or use for which it was issued, and not to a particular person.

H. **Withdrawal of Application: Rehearing if Withdrawn or Denied:** An application for a conditional use approval may be withdrawn at any time, but if withdrawn after the department has convened the hearing at which it

was to be considered or if denied by the department, substantially the same application shall not be considered within 12 months from date of withdrawal or denial.

I. **Multiple Applications and Simultaneous Project Review:** In the interest of saving time, joint public hearing where the applications shall be heard by members of each body.

J. **Issuance of Conditional Use Approval:** Conditional use approval must be issued upon certain conditions, such that if an applicant meets the requisite standards specified in the Ordinance, the permit must be allowed. Conditions other than those delineated in the Ordinance must not be arbitrarily imposed but must be related to the purposes of zoning. Applications may be denied only on proof that the use is detrimental to the public health, safety, and welfare. Reasons for denial must be specific. The permit will be signed and issued by the Building Official, with the Mayor's signature of approval. The Mayor and Board of Aldermen are empowered to hear and decide whether or not proposed special exceptions (conditional uses) authorized under this Ordinance should be granted.

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

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

2. Off-street parking and loading areas where required with particular attention to the items noted above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district.

3. Refuse and service areas, with particular reference to the items noted above.

4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering with reference to type, dimensions, and character.

6. Required yards and other open space.

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

8. Any other provisions deemed applicable by the Mayor and Board of Aldermen.

L. **Site Plan Required :** Every applicant for a conditional use permit shall submit a site plan in accordance with Section 1.600.12 of this Ordinance.

M. **Public Hearing Required:** A public hearing shall be held in accordance with Section 1.600.15 of this Ordinance for all proposed special exceptions.

1.600.10 AMENDMENTS TO THE ZONING ORDINANCE TEXT OR THE OFFICIAL ZONING MAP (RE-ZONING):

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

B. **Amendment (Rezoning) Application Review Standards:** In reviewing applications for amendments to the Official Zoning Map, the Planning Commission in their separate review shall consider the proposed change in relation to the following standards:

1. Rezonings must pass threshold standards: no proposed zoning amendment will receive favorable recommendation unless it passes the following threshold standards for a valid spot zoning:

   (a) The proposal must not be a small parcel of land singled out for special and privileged treatment.

(b) The proposed change must be in the public interest and not only for the benefit of a land owner(s).

(c) The proposed change is consistent with all elements of the comprehensive plan and sound planning principles as follows:

(1) If a development proposal falls within one of the use and/or residential density categories indicated on the Land Use Map, the Zoning Administrator and the Planning Commission shall find the proposal consistent with the plan.

(2) If a development proposal is not consistent with the plan map, the Zoning Administrator and the Planning Commission shall review the plan's written policies to determine whether the proposal would undermine or conflict with them. If the Zoning Administrator and the Planning Commission determine that the proposal would not conflict with or undermine the plan's policies, they shall find the proposal consistent with the plan.

(3) If an applicant's property for rezoning falls adjacent to a district having the desired zoning classification, the rezoning proposal may be determined to be consistent as an extension of the adjacent property's zoning classification.

(d) The proposed change must not create an isolated district unrelated and incompatible to adjacent districts.

2. Passing the threshold standards determines if the rezoning goes further: if the rezoning application does not pass the above threshold standards, the proposed amendment will be considered to be an invalid spot zoning and will be denied on that basis. If the proposed zoning change is not in accord with all elements of the city's Comprehensive Plan, and if the applicant wishes to pursue the zoning change, an amendment to the Comprehensive Plan will be necessary before proceeding further. If the application passes the above thresholds for a valid spot zoning, then the following review standards shall also be considered:

(a) Whether the existing land use pattern will change and/or possibly increase or overtax the load on public facilities such as schools, utilities, or streets;

(b) Whether existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;

(c) Whether changed or changing conditions made the passage of the proposed rezoning necessary. That is, has the character of the neighborhood changed to such an extent as to justify reclassification, and is evidence of a public need for the rezoning in that location?

(d) Whether the proposed change will adversely influence living conditions and/or property values in the neighborhood;

(e) Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety;

(f) Whether there are substantial reasons why the property cannot be used in accordance with existing zoning;

(g) Whether there is evidence of a mistake in the original zoning due to a clerical error;

(h) Whether the proposed change is speculative. A proposed change must have a definite zoning district in mind as well as a proposed intent or purpose for the proposed zoning district.

(i) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely the uses that applicants state they intend to make of the property involved.)

(j) There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

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

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

2. That the character of the neighborhood has changed to such an extent as to justify reclassification, AND that there is a PUBLIC NEED for the rezoning.

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

E. **Public Hearing Required:** In accordance with Section 17-1-17 of the ***Mississippi Code of 1972,*** As Amended, a public hearing before the Planning Commission shall be held on any proposed amendment to the text of this Ordinance or the ***Official Zoning Map*** following at least fifteen days' notice of the hearing in "---an

official paper or a paper of general circulation in such municipality specifying a time and place of said hearing." The hearing shall be held in accordance with Section1.600.15 of this Ordinance.

F. **Notification of Adjacent Property Owners:** The applicant shall notify all property owners within 160 feet in all directions (excluding the rights-of-way of streets or highways) from the lot lines of any parcel or parcels of land proposed for re-zoning.

Notification shall be by CERTIFIED MAIL stating the date, time, location and purpose of the public hearing, in the City of Canton, and shall be mailed to such property owners fifteen days prior to the public hearing with notification of receipt of the letter returned to the Director of Building and Development. The Director of Building and Development shall attach all notifications of receipt of the letter to the application.

This notification of adjacent property owners is NOT required by State law. It is done as a courtesy to citizens owning property within the immediate area of proposed amendments. FAILURE OF ANY PROPERTY OWNER TO RECEIVE NOTIFICATION OF A PUBLIC HEARING CONCERNING A PROPOSED RE-ZONING SHALL NOT BE GROUNDS FOR CONTESTING ACTIONS BY THE CITY OF CANTON. (Note: The 160-foot distance is consistent with Section 17-1-17 of the ***Mississippi Code of 1972,*** as amended.

G. **Public Hearing Before Mayor and Board of Aldermen Unnecessary Unless Requested by Aggrieved Party:** Following a public hearing held before the Planning Commission on a proposed amendment to this Ordinance (either an amendment to the text or ***Official Zoning Map),*** it shall NOT be necessary to hold another hearing on the proposed amendment; the Mayor and Board of Aldermen may act upon the recommendation of the Planning Commission. However, any party aggrieved by the recommendation of the Planning Commission shall be entitled to a public hearing before the Mayor and Board of Aldermen, with due notice thereof after publication for the time, date and place within fifteen (15) days.

H. **Two-Thirds Vote of Board of Aldermen Necessary to Approve**

Rezoning Under Certain Circumstances: In case of a protest against a proposed rezoning signed by twenty percent (20%) or more of the property owners, either within the area of the proposed rezoning or of those within 160 feet of the property proposed for rezoning, such amendment shall not become effective except by the favorable vote of two-thirds of all members of the Mayor and Board of Aldermen. (See Section 17-1-17 of the Mississippi Code of 1972, Annotated, as amended.)

I. **Res Judicata:** Upon the submission of an application for a rezoning, and a determination by the Mayor and Board of Aldermen that said application should be denied, the Mayor and Board of Aldermen shall not accept a subsequent application to rezone the same property or any part thereof to the same classification until the expiration of one (1) year from the date of the decision of the Board denying said application. However, if the application relates to the same property but seeks zoning to a different classification, the doctrine does not apply; and the Mayor and Board may consider such a proposed rezoning.

J. **When an Ordinance Amending Text or Official Zoning Map Is Required and Publication of That Ordinance:** No amendment to the ***Official Zoning Map*** or the text of this Ordinance shall become effective until an Ordinance amending same has been passed by the Mayor and Board of Aldermen. Any Ordinance amending the ***Official Zoning Map*** shall contain findings of fact citing evidence demonstrating compliance with the criteria specified under Section 1.600.10-C of this Ordinance. Section 21-13-11 of the Mississippi Code of 1972, Annotated,as amended, requires that "every Ordinance passed by (the Mayor and Board of Aldermen)---shall be published at least one time in some newspaper published in such municipality, or, if there be no such newspaper, then in a newspaper within the county having general circulation in said municipality---."

1.600.11 **SITE PLAN REVIEW PROCEDURES**: The Zoning Administrator shall act as the coordinator for the site plan review process. He/she shall advise all applicants for building permits if the proposed use requires the preparation and submission of a site plan (submittal deadline dates) and the official approval of the plan prior to the issuance of the permit. All applicants shall follow the procedures specified below:

A. **Sketch Plan :** The applicant is encouraged to meet and consult informally with the Zoning Administrator. This meeting will give the applicant an opportunity to secure guidance as to what will probably be required before incurring great expense in making a detailed site plan.

B. **Submission of Site Plan:** Eight copies of each site plan shall be prepared and submitted to the Zoning Administrator on or before the submittal deadline date. The Zoning Administrator shall notify the applicant of any deficiencies or omissions in the site plan. The site plan shall not be processed until all required data is provided.

C. **Applicant Must Be Represented at Zoning Commission, Architectural Review Board and Mayor/Board of Aldermen Meetings:** Applicants (or their designated representative) for site plan approval shall be present at meetings of the Zoning Commission, Architectural Review Board, and Board of Aldermen when their proposed site plan is to be reviewed, or no action will be taken by those bodies.

D. **Zoning Commission Review of Site Plan:** Following receipt of the site plan and supporting data, the Zoning Administrator shall forward one copy and those comments of other city staff to each Zoning Commission member for review. The Zoning Commission shall review all site plans.

The Zoning Commission shall review the Site Plan and data at its next regular meeting following submission of same to the Zoning Administrator. The Zoning Administrator (or his/her designated representative) shall be present at the Zoning Commission meeting.

After reviewing all information relative to the site plan, the Zoning Commission may recommend approval or disapproval of the site plan or before approval, may request the applicant to modify, alter, adjust or otherwise amend the plan. Such conditions may be accepted and agreed to by the applicant at the time and without further hearing, unless the applicant appeals the recommendation to the Mayor and Board of Aldermen in accordance with the Zoning Ordinance. In any case, the Zoning Commission shall

make a written statement of its findings (in the form of Minutes).

E. **Approval of Site Plan by Mayor and Board of Aldermen:** The Zoning Administrator shall forward the recommendation of the Zoning Commission to the Mayor and Board of Aldermen. The Mayor and Board of Aldermen shall approve or deny, in whole or in part, the recommendation of the Zoning Commission, and this shall be done by the Mayor and Board of Aldermen without the necessity of holding further hearings (unless appealed in accordance with the Zoning Ordinance. Such action by the Mayor and Board of Aldermen shall constitute final approval of site plan and authority for the developer to proceed with the proposed development subject to approval of the Canton Architectural Review Commission and the issuance of a building permit. Following such approval by the Mayor and Board of Aldermen, the Zoning Administrator shall stamp copies of the site plan "APPROVED," sign them. The applicant may request a copy of the stamped approved plan. One copy shall be retained by the Zoning Administrator in his files.

F. **Site Plan Becomes Zoning Requirements for Proposed Use:** The approved site plan shall become the zoning requirements for the property involved. All construction, except for minor adjustments provided under the Section 1.600.11-F below, shall be consistent with the approved site plan.

G. **Minor Adjustments to the Approved Site Plan:** After the final site plan has been approved, minor adjustments to the plan that comply with the spirit of the Zoning Ordinance and the intent of the Mayor and Board of Aldermen in approving the site plan may be authorized by the Zoning Administrator as provided under Sub-section 1.600.11-B.

H. **As-built Plans:** In the case where exact lot lines cannot be drawn until after construction, (e.g., townhouse subdivisions) the builder shall submit "as-built plans" of the development following construction.

1.600.12 SPECIFICATIONS FOR ALL REQUIRED SITE PLANS: The purpose of this Section is to present in one place the data and specifications required for any proposed development that shall

require site plan review under this ordinance. The following data shall be supplied by the applicant by showing such information on the required site plans:

A. Existing and proposed lot lines (property lines).

B. The zoning of adjacent lots.

C. The names of owners of adjacent lots.

D. Rights-of-way of existing and proposed streets, including streets shown on the adopted Thoroughfares Plan.

E. Existing and Proposed Accessways, curb cuts, driveways and parking (including number of parking spaces to be provided) and loading areas.

F. All existing and proposed easements and rights-of-way, existing and/or to be dedicated.

G. All existing and proposed water and sanitary sewer lines; also, the location of all existing and proposed fire hydrants.

H. A drainage plan showing all existing and proposed storm drainage facilities. The drainage plan shall indicate adjacent up-stream drainage basin(s) and through-site drainage courses and projected storm water volumes from off-site and on-site sources, as required by the city's Flood Prevention Ordinance, Stormwater Manage-men, and Erosion Control Ordinance.

I. Show BFE as required by the city's Flood Prevention Ordinance. Floodplain zone designations according to maps prepared by the Federal Emergency Management Agency, National Flood Insurance Program (NFIP) or latest data available, and any proposed floodway modifications.

J. Landscaped areas and planting screens when required by the city of Canton Landscape Ordinance. This is reviewed by the Canton Architectural Review Board.

K. Building lines and the location of all structures and utilities,

existing and proposed, above and below ground.

L. Proposed uses of the land and buildings.

M. Existing Contours at vertical intervals of two (2) feet of less based on National Geodetic Vertical Datum (NGVD) plus proposed finish grade contours as required by the Landscape Ordinance.

N. Open space and recreation areas, when required.

O. Area (in square feet and/or acres) of parcel.

P. Proposed gross lot coverage by buildings and structures.

Q. Number and type of dwelling units (where proposed).

R. Location of sign structures.

S. Existing and proposed lighting.

T. A "development plan" when staging of development is proposed.

U. Traffic study if deemed necessary by the Zoning Administrator and/or the City Engineer.

V. Location map.

W. Exterior elevations/colors. Review by Canton Architectural Review Board.

X. Scale of drawings both by written scale and graphic scale.

Y. Magnetic north arrow.

Z. Any additional data necessary to allow for a thorough evaluation of the proposed use.

1.600.13 **<u>OTHER REQUIREMENTS</u>:** In addition, a title block shall be shown on the site plan that such information as the date and date of any revisions, name of developer, name and address of owner, zoning of subject property, name of engineer and landscape

architect, etc. shall be located..

A. **Other Exhibits:** Photographs, renderings, color slides, models and similar items may be required of the applicant if Mayor and Board of Aldermen deem it is necessary to have a full understanding of the proposal.

B. **Staging of Development Requires Development Plan:** Whereas developer proposes to construct a particular land use requiring site plan review under this ordinance by stages, (e.g., PUD's, large multi-family developments, large commercial developments, etc.), sufficient data shall be provided in development plan (sometimes referred to as a sketch plat or master plan) to indicate such staging by numbers and types of buildings or structures proposed for each stage, the general area to be developed in each stage and related information. The general concept presented in the development Plan shall be adhered to as much as possible by developers. Significant deviations (as determined by the Zoning Commission) from the development plan initially approved shall require approval by the Mayor and Board of Aldermen following recommendation by the Zoning Commission.

1.600.14 **CRITERIA FOR SITE PLAN REVIEW:** Criteria for site plan review consist of the five components specified below:

A. **Consistency with Adopted Land Use Plan an Zoning Ordinance:** The proposed site plan shall be consistent with adopted Land Use Plan and Zoning Ordinance (including the Official Zoning Map).

B. **Vehicular Traffic Circulation and Parking:** The following aspects of vehicular traffic circulation and parking shall be reviewed:

1. Is the site plan consistent with the adopted Thoroughfares Plan?: Are the developer's plans for any new streets that will traverse the site consistent with proposed alignment and right-of-way/surface width requirements indicated on the adopted Thoroughfares Plan? Do the developer's planned setbacks for buildings and structures consider the proposed widening of existing streets and highways

reflected on the adopted Thoroughfares Plan? If the proposed development will abut an unpaved street, are the developer's plans for paving that street consistent with the right-of-way/surface width specifications shown in the adopted Thoroughfares Plan?

2. Street network capacity: Is the street system in the vicinity capable of carrying traffic generated by the proposed development, according to traffic projections developed by the City Engineer or the Central Mississippi Planning and Development District?

3. Traffic engineering operation of adjacent streets: What traffic control devices are needed on adjacent streets?

4. Compliance with Zoning Ordinance (Off-street Parking, Loading, and Access Requirements)

5. Are proposed freight delivery areas separated from customer access in commercial and industrial?

C. **Utilities:** The following shall be evaluated with regard to utilities:

1. Water and sewer system capacity and oversizing (future) needs.

2. On-site and off-site drainage requirements, including retention ponds.

3. Are underground utilities required on the site?

4. Are garbage disposal facilities enclosed in accordance with the Canton Landscape Ordinance?

D. **Open Space, Landscaping, and Tree Requirements: [Reviewed by the Canton Architectural Review Board.**

1. Submit eight (8) sets of landscape plan to the Zoning Administrator on or before the submittal deadline date. The Zoning Administrator shall notify the applicant of any deficiencies or omissions in the landscape plan. The

landscape plan shall not be processed until all the required data is provided.

2. An architectural rendering (perspective and/or elevation) and plans of all building and structures showing style of architecture prepared in accord with the requirements of the Southern Building Code as adopted by the City of Canton. All colors, materials and finishes shall be shown by notation or by use of accepted architectural symbols.

3. A vicinity map and renderings or photographs of all development on immediately adjacent properties.

4. If the proposed development is residential and will abut the Illinois Central Gulf Railroad tracks, is the 101-foot railroad setback required.

5. Perimeter Landscaping: Does the site plan indicate the required 10-foot landscape strip along any abutting arterial streets? Are the proposed spacing, sizes and types of landscaping consistent with the Landscape Ordinance Requirements for the City of Canton, Mississippi?

6. Interior Lot Landscaping: Where required by this ordinance, does the site plan indicate landscaping of areas not used for buildings and other structures, parking, required lots and driveways? Is the proposed landscaping consistent with the Landscape Ordinance Requirements for the City of Canton, Mississippi?

7. Parking Lot Landscaping: Is the proposed parking lot landscaping shown on the site plan consistent with the Landscape Ordinance Requirements for the City of Canton, Mississippi?

8. Preservation of Vegetation: Does the site plan propose the preservation of trees and other vegetation as much as possible?

9. Is proper use made of floodplains on the site? For example, for open space or passive recreational areas.

E. **Fire Safety :**

1. Are fire hydrants shown on the site plan and properly located to ensure fire protection for all structures?

2. Are there at least two points of ingress/egress for apartment or condominium complexes, office parks, shopping centers, industrial parks, etc. to provide access for fire equipment and to provide for evacuation when necessary?

3. Are buildings spaced in accordance with this ordinance and the adopted Building Code?

F. **Special Conditional Use Site Plan Standards:** The following conditional uses have specific site plan standards that apply to them to moderate any adverse impacts on surrounding or nearby uses in any zone:

1. **Funeral homes, mortuaries, crematoriums, and embalming facilities must be:**

   (a) Located on arterial streets with rights-of-way of at least 80 feet and with adequate ingress and egress to said arterial;

   (b) Be located at least 200 feet from any residence (single-family, two-family or multi-family);

   (c) Have sufficient off-street automobile parking and assembly area provided for vehicles to be used in a funeral procession. The assembly area shall be provided in addition to required off-street parking;

   (d) Provide screening from all residential view for the loading and unloading area used by ambulances, hearses, or other such service vehicles.

2. **Cemeteries and mausoleums must:**

   (a) Have a minimum parcel size of five acres;

(b) Have a screen of shrubs around the perimeter of the cemetery;

(c) Require that no grave site be within 150 feet of potable water wells or in flood hazard areas;

(d) That the planning of cemetery burial lots follows subdivision planning procedures.

3. **Junkyards/salvage yards must:**

(a) Not be located within 500 feet of any interstate highway, or street designated as a gateway, if not completely obscured from view of the street by land forms or buildings;

(b) Be located near a major collector or arterial or a local street in a heavy industrial zone by special use permit. They may be located near a railroad;

(c) Comply with all state and federal environmental requirements;

(d) Be reasonably compatible with surrounding land uses such as vehicle repair shops or businesses that have outdoor storage, especially metal parts;

(e) Have a minimum of three acres of land;

(f) Store all items within the fenced area and ensure that no items be piled higher than the fence;

(g) Provide for the storage and off-site disposal of oil and used tires;

(h) It shall be unlawful for any person or property owner to store or to allow storage of any junked motor vehicle in the open area on any private property except motor vehicles awaiting repair at legally licensed auto repair garages or legally licensed junkyards.

4. **Tavern, bar, lounge, nightclub, cabaret, saloons, wine**

restaurants, mini-breweries must: Not be located closer than 500 feet from any residence/dwelling, church, school, park/playground, day care center, or funeral home. Such distances shall be measured along a straight line between the nearest property lines of the establishment and the residence/dwelling, church, school, park/playground, day care center, senior citizens center, or funeral home.

5. **Hospitals must:**

(a) Provide the hospital's long-range development plan showing addition stories and horizontal expansions;

(b) Be located adjacent to a major arterial with a right-of-way of at least 80 feet, secondary access may be from a collector street;

(c) Not be located closer than 200 feet from any residence/dwelling;

(d) Plan vehicular ingress and egress to minimize traffic congestion and maximize traffic flow in and around the facility;

(e) Not add additional stories beyond the equipment and water pressure capabilities of the fire department;

(f) Provide a landscaped buffer on hospital tracts abutting residential zones. The buffer is a part of the required zone yards.

6. **Nursing Homes must:**

(a) Be located adjacent to at least one arterial street;

(b) Provide drives and curb-cuts from the nursing home to the arterial or to side streets intersecting with the arterial street;

(c) Provide one parking space for every two or three

beds for ambulatory facilities; non-ambulatory facilities shall provide one space for every five beds and one space for each staff member;

(d) Provide trash and dumpster areas to be screened from residential view with opaque screens and designed to reduce access by foraging animals;

(e) Provide no more than one unlighted sign at a size maximum of six square feet;

(f) Provide side yards of an extra 15 feet (over the base district setback) for the placement of principal buildings on the nursing home site;

(g) Conform to height limitation and maximum ground coverage of zoning district;

(h) Be located on a lot size of a least one acre. One acre will serve a facility of approximately 20 beds.

(i) Personal Care Home parking.

7. **Veterinary Services and Animal Clinics must:**

(a) Confine the animals within the exterior walls of the building at all times;

(b) Not be located closer than 200 feet to existing residence, restaurant, apartment, hotel, library, museum, clinic or hospital for humans, church, or theater;

(c) Be sound-proofed from all adjacent property and uses.

8. **Gasoline Service Stations/Convenience Grocery Store must:**

(a) Not be located within 200 feet of the location of a church, school, hospital, rest home, nursing home,

playground, or residential dwelling(s). Distance to be measured in a straight line from property line to property line;

(b) Not allow pump islands closer than 15 feet of any property line and canopies no closer than 10 feet from any property line;

(c) Erect masonry or wooden fences at least six feet high around the station site and also plant shrubs and trees around the site if the station wishes to locate closer than 200 feet to the uses listed in item "a" above. Hours of operation may also be designated as part of the special use permit in situations of close proximity to these same uses;

(d) Provide access driveways no closer than 35 feet from the point of intersection of the right-of-way lines of the adjoining street(s). Two driveways on each street frontage may be permitted and shall be at least 25 feet apart and no closer than five feet to the side property line(s).

9. **Adult Entertainment Uses or Activities or Establishments:**

(a) Each adult entertainment establishment shall be located a minimum of 500 feet from any residentially-zoned area, child care center, funeral home, church, school or park/playground. Such measurement shall be the horizontal distance between the property line of the proposed adult entertainment establishment and the nearest residential zoning line or property line of any church, school, park/playground, child care center, or funeral home.

(b) Any display, device or sign that depicts or describes specified sexual activities or specified anatomical areas shall be out of view of the public way and surrounding property.

APPLICATION FOR ARCHITECTURAL
Building and Planning Department
226 East Peace Street
Canton, Mississippi 39046

DATE:_____

APPLICATION NUMBER:_____

NAME OF APPLICANT:_____

ADDRESS OF APPLICANT:_____

PHONE NUMBER OF APPLICANT:_____

SITE LOCATION:_____

TYPE OF BUSINESS:_____

The following information shall be submitted to the Building Official regarding the above site location:

1. **An architectural rendering (perspective and/or elevation) and plans of all buildings and structures showing style of architecture prepared in accordance with the requirements of the Southern Building Code as adopted by the City. All colors, materials and finishes shall be shown by notation or by use of accepted architectural symbols.**

2. **The proposed site plan which complies with all other ordinances of the City for site plans including a landscaping plan.**

3. **A vicinity map and renderings or photographs of all development on immediately adjacent properties.**

4. **An administrative fee of $100.00.**

The Building Official, after determining that the above requirements have been satisfied, shall place the application on the agenda for the

Canton Architectural Review Board (CARB) to consider at the next regular meeting.

I hereby certify that I am the owner or the owner's agent for the purpose of applying for this application and the information set forth above is true and correct.

_____

1.600.15 **PUBLIC HEARING NOTICES AND PROCEDURES** : In accordance with the provisions previously established in this Ordinance, public hearings shall be conducted by the Zoning Commission for all dimensional variances and all conditional uses. The Planning Commission conducts public hearings on all amendments to the text of the ***Zoning Ordinance*** or amendments to the ***Official Zoning Map*** (i.e., re-zoning).

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

1. For Dimensional Variances:

NOTICE OF ZONING HEARING

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

(Insert Property Description Here)

APPROVED:

ATTEST:

Mayor's Signature:

DATE:
City Clerk's Signature

2. Conditional Use Permits:

NOTICE OF ZONING HEARING

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

(Insert Property Description Here)
APPROVED:
ATTEST:

Mayor's Signature:
City Clerk's Signature:
DATE:

3. For an Amendment to the Official Zoning Map (or a Re-zoning):

NOTICE OF ZONING HEARING

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

(Insert Property Description Here)
APPROVED:
ATTEST:
Mayor's Signature:

City Clerk's Signature:
DATE:

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

NOTICE OF ZONING HEARING

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

(Insert Proposed Amendments to the Zoning Ordinance Here)

APPROVED: ATTEST:
Mayor's Signature City Clerk's Signature

DATE:

B. **Public Hearing Notice on Property Signs Required:** Whenever any zoning action (i.e., a dimensional variance, conditional use or re-zoning) is considered by the Zoning Commission, signs bearing notices of a public hearing shall be erected on the property involved. These signs shall be erected not less than fifteen days prior to the date of the public hearing. When more than one parcel of land is involved in the proposed zoning action or the proposed use, enough signs shall be posted to adequately identify the area affected. The notice to be posted on the property involved shall consist of a sign with letters legible from the nearest street. The information on the sign shall read as follows:

PUBLIC NOTICE

PUBLIC HEARING

CASE NUMBER:_____

CITY OF CANTON

PHONE NUMBER:_____

1.600.16 FEES

A. **Schedule of Fees:** The Mayor and Board of Aldermen shall establish a schedule of fees for the issuance of building permits, change of use permits, the processing of all site plans required under Section 600.11, and the processing of applications for variances, conditional uses and zoning amendments. Said schedule of fees shall be posted in the office of the Building and Development Director, whose office shall be responsible for their collection.

B. **Amendment of Alternation of Fee Schedule:** The schedule of fees may be altered or amended only by the Mayor and Board of Aldermen.

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

D. **Fees Not Refundable:** No fees or other monies paid in conjunction with zoning-related matters shall be refunded.

1.600.17 APPEALS

A. **Appeals from Administrative Interpretation of the Zoning Administrator:** In accordance with Section 1.600.04-B of this Ordinance, any party aggrieved with the administrative interpretation of the Zoning Administrator shall have the right to appeal such interpretation. Such appeals may be made directly to the Mayor and Board of Aldermen, or the appeal may be made to the Zoning Commission. If the appeal is made to the Mayor and Board of Aldermen, the party aggrieved shall submit a written request to the City Clerk by 12:00 Noon on Wednesdays preceding any regularly-scheduled meeting of the Mayor and Board of Aldermen at which the aggrieved party desires to be heard. Appeals to the Zoning Commission shall be also be made by 12:00 Noon on Wednesdays preceding any regularly-scheduled meeting of the Zoning Commission.

All appeals shall be in writing and shall include a copy of the original application for a building permit, change of use permit, dimensional variance, special exception or re-zoning, together with a statement of the reason for the appeal.

B. **Appeals from Recommendation of the Zoning Commission:** Any party aggrieved with the recommendation of the Zoning Commission as adopted at any meeting of said Board shall be entitled to a public hearing before the Mayor and Board of Aldermen with due notice thereof and after publication for the time and as provided by law. Such a hearing shall be provided ONLY IF THE AGGRIEVED PARTY FILES A WRITTEN REQUEST WITH THE CITY CLERK WITHIN THREE (3) WORKING DAYS OF THE VOTE OF THE Zoning Commission ON THE RECOMMENDATION. The written notice shall be on a form prescribed by the City Clerk and shall be available to the public from the City Clerk, free of charge, during normal business hours. The Board will set a hearing within 30 days of receipt of request.

C. **Appeals to a Court of Law:** An appeal from any action, decision, ruling, judgment or order by the Mayor and Board of Aldermen may be taken by any person or persons to the Circuit Clerk of Madison County.

1.600.18 **RECONSIDERATION OF REZONED PROPERTIES:** Any party believing themselves aggrieved by the change of zoning status of his property as reflected by the Official Zoning Map adopted herein shall have 90 days from the effective date of this Ordinance within which to petition the Zoning Commission for reconsideration of the zoning status of such property. After the expiration of the aforesaid 90 days, any person petitioning for a change in the zoning status of his property must base said petition upon changes taking place after the adoption of the aforesaid Official Zoning Map.

1.600.19 **VESTED RIGHTS DETERMINATION:** The provisions of this ordinance shall not affect any lawfully issued building permit, any preliminary plat or site plan approval, or any rezoning or special use permit, when obtained in conjunction with a site plan or planned development approval, for a period of three years from the date of issuance of the permit or the date of approval. The provisions of this ordinance also shall not affect applications for building permits, preliminary plat or site plan approval, or rezoning or special use permit when accompanied by a site plan or planned development, if said application is pending on the effective date of this ordinance and said permits or approvals are actually obtained within six months of the effective date of this ordinance.

1.600.20 **ADMINISTRATIVE CORRECTION OF TEXT ERRORS:** For a period not to exceed one year from the date of passage of this ordinance, the Zoning Administrator shall have the authority to correct typographical errors ambiguities in text language, and other unintentional errors that affect the clear understanding of this ordinance, without going through the ordinance text amendment procedures. The Zoning Administrator shall document the changes made.

1.600.21 **ORDINANCE ENFORCEMENT:** In accordance with Section 17-1-27 of the ***Mississippi Code of 1972,*** As Amended, "Any person---who shall knowingly and willfully violate the terms, conditions or provisions of (this Ordinance), for violation of which no other criminal penalty is prescribed, shall be guilty of a misdemeanor and upon conviction therefor shall be sentenced to pay a fine of not to exceed one hundred dollars ($100.00), and in case of continuing violations without reasonable effort on the part of the defendant to correct same, each day the violation continues thereafter shall be separate offense."

A. **VIOLATIONS**: The Building Official shall enforce this ordinance except as otherwise provided therein. It shall also be the duty of all officers and employees of the City, and especially of all members of the Police Department, to assist the Building Official by reporting to him any seeming violation in construction, reconstruction or land use.

1. 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 Building Official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

2. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take or cause to be taken any other action authorized by this ordinance or the laws of the city or state to ensure compliance with, and prevent violations of, the provisions of this ordinance.

3. If a violation of this ordinance exists or is proposed, the city of Canton or any owner of real estate within the district or in another

district and adjoining the property may, in addition to other remedies provided by law, institute injunction, abatement or any appropriate action or proceeding to prevent, enjoin, abate or remove such violation.

4. Notwithstanding any other corrective general agreement, consensual action or request authorized in this section or any other section of this ordinance, the building official or other enforcement officer under this ordinance, when probable cause exists of a violation, may have the offender arrested and tried in municipal court for such violation.

B. **Issuance of Stop-Work Orders:** If an activity violates a building permit or condition of development approval and the violation is discovered while the construction is in process, a stop-work order shall be issued. The violator must answer the stop-work order and correct the violation within ten working days or else appeal the order to the Zoning Commission.

C. **Issuance of Cease and Desist Orders:** If construction or an activity has been completed, and a violation is discovered that can lead to the revocation of a certificate of occupancy, a cease and desist order shall be issued, which may be appealed to the Zoning Commission by filing a notice of appeal within ten working days with the Director of Building and Development.

D. **Penalties:** Violation by any person of any provision of this code, or failure to comply with any of its requirements, including any additional requirements or conditions that may have been granted or imposed, after having been duly notified shall, upon conviction thereof, constitute a misdemeanor and any person convicted in city court of such a misdemeanor shall be fined not more than 100 dollars, per offense, and in addition shall pay all costs and expenses as determined by the court. Each day such violation continues shall constitute a separate offense.

E. **Separate Offenses:** The owner, developer, subdivider of any land or lot, or representative of any land owner, premises or part thereof, and any builder, contractor, owner, agent or other person who knowingly commits, participates or assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

SECTION 1.700 - MISCELLANEOUS PROVISIONS

1.700.01 **PURPOSE OF THIS ARTICLE:** The purpose of this Article is to consolidate all provisions applicable to this Ordinance which are not included under the General Regulations, Zoning District Regulations, or elsewhere herein.

1.700.02 **OMISSION CLAUSE:** The omission of any specific use, dimension, word, phrase, or other provision from this Ordinance shall not be interpreted as permitting any variation from the general meaning or intent of this Ordinance, as commonly inferred or interpreted. Should occasion arise as to such intent or meaning, the interpretation of the Zoning Administrator shall apply as provided under Section 1.600.02 herein.

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

1.700.04 **REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF:** All Ordinances or codes or parts of Ordinances or codes adopted heretofore by the City of Canton, Mississippi, which are in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed.

1.700.05 **FAILURE TO ENFORCE ORDINANCE:** Failure to enforce any provision of this Ordinance shall not constitute a waiver nor imply that the action is legal.

CHAPTER TWO

LAND DISTURBANCE AND EROSION CONTROL

SECTION 2.10 - PURPOSE OF THIS CHAPTER: Land Disturbance and other forms of site excavation can contribute to the degradation of land surfaces, water quality in streams and lakes, and air quality. Degradation can be the result of erosion, siltation, earth slides, mud flows, dusty condition, clogged storm sewers, increased water runoff and localized flooding. The resultant damages increases road, storm sewer and other infrastructure maintenance costs. It is the intent of this ordinance to protect the health and safety of residents and to protect adjoining or nearby property in the City of Canton including land, streams, hills and vegetation through the oversight of land disturbance activities.

Except as otherwise provided for, the following regulations shall apply in all zoning districts as shown on the zoning map of the City of Canton, Mississippi.

SECTION 2.15 - DEFINITIONS FOR THIS CHAPTER:

1. **Cut -** Portion of land surface or area from which earth has been or will be removed by excavation; also, the depth below original ground surface to excavated surface.

2. **Erosion -** Any removal or loss of soil by the action of wind and water. Includes both the detachment and transportation of soil particles.

3. **Erosion Control Measures -** The State's "Planning and Design Manual for Control of Erosion, Sediment and Stormwater" shall be used as a guide in selecting and developing a plan. One or more of the following measures, or other methods of slowing or stopping the removal of soil by wind, water, or gravity used singularly or in combination as appropriate:

   (a) Diversion - A channel or channel with supporting ridge (berm, dike, or wall) constructed across a sloping land surface along the contour, or with predetermined grades, to intercept and divert surface runoff before it gains sufficient volume or velocity to create harmful erosion.

   (b) Drains - Surface or subsurface conduits or filter drains to reduce surface runoff or lower a high water table.

(c) Grade Stabilization Structures: - Drop structures made of concrete, corrugated metal pipe or other suitable materials that dissipate the energy of flowing water by dropping it in a relatively short horizontal distance.

(d) Grassed Water Ways - A natural or constructed water way, usually broad and shallow, covered with erosion resistant grasses used to carry surface water.

(e) Land Grading - Re-shaping the ground surface by grading to planned slopes and configurations that will prevent excessive erosion.

(f) Mulching - The application of plant or other suitable materials on the soil surface to conserve moisture, reduce erosion, and aid in establishing plant cover.

(g) Sediment Barriers - A temporary barrier installed to retain sediment.

4. **Excavation** - The act of removing dirt or soil (see Cut).

5. **Fill** - Portion of land surface or area to which soil, rock or other materials have been or will be added; height above original ground surface after the material has been or will be added.

6. **Grade** - The slope or elevation of ground surface prior to and after cutting and filling.

7. **Grading** - Any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing, or stockpiling, or where any ground cover, natural or manmade, is removed, or any buildings or other structures are removed or any water course or body of water either natural or man-made is relocated on any site, thereby creating an unprotected area. Grading shall be synonymous with land disturbance activity.

8. **Grading permit** - The permit required before any land disturbing activities may take place as prescribed by this ordinance.

9. **Land Disturbance Plan** - The plan required before a grading permit may be issued. It consists of a narrative description and appropriate drawings and maps that spell out the methods, techniques, and procedures to be followed on a site to control erosion and other potential degradation of adjoining or nearby property, during and after development, including final stabilization of the site. Sediment

basins may need to be cleaned out before the developer/contractor is released from the permit requirements.

10. **Owner** - The person(s) or entity holding the registered title to property. The city property tax rolls shall be prima facia evidence that the person(s) or entity listed therein are the registered owners. Change of ownership after rolls are printed - should refer to name on latest deed find in Madison County.

11. **Permit Holder** - The owner of the property or owner's representative in whose name a permit has been applied for and issued by the City.

12. **Sediment** - Rocks, sand, gravel, silt or other material deposited by action of wind, water or gravity.

13. **Sedimentation** - The settling out of the soil particles which are transported by wind, water or gravity.

14. **Stripping** - Any activity which removes or significantly disturbs the vegetative cover *including clearing* and grubbing operations.

SECTION 2.20 - SITE GRADING PERMIT

2.20.01 **Permit Required:** Except as otherwise exempted in the following Section, no individual, property owner or other legal entity shall engage in any land-disturbing activity which will modify the existing grade and/or may result in increased soil erosion or sedimentation including, but not limited to, clearing, stripping, grading, excavation, transporting, and filling unless a Site Grading Permit has first been obtained from the Building & Development Director or his designee. The owner of the property or his representative shall complete an application for the permit on forms provided by the Building & Development Director or his designee and shall submit a proposed Land Disturbance Plan with the application. The property owner shall be responsible for compliance with all provisions of this ordinance.

2.20.02 **MS DEQ OVERSIGHT:** In instances where a proposed land disturbance activity will exceed five (5) acres or will occur on any tract as a part of an overall commercial or service/institutional site development plan, or will occur as a part of an environmental restoration project under the supervision of the United States Environmental Protection Agency or MS DEQ Department of Environment and Conservation or its successors, no site grading permit shall be issued by the Building & Development

Director or his designee until the land disturbance plan is reviewed and approved by the MS DEQ.

2.20.03 **FEES:** In order to defray costs associated with the processing of permits, and for inspections of land disturbance activities, a nonrefundable base fee of no less than fifty dollars ($50.00) plus no less than twenty-five dollars ($25.00) for each acre proposed to be disturbed shall be required with the application for a grading permit. This fee shall be periodically adjusted by the City taking into consideration increased costs incurred with administration of this program. Notice of any proposed revisions to the fee schedule shall be published in a local newspaper of general circulation at least fourteen (14) days prior to implementation.

SECTION 2.21 - PROPERTIES EXEMPT FROM THIS ORDINANCE:

The following uses and activities shall be exempt from the requirements for a site grading permit:

1. **Single-Family Residence:** The construction of a single-family residence or addition to an existing single-family residence, provided however, such construction shall be required to comply with the erosion control requirements of this ordinance as *outlined* in Section 2.25.1

2. **Public Utilities/Roadways:** The installation, maintenance, and repair of any public utility as well as roadway and storm drainage construction and maintenance by governmental agencies and/or their agents, provided, however that such land disturbing activity shall comply fully with the rules and regulations set forth by the MS DEQ.

3. **Agricultural Uses:** Farming or other accepted agricultural uses as permitted by the zoning ordinance providing no sediment will leave the site and the integrity of the vegetative cover will be maintained.

4. **Lawns/Gardens/Landscaping:** Home gardens, home landscaping, or lawn preparations on existing lots or parcels shall be exempted from the provisions stated herein unless the possibility for erosion or alteration of drainage patterns or structures is such to necessitate a grading permit.

SECTION 2.25 - LAND DISTURBANCE PLAN:

The Land Disturbance Plan shall comply with the minimum general and technical requirements

set forth in this Section. The complexity of the plan shall be commensurate with the severity of site conditions and potential for off-site damage. The Building & Development Director or his designee may require additional information if deemed necessary and appropriate to evaluate the feasibility of the plan. The State's "Planning and Design Manual for the Control of Erosion, Sediment and Stormwater shall be used as a guide when developing the plan.

1. **Plan Required -** Except as otherwise exempted from the requirements of this ordinance, a land disturbance plan shall be required prior to the issuance of a grading permit. The Plan shall identify the specific and appropriate erosion control practices and sediment trapping facilities proposed for the site to be disturbed as well as a schedule for implementation. The plan shall also identify final stabilized conditions for the site, provisions for removing temporary control measures and stabilization of the site when temporary measures are removed, permanent stormwater conveyance structures and maintenance requirements for any permanent measures.

2. **Professional Design -** The land disturbance plan shall be developed by a qualified licensed professional engineer when the area of disturbance exceeds five (5) acres and/or by a qualified licensed landscape architect for smaller areas when potentially hazardous soil or drainage conditions exists due to types of soils, steep grades, floodplain development, or threatened areas such as nearby lakes, streams, large drainage ditches, roads, or wetlands.

3. **Erosion Control -** Erosion control measures shall be designed and provided in accordance with generally accepted engineering practices and the requirements of this ordinance. Areas that are to be developed or excavated shall apply these guidelines, fitting the appropriate measures to the specific soils and topography so as to minimize soil erosion and surface water runoff.

4. **Protection of Natural Vegetation:** Natural vegetation shall be retained and protected whenever feasible during construction. If land must be stripped of vegetation during construction, the exposed area shall be limited to the smallest practical size, and duration of the exposure to the shortest practical time.

5. **Information Required:**

   (a) Name, address, and telephone number of the owner and developer (permit holders) of the property to be graded;

   (b) The registration seal and signature of the Engineer or Architect who designed the Plan;

(c) A brief project description;

(d) A plan drawn to a scale no less than one inch per 100 feet including pre-development and post development topography and grades no greater than two (2) foot contour intervals including twenty (20) feet of all adjacent properties and to the centerline of any adjacent roadways;

(e) The site location, boundaries, adjacent properties, location of any buildings or structures on the property or an adjacent land within on hundred (100) feet of the area to be disturbed, flood plain areas, ditch lines and any existing on and off-site structure or natural features of the land which have a significant impact on drainage or sediment control, or may be threatened by the development;

(f) The location and a description of temporary and permanent erosion control measures and drainage devices to be constructed and structural changes and improvements to the land including clearing and grading limits, daily cleanup and site control practices, and other activities to mitigate the adverse impact of land disturbance. Also, the location needs to be noted of temporary stockpiles of topsoil or other material to ensure such stockpiles will not pose a potential problem.

(g) A time schedule for initiation and completion of the measures and devices and periodic maintenance after completion.

SECTION 2.30 - CONSTRUCTION ACCESS ROUTES:

A stabilized stone pad shall be place at any point where traffic will be entering and leaving a construction site to or from public road prior to the initiation of any grading work. Stone pads shall contain ASTM-1 stone, six (6) inches thick and shall be placed be a minimum width of twelve (12) feet and length of one hundred (100) feet from the public road into the site.

SECTION 2.35 - CUT AND FILL SLOPES:

Permanent cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Consideration shall be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions, and other applicable factors. Any slopes installed at two (2) foot horizontal to one (1) foot vertical or steeper shall be stabilized with rock rip rap, or other acceptable method approved by the Building & Development Director or his designee.

SECTION 2.40 - STABILIZATION OF DENUDED AREAS AND SOIL STOCKPILES:

Permanent erosion control measures shall be applied to denuded areas within fifteen (15) days after final grade is reached on any portion of the site. Soil stabilization shall also be applied within fifteen (15) days to any denuded area which may not be at final grade, but will remain dormant (undisturbed by construction activity) for longer than sixty (60) days. Any temporary soil stockpiles shall be stabilized or protected with sediment trapping measures to prevent erosion. Applicable erosion control measures shall include establishment of vegetation, mulching, and the early application of gravel base on areas to be paved. Selected permanent or temporary erosion control measures should be appropriate for the time of year, site conditions, and estimated duration of use.

SECTION 2.45 - ESTABLISHMENT OF PERMANENT VEGETATION:

A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized through the construction of approved structures and parking lots/driveways. Permanent vegetation shall not be considered stabilized until a ground cover is achieved, which in the opinion of the Building & Development Director or his designee, is mature enough to control erosion and to survive seasonal conditions for a period of one (1) year from initial planting. Permanent vegetation species and their establishment should be appropriate for the time of year, site conditions and land use intended for the area.

SECTION 2.50 - PROTECTION OF ADJACENT PROPERTIES:

1. **Downhill Protection:** All properties adjacent and/or downhill from the site of a land disturbance shall be protected from soil erosion and sedimentation. This shall be accomplished be preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance or by installing perimeter controls such as sediment barriers, filters, or dikes, or sediment basins, or by a combination of such measures.

2. **Use of Buffer Strips:** Vegetated buffer strips shall be used alone only where stormwater runoff is anticipated to occur through sheet flow and shall be a minimum of 20 feet in width. However, the buffer strip width should be designed according to soil type, slope, and other condition on site. If at any time it is found that a vegetated buffer strip alone is ineffective in stopping erosion onto adjacent property, additional perimeter controls shall be provided by the owner.

3. **Sediment Control:** Sediment basins and traps, perimeter dikes, sediment barriers, dams, diversions, and other erosion control measures intended to trap sediment on-site shall be constructed as the first step in grading, and shall be made functional prior to disturbance of upward sloping land. Earthen structures such as dams, dikes, and diversions shall be

seeded and mulched within seven (7) days of installation. Sediment shall be removed from basins and traps or other measures when sediment has reached design capacity and there is a potential for additional sedimentation.

4. **Stormwater Runoff:** Stormwater runoff from disturbed areas five(5) acres or greater shall pass through a sediment basin or other suitable sediment trapping facility. All storm drainage inlets shall be protected during construction with a sediment barrier to prevent clogging and localized flooding. If necessary basins or traps may need sediment removal or repairs.

SECTION 2.55 - DISTURBANCE IN STREAMS AND FLOODWAYS.

The applicant for proposed land disturbance activities in streams (defined by a blue line on a 7 ½ minute United States Geological Survey quadrangle) and designated floodways shall be required to provide evidence of obtaining appropriate permits from Federal and State regulatory agencies or a written waiver of such permits prior to the issuance of a site grading permit by the City.

SECTION 2.60 - EXISTING AREAS WITH SOIL EROSION PROBLEMS:

Upon written notification from the Building & Development Director or his designee, the owner of any parcel of land which exhibits unstable or eroding soil conditions, and impacts downhill properties, public right-of-ways or water courses, whether such conditions exist before or arise after enactment of this ordinance, shall correct the problem within ninety (90) calendar days from receipt of official notification. Upon written request to the Building & Development Director, the period for correction may be extended if seasonal conditions warrant and temporary erosion control measures are installed.

Minimum corrective measure may include stabilizing eroding slopes and re-vegetating all exposed soil surfaces. Before commencing corrective measures, the owner shall consult with the Building & Development Director or his designee to determine an acceptable method of correction. A permanent plan for erosion control shall be submitted to the Building & Development Director or his designee for review and approval prior to initiation of corrective measures.

SECTION 2.65 - PERFORMANCE BONDS:

Prior to the issuance of a permit for any land disturbance activity in excess of five (5) acres, and for smaller area when potentially hazardous soil or drainage conditions exists due to types of soils, steep grades, floodplain development, or threatened areas such as nearby lakes, streams, large drainage ditches, roads or wetlands, the applicant shall be required to provide a performance bond or similar form of security acceptable to the City to complete all land and grade stabilization measure and improvements as shown in the approved Plan. The Building &

Development Director or his designee shall establish the amount and time period of the bond, based on the estimated cost and time for completing the Plan. Within thirty (30) days of the completion and final inspection by the City of all provisions of the approved Plan, said bond or security shall be refunded or terminated, provided, however, that a maintenance bond no greater than fifty percent (50%) nor less than ten percent (10%) of the original bond as determined by the Building & Development Director or his designee shall be required for a period of one (1) year to ensure that the permanent vegetation is mature enough to control erosion and to survive seasonal weather conditions.

SECTION 2.70 - APPEALS:

Whenever the Building & Development Director or his designee rejects or refuses to approve the mode or manner of construction proposed to be followed, or materials to be used, or when it is claimed that the provisions of this article do not apply or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this Chapter or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such property or his duly authorized agent may appeal the decision to the Mayor and Board of Aldermen. Notice of appeal shall be in writing and filed within thirty (30) days after the decision is rendered by the Building & Development Director or his designee. A filing fee of fifty dollars ($50.00) shall accompany such notice of appeal which shall be refundable if the Zoning Commission upholds the appeal of the applicant. The Zoning Commission shall meet and conduct a hearing on the appeal within sixty (60) days unless the appellant requests or consents to additional time.

SECTION 2.75 - INSPECTIONS:

1. **Owner's Responsibility:** It shall be the responsibility of the site grading permit holder:

    A. To provide in writing an anticipated phasing plan and schedule of the land disturbance activities from initiation to completion. The permit holder shall promptly notify the city in writing if there are any changes to the schedule or delays associated with the phasing plan; and

    B. To conduct periodic inspections of the installed erosion control measure during construction and of nearby downstream facilities, to determine if such control is effective. Any damage to downhill property caused by erosion, such as clogged storm sewers, inlets or drainage ditches, shall be immediately repaired or cleaned by the permit holder.

2. **City Oversight:** The Building & Development Director or his designee may enter upon

any site and periodically make inspection of any disturbed or graded area before, during and after construction to ensure compliance with the requirements of this article and the authorized Land Disturbance Plan. If the city determines that significant erosion problems are occurring on the site despite compliance with approved protective practices, the permit holder shall be required to take additional corrective actions to protect the adversely affected area. The specifications of the additional measures shall be part of an amendment to the Land Disturbance Plan.

3. **Correction of Problems by Owner:** If it is determined by the Building & Development Director or his designee that the permit holder has failed to comply with the approved plan, a correction notice shall immediately be served upon the permit holder in writing, setting forth the measure needed to come into compliance and specifying time for such compliance. Where an immediate threat to public health and safety exists, verbal notice given by the Building & Development Director or his designee to immediately correct the problem shall be sufficient, but it shall be followed by written notice. Failure to comply within the time specified shall subject the permit holder to a Stop Work order which shall remain in effect until the work in progress is in compliance with the specifications of the approved plan.

SECTION 2.80 - CITY CORRECTION/COLLECTION PROCEDURES

1. All temporary and permanent erosion control measures shall be maintained and repaired as needed by the property owner to assure continued performance of their intended function. If it is determined that a property owner has failed to correct an existing unstable or eroding soil condition which impacts downhill properties, public right-of-ways or water courses or has failed to maintain temporary and permanent erosion control measures installed after enactment of this ordinance, or has failed to comply with any of the provisions of this ordinance, a corrective notice shall be sent by certified mail to the property owner, setting forth the measures needed to come into compliance and specifying time for such compliance. When an immediate threat to public health and safety exists, verbal notice given by the Building & Development Director or his designee to immediately correct the problem shall be sufficient, but it shall be followed by written notice within seven (7) days.

2. Should the property owner fail to remedy the above conditions within the prescribed time, the Building & Development Director shall remedy the condition or cause the same to be done by an appropriate city department or other contractual arrangement. Thereafter, the governing authorities may, at their next regular meeting, by resolution adjudicate the actual cost incurred in correcting and remedying the situation. The cost may become a civil debt against the property

owner, or, at the option of the governing authority, an assessment against the property.

A. In the event the governing authority declares, by resolution, that the cost shall be collected as a civil debt, the governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for such cost, plus court costs, reasonable attorney's fees and interest from the date that the condition was corrected.

B. In the event the governing authority does not declare that the cost shall be collected as a civil debt, then the assessment above provided shall be a lien against the property and may be enrolled, and the Tax Collector of the county may, pursuant to resolution of the municipal governing authorities authorizing such action, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

CHAPTER THREE

SUBDIVISION REGULATIONS

SECTION 3.10 - GENERAL PROVISIONS:

3.11 TITLE: These regulations shall be known as the "SUBDIVISION DEVELOPMENT REGULATIONS, CITY OF CANTON, MISSISSIPPI" and shall govern all development within its jurisdiction and may be so cited. The ordinance establishing these regulations shall be known as "AN ORDINANCE ESTABLISHING REGULATIONS GOVERNING SUBDIVISION OF LAND WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF CANTON, MISSISSIPPI, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT THEREWITH."

3.12 SCOPE:

A. It shall be unlawful for any person or entity to lay out, subdivide, re-subdivide, plat or replat any land into blocks, lots or streets within the City of Canton or to sell property herein which has not been subdivided, re-subdivided, platted or replatted according to this ordinance.

B. The City of Canton will withhold acceptance of improvements of any nature whatsoever, including the maintenance of streets and the furnishing of water or sewer facilities, until a plat of the subdivision has been approved by the Mayor and Board of Aldermen and recorded in the Chancery Clerk's Office.

C. All land subdivision shall require a plat to be filed with the City Clerk and approved by the Mayor and Board of Aldermen, and no permits shall be issued for the construction of buildings, unless all applicable terms and conditions of these subdivision regulations have been met.

3.13 PREAMBLE:

WHEREAS, Statutes of the State of Mississippi Sections 17-1-3 (Local Government -General Powers) 17-1-23, (Subdivision Regulation), 17-1-25 (Acceptance for Maintenance of Subdivision Street before Subdivision Be Furnished and Approved) of the Mississippi Code *of* 1972, as amended and recompiled, empower the Mayor and Board of Aldermen of the City of Canton, Mississippi, to enact subdivision regulations and provide for their administration, enforcement and amendment; and

WHEREAS, the Mayor and Board of Aldermen of the City of Canton deem it necessary for the purpose of promoting the health, safety, morals, and general welfare of the City to enact a subdivision ordinance; and

WHEREAS, the Mayor and Board of Aldermen have caused to be prepared such a subdivision ordinance designed to set forth certain procedures and standards to be followed in the development or redevelopment of land subdivisions in the City of Canton to assure that development of the City is orderly, healthful, efficient and economic; and

WHEREAS, the Mayor and Board of Aldermen have given due public notice of hearings relating to these subdivision regulations, and have held such public hearings in accordance with the requirements of Section 17-1-15, (Procedure for Establishing Regulations Notice and Hearing) of the Mississippi *Code of* 1972, annotated, as amended:

NOW, THEREFORE, BE IT ORDAINED BY AND MAYOR AND BOARD OF ALDERMEN, from and after the date of adoption of these Regulations, that these Regulations shall govern all subdivision of land within the jurisdictional limits of the City of Canton, Mississippi.

SECTION 3.20 - DEFINITIONS: For the purpose of interpreting this ordinance, certain words used herein are defined as follows:

Alley - A minor way used primarily for vehicular service to the side or rear of properties otherwise abutting on a street.

A AS H T 0 - American Association for State Highway and Transportation Officials.

ADS - Pipe manufactured by Advanced Drainage Systems, Inc..

ASTM - American Society for Testing Materials.

ANSI - American National Standards Institute

Board - The duly elected governing body of the City (Mayor and Board of Aldermen)

Building Line - A line beyond which buildings must be set back from the Street or road right-of-way on which the property fronts.

CBR- California Bearing Ratio

Conditional - Made or granted on the provisions set forth in this ordinance.

City Engineer - Shall mean the City Engineer or authorized agent

Cul-de-sac - A short minor street having but one (1) vehicle access to another street and terminated by a vehicular turnaround (minimum radius 36').

D.E.Q.- Department of Environmental Quality

MUTCD - Manual on Uniform Traffic control Devices

MDOT - Mississippi Department of Transportation

NGVD - National Geodetic Vertical Datum

NRCS - Natural Resources Conservation Service

Or Equal - Means substantially the same in construction, application, use and performance as defined by the Public Works Director or City Engineer

Plat - Drawing of any lot, tract or parcel of land requested to be recorded in the Office of the Chancery Clerk

Public Works Director - Shall mean the Public Works Director or his authorized agent.

Re-Subdivision - The re-dividing of any part or all of any block or blocks of a previously platted subdivision, addition, lot or tract.

Subdivider - Any person or persons, firms, partnership, corporation or other organization, acting as an entity, subdividing or proposing to subdivide land as herein defined by the Regulations.

Subdivision - The division of any lot, tract or parcel of land into two (2) or more lots for the immediate or future purpose of sale or building development.

Zoning Commission - The duly appointed zoning commission of the City of Canton

SECTION 3.30 - PLAT AND CONSTRUCTION PLAN APPROVAL

PROCEDURE FOR APPROVAL OF PRELIMINARY PLAT:

Procedure for Approval of Preliminary Plat (Inside or Outside City Limits when connecting to City Utilities) Eight (8) copies of the Preliminary Plat shall be submitted to the Department of Building and Development with a letter requesting approval. This shall be submitted to the Department of Building and Development by the submittal deadlines established by the same department. The Preliminary Plat shall contain the following information:

A. Title block in right bottom corner showing name of proposed subdivision;

B. North arrow, graphic scale and date;

C. The names and addresses of the property owner and the engineer and/or

surveyor;

D. The bearings and distances along boundary lines with mathematical closure and total acreage of the tract to be subdivided;

E. The location, widths and names of all existing, proposed and/or platted streets, alleys and other public ways within and/or adjacent to the tract, railroad right-of-way and other important features, such as section lines, political subdivisions and corporation lines;

F. Existing and proposed sewers, water mains, culverts, gas lines, telephone cables or other underground structures within the tract and immediately adjacent thereto with pipe sizes and location indicated along any easement existing or proposed;

G. The Preliminary Plat shall be clearly and legibly drawn at a minimum scale of one inch (1") equals two hundred feet (200*). Minimum sheet size shall be eighteen by twenty-four inches *(18" x* 24"). If the complete plat cannot be shown on one (1) sheet of this size, it may be shown on more than one *(1)* sheet with an index map on a separate sheet of the same size. Plats shall be numbered "Sheet 1 of Sheet 2 of-, etc.;

H. The layout, number and exact dimensions of all proposed lots and existing adjacent land/lot owners;

I. The location of all monuments;

J. Building setback lines on all lots;

K. Private deed restrictions, if any;

L. Indicate all flood plains and floodways within and adjoining the proposed development by lot if plat contains different zones. Plat shall reflect site topography with two foot (2*) contour intervals (NGVD). Plat shall reflect the 100-year flood plain limits and the location of the floodway and other requirements for subdivision development in the flood prevention ordinance;

M. Street cross sections in accordance with Section 11-4 of the "Subdivision Regulations, City of Canton, Mississippi" and proposed street names;

N. Location of sidewalks if included into the design of the development.

O. Proposed density expressed as lots (units) per acre;

P. If open space is required, then a statement as to the size required vs. size proposed should be provided, show calculations

Q. A vicinity map depicting existing streets, highways, township, range and section designations;

R. Show current zoning of existing and all adjoining property;

S. Submit a copy of Restrictive Covenants along with Preliminary Plat (and for recording with final plat). Approval of the Preliminary Plat by the Department of Public Works and Department of Planning and Development shall not constitute or guarantee approval of the final plat. Rather, it shall be deemed as authorization to proceed with final construction plans;

T. Preliminary plat shall include conceptual compliance requirements of stormwater detention ordinance, erosion control ordinance, landscape ordinance and the zoning ordinance.

3.30.02 **PROCEDURE FOR APPROVAL OF CONSTRUCTION PLANS**: After approval by the Mayor and Board of Aldermen of the preliminary plat, one (1) set of construction plans and specifications shall be submitted to the Public Works Director and One (1) set to the City Engineer for preliminary review. All construction plans must be approved before any work starts.

Upon receiving preliminary review comments from the Public Works Director and City Engineer, the Developer or his Engineer shall resubmit the corrected set of plans and specifications to the Public Works Director and the City Engineer along with approval letters from all regulatory agencies.

When final review has been completed, all corrections made and all approval letters received, the City Engineer will advise the Developer or his Engineer in writing of his plan acceptance.

3.30.03 **PROCEDURE FOR APPROVAL OF FINAL PLAT:**

A. After all improvements have been made in accordance with the approved plans and all required fees have been paid, along with a final inspection held by the Public Works Director and the City Engineer, the Developer must submit to the Mayor and Board of Aldermen a letter requesting review and approval of a final plat along with four (4) copies of the final plat and other required documents. The final plat shall be clearly and legibly drawn at a minimum scale of one inch (1") equals two hundred feet (200'). It shall be drawn in permanent ink on a reproducible mylar or other material of equal durability and permanent quality. Sheet size shall be eighteen by twenty-four inches (18" x 24"), and where more than one (1) sheet is required, an index map shall be required on the same size sheet.

B. The final plat shall conform substantially to the preliminary plat as approved, and if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposes to record and develop at the time, provided that such portion conforms to all requirements of these regulations. It is also important that the final plat should be linked to the Mississippi State Plane 1983 coordinate grid Western Sector and put on diskett and provided to Building and Development and CMU Upon review of the final plat by the Public Works Director and City Engineer, it shall be forwarded to the Mayor and Board of Aldermen recommending approval or disapproval. The final plat shall not be approved by the Mayor and Board of Aldermen until the subdivider has done the following:

1. Actually completed construction of all improvements as required in Section 1 1-3,as approved on the preliminary plat; or

2. Given the City a performance bond, certified check or letter of credit equal to 200 percent of the total estimated cost of installation of the required improvements that shall be acceptable by the City. The bond, check or letter of credit shall be subject to the condition that the improvements will be completed within one year after approval of the final plat.

C. Following review by the Mayor and Board of Aldermen a notation of the action taken by the City shall be made on the original and three (3) copies of the final plat, including a statement of the reasons thereof if the final plat is disapproved.

D. Upon approval of the final plat, the subdivider shall have the plat and protective covenants duly recorded in the Office of the Chancery Clerk of Madison County as required by law. No owner or agent of the owner of any land located in a subdivision as defined by these Regulations shall transfer or sell such land before a plat of such subdivision has been duly approved and recorded in the Office of the Chancery Clerk of Madison County, Mississippi.

E. Following recording of the final plat, one (1) copy of the final plat with all certificates required shall be provided by the subdivider for the records of the Public Works Director and one (1) copy to the Building and Development Director and City Engineer. The plat cabinet No. slot No. and page numbers where the plat and protective covenants are recorded shall be shown on the copies of the final plat and protective covenants furnished to the Public Works Director and Building and Development Director.

SECTION 3.40 - <u>SECTION 11-4: REQUIRED IMPROVEMENTS AND</u>

INSPECTIONS: The owner of the subdivision shall cause to be constructed and installed the improvements specified in this SECTION. Such construction and installation shall be in accordance with the requirements and specifications set forth by this Subdivision Ordinance.

3.40.01 **POLICY:** It is hereby declared to be the general policy of the Mayor and Board of Aldermen of the City of Canton to require the proprietor or proprietors or their successors in interest of any subdivision in or addition to the City of Canton, to pay all costs of improvements made to and within such subdivision and to pay all costs of the development and related incidental expenses including, but not limited to, the following:

A. Cost of survey and plat, prepared by a professional land surveyor registered in the State of Mississippi;

B. Cost of testing laboratory subgrade soil profile for structural design of streets, pavement and in-place material testing;

C. Cost of establishing grades prescribed by the City for streets, alleys and sidewalks;

D. Cost of construction of sanitary sewer facilities within and to the subdivision;

E. Cost of construction of water facilities within and to the subdivision;

F. Cost of construction of curb and gutter;

G. Cost of street paving for the subdivision, street warning signs and name signs;

H. Cost of preparation of all maps on and all reviews and approvals by applicable regulatory agencies for all above improvements. These maps and plans shall be prepared by a professional Engineer registered in the State of Mississippi;

I. All costs for plan review and inspections;

J. Cost of underground power and street light service;

K. Cost of underground telephone service, cable television, gas or other City franchise services.

3.40.02 **MONUMENTS:**

A. Concrete monuments shall be placed at all corners in alignment along the boundary of the subdivision. Concrete monuments shall consist of 4-inch by 4-inch, or 4-inch diameter, concrete post not less than thirty inches (30") in length, reinforced with a single ½ inch steel rod extending not less than 1/4 inch above the top of the concrete. Concrete monuments shall be firmly set in the ground to a depth of twenty-four inches (24"), except at intersections where they shall be set flush with the ground.

B. Markers shall be placed at all lot corners or changes in alignment in lot boundaries. These markers shall consist of iron pins not less than 1/2 inch in diameter and not less than twenty-four inches (24") in length.

C. Markers shall be set with the top thereof flushed with the finished grade. Where farming operations or other land uses might destroy or disturb the markers, they shall be sunk underground and referenced to permanent landmarks.

3.40.03 IMPROVEMENTS:

A. In consideration of the City of Canton's acceptance of any subdivision and assuming the responsibility of maintaining the dedicated streets laid out therein, the developer shall cause to be constructed at no expense to the City of Canton the following minimum improvements in accordance with the approved plans and the specifications and these governing Development Regulations and Amendments and Revisions thereof:

1. Grading of streets and sidewalks shall be for the full width of the right-of-way. All back slopes within or adjacent to the development shall be a minimum of 3:1. Valid exceptions to the grading requirement outside of the improvement area may be granted if necessitated by excessive grade change and/or the excessive removal of large trees which would be caused by the grading of the full right-of-way width providing such is approved by the Public Works Director or City Engineer;

2. Surface drainage of streets shall be by approved concrete curb and gutter, except where not required on major Arterial Streets, with curb inlets, manholes and underground storm sewers;

3. Installation of pipe culverts, box culverts, bridges or other drainage structures as required on the approved plans;

4. Excavation of drainage ditches;

5. Topping of subgrades with selected sub-base materials as required on the approved plans;

6. Construction of pavement base and surface courses;

7. Grading, dressing and erosion control measures on shoulders and slopes;

8. Construction of sanitary sewer system, including lift stations, and all appurtenances, and connecting sewers to existing sanitary sewers as per plans approved by the Canton Municipal Utilities and the Mississippi Bureau of Pollution Control;

9. Construction of water systems including water mains, services to all lots, fire hydrants, valves, any and all appurtenances per plans approved by Canton Municipal Utilities and Mississippi State Board of Health.

B. All underground utility street crossings shall be installed prior to construction of the base course of the streets, or in lieu thereof, such utility lines shall be bored and jacked under the Street after the base course has been installed. When the sub-divider is ready to install the final wearing surface on the streets, he shall not do so until he notifies the Public Works Director, City Engineer and Canton Municipal Utilities and receives approval for the installation from said Public Works Director, City Engineer and CMU.

C. It shall be the responsibility of the developer to mark or to cause to have marked the "as built" location of all water and sanitary sewer services to individual lots. The locations of water and sanitary sewer services shall be marked on the face of the curb with the letter ~'W* to denote water and the letter "5" to denote sewer. All services shall be made available so as not to disturb the street pavement, curbing gutter, nor drainage structures when connections are made.

3.40.04 **<u>OPTIONAL IMPROVEMENTS</u>:** While not to be considered as required improvements, it shall be the policy of the Mayor and Board of Aldermen, that any additional improvement such as parks and open space, landscaping, suitably designed retaining walls, nature trails, pedestrian bridges over exposed waterways, and any similar improvements which in total would contribute to the livability and desirable visual appearance of the subdivision, are most highly recommended and encouraged. Any proposed improvements within existing or proposed street rights-of-way shall be subject to review by the Public Works Director and City Engineer before being approved.

3.40.05 **<u>WARRANTY</u>:** One Year Warranty: Prior to final acceptance by the City of Canton of the dedicated utilities and streets, a one year warranty shall be given to the City by the Owner for all workmanship performed and materials installed. During the eleventh month, an inspection shall be

made by the Owner and Public Works Director or City Engineer to determine any deficiencies to be corrected under warranty. All deficiencies shall be corrected within thirty (30) days of this inspection or the bond, certified check or letter of credit shall be renewed for an additional year.

3.40.06 **INSPECTION AND CERTIFICATION OF REQUIRED IMPROVEMENTS**:

A. The developer shall employ a registered professional engineer, registered in the State of Mississippi, to inspect the improvements as they are installed. This engineer shall then certify to the City Engineer that each improvement has been constructed in accordance with the approved plat, plans and specifications and requirements of this Ordinance.

B. Upon approval of the construction plans by the City Engineer, with such changes and alterations if any, as may be ordered, the developer may proceed with proposed improvements;

C. Upon completion of construction of utilities and improvements, one (1) set of reproducible tracings and two (2) sets of bluelines of complete final plans, dated, signed and certified by the engineer in charge shall be filed with the City of Canton, showing all features as actually installed, including materials, size, location, depth or elevation, numbers, end of lines, connections, ells, valves, storm sewer drains, inlets, and all other pertinent information. All underground facilities, valves, services, and etc., shall be located from two (2) reference points which are approximately 90 degrees apart with distances shown on these plans. Final certifications shall be obtained from the Mississippi State Board of Health and the Mississippi Bureau of Pollution Control. Four (4) copies of the above "as-built" plans and certifications shall be furnished the Public Works Director, City Engineer, Building and Development Director and Canton Municipal Utilities prior to final inspection. There shall be no connections made to such utilities serving the subdivision until the foregoing has been complied with and approved by the Public Works Director, City Engineer and Canton Municipal Utilities.

D. After completion of all improvements and notification of this by the Developer's Engineer of Record, the City Engineer shall make a final inspection of the required improvements under Section III of this Ordinance, and any other improvements to be accepted by the City after Certification by the Developer's Engineer that such improvements have been completed in accordance with approved plans and specifications. Unacceptable work, whether the result of poor workmanship, use of defective materials, and damage through carelessness or any other cause found to exist prior to final acceptance of the work, shall be removed and replaced in an acceptable manner at no cost to the City of Canton. The City Engineer, acting as the duly authorized representative of the City of

Canton and subject to the rules and regulations contained herein, shall decide all questions which may arise as to quality or acceptability of materials furnished or work performed. Such decisions may be appealed to the Mayor and Board of Aldermen and acceptance of each phase shall be binding upon the City subject to correction by the Developer and his contractor of any damage which might occur during subsequent work on other required improvements;

E. If the City Engineer has verified that the contracted improvements are complete and free from defect, then upon receipt of the final plat, and any other statements and certificates and/or agreements, the Mayor and Board of Aldermen shall accept the dedication of any portion of the required improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

SECTION 3.50: DESIGN STANDARDS

3.50.01 **GENERAL PROVISIONS**: The provisions of this section set forth the standards by which subdivision developments will be functionally related to existing land uses, streets and utility systems and be so designed and located that the public health, safety and welfare of the community will be promoted and protected.

3.50.02 **STABILITY OF LAND:** The subdivision of land affected by conditions undesirable to urban development shall not be approved until satisfactory evidence is provided by a registered professional engineer outlining the steps to be taken to overcome these conditions. The subdivision of land whose elevation is below the 100-year flood elevation but not within the floodway, as indicated by the latest printing of the National Flood Insurance Program Maps shall not be permitted for residential, commercial, or industrial uses until provisions have been made to either raise the elevation of the building site above such flood elevation or to raise the floor level of any structure to be erected a minimum of one foot (1') above such flood level by the use of piles or piers. If the building site is raised by filling, channeling, or a combination of both, it shall not restrict the flow of water in the floodway nor increase flood heights in lower regions of the subject drainage basin. No subdivision of land shall be permitted for residential, commercial or industrial uses unless it complies with adopted floodway regulations. (See Adopted Flood Damage Prevention Ordinance).

3.50.03 **LOTS**: Except where lot design is accomplished by approved Planned Unit Development by the Official Zoning Ordinance of the City of Canton, all lots shall conform to the following requirements:

A. The lot size, width, depth, shape and orientation, and the minimum

building setback lines of all uses shall be appropriate for the location of the subdivision and for the type of development and use contemplated as prescribed by the provisions of the Official Zoning Ordinance of the City of Canton;

B. The subdividing of land shall be such as to provide, by means of a public or private street, each lot with satisfactory access to an existing public street or land;

C. Double frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

D. Corner lots shall be twenty feet (20') wider on both street frontages than interior lots;

E. Minimum lot size must be exclusive of open drainage ditches. Open ditches will not be allowed along the front or side lot lines and only allowed on rear lot lines by special permission from the Mayor and Board of Aldermen;

F. Side lot lines shall be as close as possible at right angles to straight street lines, and radial to curved street lines. (Each lot must front the minimum width distance required by the Official Zoning Ordinance of the City of Canton on a public dedicated street or approved private drive);

G. Where platted lots and lands of a subdivision are subject to flooding as indicated by the delineation of the latest printing of the National Flood Insurance Program Maps, the limits of such areas subject to flooding shall clearly be indicated on the preliminary and final plats;

H. Blocks:

1. As a usual practice, blocks should be no less than four hundred feet (400') or more than sixteen hundred feet (1,600) in length, except where it is necessary to secure an efficient use of land such as institutional, commercial or industrial areas, or desired features of the street pattern. Necessary variance in the length, shape and width of blocks may be granted in keeping with the provisions regulating such variances in this Ordinance;

2. Blocks shall be wide enough to allow two (2) rows of lots that are

of the dimensions required by the Zoning Ordinance of the City of Canton. Where such is prevented by topographic conditions, the Zoning Commission may approve a single row of lots of adequate depth in keeping with the dimensional requirements of the zoning district wherein located.

3.50.04 **STREETS**:

A. **Design:**

1. **General**: The design of streets, public or private, shall conform to the minimum criteria below, and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of arterial and collector streets in a subdivision shall either:

   a. Provide for the continuation of existing street in surrounding areas;

   b. Conform to the comprehensive plan, including the transportation plan for area development adopted by the Mayor and Board of Aldermen to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

      Residential streets shall be so laid out that their use by through traffic will be discouraged. Where a proposed subdivision abuts or contains an existing or proposed arterial Street, the City Zoning Commission may require that the streets or lots be designed in such a way as to provide adequate protection of residential properties.

      Where a proposed subdivision abuts or contains a railroad, freeway, limited or controlled access highway right-of-way, the City Zoning Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirement of approach grades and future grade separations.

   c. Half streets shall be prohibited. Proposed curb cuts or driveways shall not be allowed onto arterial streets unless

approved by the City.

d. Where streets intersect state highways, the developer must provide a copy of approved MDOT permit for the road connection.

2. Horizontal and Vertical Alignment

a. The maximum length of a minor street designed to have only one end open shall be 600 feet unless a greater length is required due to unusual topographic conditions or to property access limitations and approval is granted by the City Zoning Commission. A turn-around having a minimum diameter of seventy two feet (72') between curb faces and a minimum right-of-way of ninety six feet (96') shall be provided at the closed end of such streets.

b. The minimum stopping sight distance for horizontal curves on minor residential streets shall be two hundred feet (200').

c. Reverse curves shall be avoided when possible. Should it become absolutely necessary to utilize a reverse curve, a tangent of at least one hundred feet (100') shall be introduced between curves.

d. The minimum radius of curvature permitted on a horizontal curve shall depend upon design speed and corresponding friction coefficients developed by American Association of State Highway and Transportation Officials (AASHTO), but shall not be less than one hundred seventy five feet (175').

e. All changes in street grades shall be made with vertical curves. The minimum required stopping sight distance, as required by AASHTO, shall not be less than two hundred feet (200').

f. The maximum street gradient shall not exceed 8% except where steeper grades are mandatory due to unusual topographic conditions and approval is granted by the City Engineer. The minimum grade shall be such as to allow for adequate drainage without undue spread of storm water over the travel lane, but shall not be less than 0.5%.

3. **Street Width and Categories**:

Category Street Type:	Projected Count	Mm. R. 0. W.	Pavement Back to Back of Curb	Curb & Gutter
Principal Arterial	5,000	Variable	Variable	Optional
Minor Arterial	1,500- 5,000	80’	42’ mm.	Curb & Gutter
Collector or Business	800-1,500	70′	37′ mm.	Curb & Gutter
Local	0-800	50′	30′ mm.	Curb & Gutter

Where not shown in the comprehensive plan, including the transportation plan the arrangement of streets in a subdivision shall provide for the continuation of appropriate projection of existing major streets.

4. **Intersection Design**:

a. Streets shall be designed to intersect at approximately right angles. Skewered intersections shall be avoided and in no case shall the angle of intersection be less than 75 degrees.

b. Street intersections and approaches shall be designed on as flat a grade as possible. Street gradients within 100 feet of intersections shall not exceed 4%, and every reasonable effort shall be made to keep the gradient below 2%.

c. The minimum curb radius permitted at intersections shall be twenty feet (20’) for local streets, and twenty-five feet (25’) for collector streets, thirty-five (35) for minor arterial, forty-five (45) for principal arterial.

d. Two streets intersecting the same street intersection) shall be offset a minimum of one hundred fifty feet (150’) (centerline offset).

e. Turning lanes shall be provided at heavily traveled intersections as determined by the City Engineer.

f. When possible, intersections on sharp horizontal curves or near the vertex of crest vertical curves shall be avoided.

5. **Typical Section and Pavement**

a. All streets shall be designed with a four percent (4%) traverse slope.

b. Street pavement designs shall be based on consideration of the anticipated traffic volumes by weight, the sub-grade soil, surface drainage, ground water and climatic conditions. The minimum pavement structural design shall be based on street category and subgrade CBR as determined by a certified testing laboratory.

(1) The thickness of pavement increments shall be determined according to accepted AASHTO design practice and pavement material equivalencies. Street surfaces shall be a minimum of 1-1/2" Hot Bituminous surface course (SC-i, Type 11) and five inches (5") of hot bituminous base course (BB-1), or such thickness as determined by the engineer. 1 1/2" surface course shall not be placed until end of warranty or as required by the Public Works Director or City Engineer.

(2) A Certified Test Report shall be submitted to verify percentage of lime required.

(3) Asphalt thickness' of the Base Course and wearing surface will be verified by coring test to be taken by the Contractor (at his expense) at various locations as directed by the City Engineer.

(4) Materials and construction procedures shall comply with the latest edition of the "Mississippi Standard Specifications for State Aid Road and Bridge Construction."

(5) The street subgrade shall be proof rolled as required by the Public Works Department and density tests shall be performed by a certified lab in the presence of the City Engineer at the developers cost.

(6) Certified testing laboratory results and representative samples of all in place sub-grade materials shall be submitted to City Engineer.

c. Sidewalks (when incorporated into the design of a residential or commercial development shall be at the expense of the developer).

(1) All sidewalks, when installed in the city right-of-

way, shall be a minimum of four feet (4') in width and 4-inches thick, and shall fall 1/4 inch per foot sloped toward the roadway and have a minimum of one foot (1) grassed or landscaped median area separating the sidewalk and adjacent curb, unless otherwise approved in writing by the Public Works Director or City Engineer.

(2) In the case of existing open ditch streets, the actual location of the sidewalk shall be as directed by the Public Works Director or City Engineer.

(3) Sidewalks shall be required on both sides of all local, collector or arterial streets as designated by the City's transportation plans unless otherwise approved in writing by the Public Works Director or City Engineer.

(4) All maintenance to sidewalks located within City right-of-way shall be the responsibility of the City of Canton.

(5) These requirements shall only pertain to areas encompassed by the subdivision plat.

d. Gated private and/or public subdivisions shall be designed and constructed in accordance with City of Canton development regulations unless granted a variance by the Mayor and Board of Aldermen. The City reserves the right to refuse the dedication of a private street regardless of a previous variance being granted.

6. **Street Names, Signing & Traffic Control**:

a. Proposed Streets, which are obviously in alignment with others already existing and named, shall bear the names of the existing streets. In no case shall names of proposed streets duplicate or be confused with existing street names. Street names shall be subject to the approval of the Mayor and Board of Aldermen, Public Works, Public Safety and E-911.

b. Street names shall be stated and approved on the preliminary plat. All traffic signs and street name signs shall be purchased by the Developer and installed by or to the satisfaction of the City before final plat approval.

c. Regulatory signs shall be in compliance with the current MUTCD manual and shall be installed accordingly. Placement and number of signs shall be in compliance by the MUTCD or as determined by the Public Works Director or City Engineer.

3.50.05 STORM DRAINAGE SYSTEMS:

A. General:

1. The design of storm water drainage systems shall insure adequate control of storm water runoff through the use of properly sized and positioned drainage structures including, but not limited to, curb and gutter, curb and grate inlets, storm sewer pipe, box culverts, intersectional drains, open ditches, detention and retention areas and bridges. The design of storm drainage systems shall be in accordance with generally accepted engineering practice and the adopted stormwater management ordinance.

2. The design of any storm water drainage system shall be compatible with overall drainage plans developed for and approved by the City of Canton where applicable and the applicable stormwater detention requirements.

3. Drainage facilities shall be designed to prevent excessive runoff onto adjacent properties. Excessive runoff, over and above natural conditions includes quantities (cfs) and quality (erosion, siltation and chemical-biological contaminants). Existing ditches and creeks may be left in "natural" or unimproved condition only if the total flow is limited to the natural or rural condition and only with the approval of the Mayor and Board of Aldermen.

4. All developments must have DEQ or Army Corps of Engineers permit when required.

5. In no case shall slopes be steeper than 3:1 unless adequate slope protection is provided and approved by the City Engineer.

B. Storm Drainage Pipe and Culverts:

1. Pipe and culvert sizes shall be selected by use of computed hydrological and hydraulic data. Design flows shall be based on climatic factors such as rainfall intensity, duration, frequency and distribution and physiographic factors such as size, shape, and slope of drainage area, anticipated land use or cover, surface infiltration condition, soil type and topographical condition. Pipe

selection shall be based on its hydraulic capacity considering size, slope, and roughness characteristics as well as its tendency to become choked and the ability to clean and remove obstructions.

2. The minimum storm drainage pipe size shall be 15 inches.

3. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit construction of a full width roadway including side slopes. Headwalls or flared end section aprons as well as channel bottom and slope protection (rip-rap) shall be provided at the upstream and discharge end of the cross drain as required by the City Engineer.

C. Streets, Curb and Gutter and Inlets:

1. The horizontal and vertical alignment of streets shall be compatible with the storm water runoff system and drainage design.

2. Street grades shall be coordinated with lot drainage as proposed in the grading plan, but shall be one foot below the 100-year frequency urbanized flood level.

3. The hydraulic capacity of the curb and gutter shall be determined by generally accepted engineering procedure taking into consideration roughness, Street cross-slope, and street gradient, but in no case shall the spread of water cover over half of the travel lane. Inlet spacing shall be a maximum of 400'.

4. The hydraulic capacity of curb inlets shall be determined by generally accepted engineering procedure taking into consideration inlet geometry and characteristics of the gutter flow. Curb inlets shall be spaced so as to limit the spread of water to not more than one quarter of the street width during a design storm of ten (10) year return period and 15 minute duration. Inlets shall also be placed at all low points in the gutter grade, at intersections where necessary to prevent gutter flow from crossing traffic lanes of an intersecting street, or at points of special concern as designated by the City Engineer. Inlets shall be provided so that surface water shall not be carried across or around any intersection nor for a distance of more than 400 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowances shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

D. Effect on Downstream Drainage Areas: The Developer's Engineer shall study the effect of each subdivision on existing downstream drainage

facilities outside the area of the subdivision. City of Canton drainage studies, if applicable, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the City Engineer may recommend withholding approval of the development until provisions have been made for the improvement of said potential condition through stormwater detention or some other acceptable means. No development shall be approved unless adequate drainage will be provided to an adequate drainage water course or facility.

E. Bridges and Box Culverts: The structural design of all box culverts or bridges shall conform to the standard plans of the Mississippi State Highway Department for a load capacity of HS-20 minimum. Bridges, where required, shall be constructed of reinforced concrete piling with a reinforced concrete deck. No mud sills or timber grills will be permitted for bridge foundations. All bridges shall be provided with substantial guard rails and sidewalks.

F. Material Specifications: All material used in the construction of storm drainage systems, shall conform to the following minimum specifications:

1. Concrete shall be ready mix as per ASTM 0-94 which will develop a minimum compressive strength of 3,000 psi at 28 days conforming to ASTM C-31.

2. All reinforcing steel shall conform to ASTM A-i 5, Grade 60.

3. Bricks used in the construction of inlet boxes and manholes shall conform to ASTM C-32, Grade MA.

4. All Portland Cement shall conform to ASTM C 150, Type 1.

5. All sand shall conform to ASTM 0-33.

6. All mortar shall consist of I part cement, 2 parts sand, and 10% lime (by volume).

7. All culvert pipe shall be reinforced concrete pipe. This pipe shall conform to ASTM C-76, and be Class Ill minimum, standard strength, bell and spigot or tongue and groove unless approved by the Mayor and Board.

   The use of P.V.C, polyethylene (PE), ADS or other material on side or rear lot lines outside the street right-of-way will be acceptable only if approved by the Public Works Director or City Engineer.

8. Rubber gaskets shall conform to the requirements of ASTM 0-443.
9. Precast concrete manholes shall conform to ASTM 0-478.

10. Castings shall conform to ASTM A-48. Manhole covers and rings shall have a combined weight of not less than 300 lbs. and be suitable for traffic loads.

11. Curb inlets design/casting shall conform to type of curb approved for project.

G. Installation:

1. Any materials delivered to a job site defective or damaged shall be rejected by the City of Canton and shall not be used for construction.

2. All concrete pipe, catch basins, curb inlets and headwalls shall be installed in strict accordance with the manufacturers' recommendations and/or all applicable provisions of the Mississippi State Highway Department's "Standard Specifications for Road and Bridge Construction."

3. All pipe shall be laid to alignment and grade with the use of a laser. Batter boards and string lines shall not be permitted.

4. No more trenches shall be opened than can be effectively utilized in a day. Excavations to be left open during non-working hours shall be kept to a minimum. Such openings shall be adequately protected or marked to prevent injuries.

5. Backfilling shall be carried out as follows:

   a. In areas under streets, walks or parking areas, the backfill shall be placed in 6" lifts and compacted to a minimum of 95% density by ASTM D-698 (Standard Proctor) using mechanical devices designed for that purpose.

   b. In all other areas, the backfill may be placed in 12" lifts compacted to 90% density by ASTM D-698 (Standard Proctor).

H. Design of Storm Drainage Systems:

1. The design of storm water drainage systems shall insure adequate control of storm water runoff through the use of properly sized and positioned drainage structures including but not limited to curb and

gutter, curb and grate inlets, storm water sewer pipe, box culverts, intersectional drains, open ditches and bridges.

2. The design of all storm water drainage systems (main channels) shall be in accordance with the City of Canton's plan for the basin in which the development is located and shall provide for potential affects to upstream and downstream developments in the basin. Drainage facilities shall be designed to prevent excessive runoff onto adjacent properties.

3. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit construction of a full width roadway including side slopes. Headwalls or flared end sections, aprons, channel bottom and slope protection shall be provided at the upstream and discharge end of the cross-drain as required by the Public Works Director or City Engineer.

4. The following storm water design frequencies shall be used in computing design distribution:

   100-Year: All major streams, channels, open ditches or drains within the jurisdictional limits of Canton.

   50-Year: Minor streams, channels, open ditches or subdrains tributary to main streams.

   25-Year: Crossdrains, sidedrains and miscellaneous culverts where flooding would cause minor adverse affects.

   10-year: Curbs, drops or grate inlets.

   No individual, partnership or corporation shall deepen, widen, fill, reroute or change the location of any existing ditch, stream or drainage canal without first submitting plans and obtaining written permission from the Public Works Director or City Engineer.

   The following design criteria shall apply to all storm drainage pipe and culverts:

   (a) Calculation of design flows for drainage areas less than ten (10) acres: All pipes, sidedrains and open ditches shall be designed using the applicable frequency curve. The minimum storm drainage pipe size shall be fifteen inches (15") and shall be obtained using the Rational Formula (below).

   (b) Storm sewer design velocities shall not exceed ten feet

(10') per second.

(c) For small, compact drainage basins less than ten (10) acres, the peak runoff shall be computed from the Rational Formula.

5. Calculation of design flows from drainage areas greater than ten (10) acres: Design flows shall be obtained by using the following Charts 2, 3 and 4 entitled "Flood-Frequency Curves for Urbanized Streams."

All pipes, sidedrains and open ditches shall be designed using the applicable frequency curve. Storm sewer design velocities shall not exceed ten feet (10) per second.

The following requirements shall apply to the construction of streets, curb and gutter and inlets:

(a) The horizontal and vertical alignment of streets shall be compatible with the storm water runoff system and drainage design.

(b) Street Grades shall be coordinated with lot drainage as proposed in the grading plan. Street grades shall be not more than 1 foot below the 100-year frequency flood level.

(c) The hydraulic capacity of curb inlets shall be determined by generally accepted engineering procedures taking into consideration roughness and street cross slope.

(d) The hydraulic capacity of curb inlets shall be determined by generally accepted engineering procedures taking into consideration inlet geometry and characteristics of the gutter flow. Curb inlets shall be spaced to limit the spread of water to not more than one half (1 /2) of the street width during a design storm often (10) year return period and fifteen (15) minute duration. Inlets shall also be placed at all low points in the gutter grade, at intersections where necessary to prevent gutter low from crossing traffic lanes of an intersecting street or at points of special concern designated by the Public Works Director or City Engineer.

(e) Finished grades of all buildings shall be one foot (1′) above the 100-year flood elevation.

The structural design of all box culverts or bridges shall conform to the standard plan of the Mississippi State Highway Department

for a load capacity of HS-20 minimum.

All culverts, cross drainage and storm sewers shall be constructed in accordance with the technical specifications contained herein.

3.50.06 SANITARY SEWER SYSTEM:

A. Shall comply with minimum standards as established by Mississippi Department of Health.

B. Contact Canton Municipal Utilities for utility information.

3.50.07 WATER SUPPLY SYSTEM:

A. Design shall comply with minimum standards as established by Mississippi Department of Health.

1. Fire hydrants shall be placed at all intersections and at intervals not to exceed 500 feet in residential areas and 300 feet in commercial areas. They shall be located within one foot (1′) of side lot lines. Valves shall be installed on each fire hydrant when the main is eight inches (8”) or larger. Both valves and hydrant shall be installed with ductile iron anchor couplings to the main.

2. Fire hydrants shall be set with the break- away bolts at curb height or as directed by the City.

3. Fire hydrants in commercial districts shall not exceed 300 feet spacing and be on both sides of the street.

3.50.08 STREET LIGHTING:

A. Street lights shall be located at least one for each eight (8) lots and at each street intersection. The lights shall be 150 watt high pressure sodium with photoelectric cell for automatic operation. The poles shall be pre-cast concrete or an approved substitute, if approved by the Public Works Director or City Engineer.

B. The installation of conduit and wiring is preferred to be underground, however may go overhead at the approval of the Mayor and Board of Aldermen. The electrical boxes and streetlights shall be located as near as possible to the lot lines.

C. No transformer or pedestal shall be set in front of or within five feet (5′) of a fire hydrant. Underground wiring and poles shall be located along front lot lines within the street right-of-way where possible.

3.50.09 UTILITY SERVICES:

A. All services for utilities shall be made available for each lot in such a manner that it will not be necessary to disturb the street pavement, curb, gutter and drainage structures when connections are made.

B. Where utilities are provided by someone other than CMU, the developer must provide copy of approval letter from utility company allowing connection to their facilities.

3.50.10 TRENCHING OR BORING: No trenching or boring pits shall be allowed within two feet *(2′)* of the curb. Under no circumstances should any trench or boring pit be left open over night without written permission from the Public Works Department.

3.50.11 EASEMENTS:

A. Utility and/or drainage easements of an appropriate width shall be provided along the Right-of-Way of all streets and along lot lines where determined to be needed by the Public Works Director and City Engineer.

B. Where easements intersect or sharp changes in alignment are necessary, corners shall be cut off sufficiently to permit equipment access, subject to the approval of the City Engineer.

C. Buildings, fences or structures placed within easements may be done so but at the risk of the property owner having to move them at his own expense if requested by the City to do so. No permanent structure shall be allowed on easement.

D. Any overhanging limbs, shrubbery, or other vegetation forming an obstruction may be moved if necessary from within the limits of a utility easement at the discretion of the maintenance personnel of the City or utility which has installed or is installing within such easement.

E. Easements which do not open at both ends upon a street, alley or another easement shall not be permitted. The City Engineer may approve a dead-end easement, but only where such easement cannot be opened at both ends.

50.12 ALLEYS:

A. Alleys may be provided to the rear of lots only in commercial, residential and industrial developments and only where other definite and assured provision cannot be made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. The use of alleys must be approved by the City Zoning Commission.

B. If approved, the width of an alley in commercial and/or industrial subdivisions shall be a minimum of thirty feet (30′) and twenty feet (20’) for residential developments.

C. Alley intersections and sharp changes in alignment shall be avoided but where necessary; corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided where possible, but if unavoidable, such alleys shall be provided with adequate turnaround facilities at the ends as determined by the City Zoning Commission.

3.50.13 **FINAL GRADING OF SLOPES AND CLEAN-UP:** A growing stand of grass shall be provided on all slopes within the street right-of-way such that no dirt will slough-off into the streets and no finger washing will be placed on the maintenance responsibility of the City. Any sewer, waterline or culvert trench settlement occurring within a year after acceptance by the City will be corrected by the owner at no cost to the City. Erosion control measures shall be included in all development plans to meet Department of Environmental Quality requirements.

3.50.14 **SUBDIVISION ENTRANCES:** Each developer will provide at the time of filing the preliminary plat (prior to construction), a complete set of plans showing the safety of the entrance and exit to the development. Construction of the identification entrance shall be of stone, brick or other treated material and the plan, therefore, must be approved by the City Department of Building and Development. Each developer will be required to construct an entrance identification into the development at no cost to the City.

3.50.15 **AS-BUILT PLANS:** Upon completion of construction of streets, drainage, utilities or improvements, one (1) set of reproducible tracings of complete final plans, dated, signed and certified by the Engineer in charge and four (4) sets of prints with final certificates from the regulatory agencies, showing all features as actually installed, including materials, size, location, depth or elevation, numbers, end of lines, connections, wyes, valves, storm sewer drains, inlets and all other pertinent information shall be filed with the Public Works Director. All underground facilities, valves, services and etc. shall be located from two (2) reference points which are approximately 90 degrees apart with distances shown on these plans. There shall be no connections made to such utilities serving the subdivision until the foregoing has been complied with.

This Ordinance shall be in force and effective thirty (30) days from and after passage.

CHAPTER FOUR

ARCHITECTURAL REVIEW

SECTION 4.10 - PURPOSE OF THIS CHAPTER:

A. The Board of Aldermen of the City of Canton, Mississippi, hereby find that bizarre, garish or otherwise inappropriate exterior design and appearance of buildings, structures and improvements erected in all zoning districts, excluding the Historic Preservation District, adversely affects the desirability of immediately adjacent and neighboring properties; impairs the benefits of occupancy as to existing properties in such areas; jeopardizes the economic stability and taxable value of businesses, land and buildings in such areas, and in the City as a whole; prevents the optimum use of real estate in the City; induces physical degeneration of property with attendant deterioration of conditions bearing directly on the public health, safety, moral and general welfare of the citizens; deprives the City of tax revenue and destroys a proper balance between the taxable value of real property and the cost of municipal services.

B. Therefore, in order to encourage the construction of attractive buildings, to protect and promote the general welfare and to prevent deterioration of the City which would tend to create hazards to public health, safety and morals, destroy opportunity for the development of business and industry, and thereby deteriorate taxable land values and commerce below levels necessary to finance acceptable levels of municipal services, it is the purpose of this ordinance to provide for the designation of architectural control districts within all zoning districts, excluding the Historic Preservation District, to establish a Board to regulate the exterior appearance of buildings, structures and improvements proposed for alteration or erection in such districts and to set standards and procedures to be followed by such Board and, on appeal from its decision, by the Board of Aldermen.

SECTION 4.11 - DESIGNATIONS OF ARCHITECTURAL CONTROL DISTRICTS: All land areas in the City, which are zoned, are hereby designated as an architectural control district.

SECTION 4.20 - BOARD OF ARCHITECTURAL REVIEW:

A. It is the intent of the Board of Aldermen to establish and create an Architectural Review Board to be known as the Canton Architectural Review Board (CARB) for the City of Canton, Mississippi. This Board shall consist of seven members.

B. Each member of CARB shall be a legal resident of Canton, Mississippi**.**

C. Citizens who wish to serve on the CARB shall submit, in writing, a letter to the Building Official stating why he/she feels qualified to serve on this Board. The letter submitted by the applicant will be forwarded to the Mayor and Board of

Aldermen along with a recommendation by the Building Official. The final decision shall rest in the discretion of the Mayor and Board of Aldermen. The Building Official shall use reasonable diligence to inform the public of any vacancy on the Board.

D. Three of the initial appointments for regular members shall be for a term of one (1) year; two of the initial appointments for regular members shall be for a term of two (2) years; and two initial appointments for regular member shall be for a term of three (3) years. Thereafter, each appointment shall be for a term of three years, for two consecutive terms. Term of appointment notwithstanding, each member shall serve until his successor is appointed and has assumed office.

E. The CARB shall elect from its membership a chairman, vice-chairman, and secretary at its first meeting (and annually thereafter) to serve for a term of one year. No officer shall succeed himself more than three consecutive terms.

F. The members of the CARB shall serve without pay, but may be reimbursed for actual expenses as authorized in advance by the Mayor and Board of Aldermen.

SECTION 4.21 - MEETINGS: The CARB shall hold regular meetings on the second and forth Tuesdays of the month. The Building Official or Chairman may, by written notice, call a special meeting of the CARB for the transaction of important business. The notice must state the time of meeting and distinctly specify the subject matters of business to be acted upon. It must be signed by the officer or officers calling the meeting, and must be served on the members of the CARB, and who can be found personally, at least 24 hours before the time fixed for the meeting. Said notice, with the endorsement of its service, shall be entered on the minutes of the special meeting, and business not specified therein shall not be transacted at the meeting. Notice of the meeting shall be posted on the bulletin board at the Canton City hall within one hour after the issuance of the notice.

SECTION 4.22 - MINUTES: All meetings of the CARB, shall be recorded by the taking of minutes to be maintained by the secretary of the CARB.

SECTION 4.23 - QUORUM: A quorum shall consist of a majority of the members of the CARB. In the event a quorum is not obtained at any regular meeting, a special meeting shall be called as soon thereafter as practicable.

SECTION 4.24 - CONDUCT:

A. All meetings of the CARB shall be conducted by the chairman, or in his absence, by the vice-chairman**.**

B. All meetings of the CARB shall be open to the public, and all decisions shall be by record vote of the ayes and nays spread upon the minutes of the proceedings. The CARB shall comply with all provisions of the Mississippi statutes on open meetings, Miss. Code Ann. 825-41-1 through 25-41-17.

C. In matters covering procedures for the CARB not specified in this chapter, Robert's Rules of Order shall govern.

SECTION 4.30 - APPROVAL OF CONSTRUCTION, RECONSTRUCTION AND ALTERATIONS IN ARCHITECTURAL CONTROL DISTRICTS:

A. No structure, building, or other improvement located in Public, Commercial, Industrial or Multifamily districts, excluding the Historic Preservation District, shall be erected, reconstructed, altered or restored until the exterior elevations for such shall have been approved by the CARB. The provisions of this chapter shall not apply to the regular maintenance of the same as opposed to the reconstruction, alteration or restoration. For the purposes of this section the repainting of a structure or building which results in the complete change of color of the structure or building or a substantial portion thereof shall be deemed an alteration and not regular maintenance, in which a submittal of paint samples will be the only requirement and the administrative fee will be waived.

B. Erection, reconstruction, alteration or restoration of signs shall be controlled by the Sign Ordinance of the City.

C. No structure, building, or other improvements located in Residential, Manufactured Home or Agriculture Districts, excluding Historical Preservation District, shall be erected, reconstructed, altered or restored until the plans for such shall have been approved or cause to be approved by the Building Official. The provisions of this chapter shall not apply to the regular maintenance of the same as opposed to the reconstruction, alteration or restoration.

D. The Building Official shall have the authority to determine if the reconstruction, alteration or restoration materially affects the exterior appearance of the structure involved.

SECTION 4.31 - APPLICATION:

A. Applicants applying for architectural approval by the CARB for the construction, reconstruction, alteration, or restoration of any building within a Commercial, Industrial, or Multi-Family District excluding Historical Preservation District, shall submit the following information to the Building Official:

1. An architectural rendering (perspective and/or elevation) and plans of all buildings and structures showing style of architecture prepared in accord with the requirements of the Southern Building Code as adopted by the City. All colors, materials and finishes shall be shown by notation or by use of accepted architectural symbols.

2. The proposed site plan which complies with all other ordinances of the City for site plans including a landscaping plan; and

3. A vicinity map and renderings or photographs of all development on immediately adjacent properties; and

4. An administrative fee of $100.00.

B. Upon filing of an application, the Building Official, after determining that the requirements of this section have been satisfied, shall there upon place the application on the agenda for consideration at the next regular meeting of the CARB.

SECTION 4.32 - HEARING: During the consideration of an application filed under this chapter, the CARB shall hear the testimony of any party desiring to be heard in support of or in opposition to the application. Such testimony shall be strictly confined to the question of whether the proposed construction, reconstruction, alteration or restoration satisfies or does not satisfy the criteria for the same set out in this ordinance. The CARB shall hear any oral testimony that the Building Official desires to present.

SECTION 4.33 - DECISIONS; CERTIFICATE OF APPROVAL:

A. The CARB shall vote and reflect its decision in the minutes of the meeting no later than the next regular meeting after the conclusion of hearing evidence on the matter, unless time is extended by mutual agreement between the CARB and the applicant.

B. In all final decisions rendered pursuant to this chapter, the CARB or Building Official shall briefly state its findings in writing, and, in the case of disapproval, it may make recommendations to the applicant with respect to the design, texture, material, color, line, mass, dimension or lighting of the building involved. In case of disapproval, accompanied by such recommendations thereon, the applicant may again be heard before the CARB if, within ninety (90) days, he can comply with all such recommendations of the CARB.

C. Approval by the CARB of any application filed hereunder shall be evidenced by issuance of a Certificate of Approval, signed by the chairman and attested by the secretary, designating the name of applicant, date of approval, identification of property involved and a brief description of the construction approved.

SECTION 4.34 - APPEALS: Whenever the CARB and/or Building Official shall, in a final decision, approve or disapprove or waive jurisdiction over any application filed pursuant to this ordinance, the applicant or any other person with justifiable cause shall be entitled to appeal such decision and be heard thereon before the Mayor and Board of Aldermen; provided, that there is filed with the City Clerk, on or before seven (7) days after the vote of the CARB, by the

appellant, a notice in writing of such appeal. Upon filing of notice of appeal as provided herein, the City Clerk shall thereupon schedule such a hearing before the Board of Aldermen, not more than thirty (30) days after the filing of such notice.

SECTION 4.35 - HEARING BEFORE THE MAYOR AND BOARD OF ALDERMEN: On any appeal to the Mayor and Board of Aldermen, the final decision of the CARB or Building Official shall be stayed pending the decision of the Mayor and Board of Aldermen. The Mayor and Board of Aldermen shall conduct a fill and impartial public hearing on the matter before rendering any decision. The same procedures and standards that are applied by the Mayor and Board of Aldermen are established for the CARB. The Mayor and Board of Aldermen may affirm, reverse or modify the decision of the CARB, in whole or in part. The decision of the Mayor and Board of Aldermen shall be final subject to provisions of Section 4.33.

SECTION 4.36 - APPEALS TO CIRCUIT COURT: Parties aggrieved by the decision of the Mayor and Board of Aldermen, rendered pursuant to section 4.35, shall have the right to appeal to the circuit court of the county in the same manner and form as is required for any other appeal of actions of the Mayor and Board of Aldermen.

SECTION 4.40 - DESIGN CRITERIA:

A. The intention of the Mayor and Board of Aldermen of the City of Canton is that no proposed structure or alteration shall be deemed to be in violation of this ordinance based upon personal preference to taste or choice of architectural design of any person or persons involved in the administration and enforcement of this ordinance. Only the below listed criteria will be considered in evaluating proposed construction. The CARB and the Building Official and, on appeal, the Mayor and Board of Aldermen shall use the following standards and criteria in considering applications filed under this ordinance.

1. Whether or not the proposed architectural design is suitable for a good suburban community in terms of external architectural features, general design and arrangement, texture, color, line, mass, dimension, material and lighting.

2. Whether or not the proposed structure, building or improvement is compatible with existing well-designed structures, acceptable to the CARB, in the vicinity and in the City as a whole.

3. Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the City's tax base as a whole, generating business activity, maintaining and creating employment opportunity, preserving historical sites and structures and making the City a more attractive and desirable place in which to live.

4. Whether or not the proposed free-standing buildings use the same or

architecturally harmonious materials, color, texture and treatment for all exterior walls; and in the case of partially free-standing buildings, whether or not the same or architecturally harmonious materials, color, texture and treatment are used on all portions of all exterior walls,

5. Whether or not the combination of architectural elements proposed for a structure, building or improvement, in terms of design, line, mass, dimension, color, material, texture, lighting, landscaping and roof line and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability.

6. Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, mass or roof line and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short-term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community.

SECTION 4.41 - NO SPECIFIC ARCHITECTURAL STYLE TO BE REQUIRED: The CARB and the Mayor and Board of Aldermen on appeal shall not adopt or impose any specific architectural style in the administration of this ordinance/code.

SECTION 4.42 - DEVIATIONS:

A. Any person having obtained the approval required by Section 4.30, and having secured a building permit, deviates substantially from the approved plan, shall be guilty of a misdemeanor.

B. The Building Official, upon his determination of substantial deviation, shall issue a stop work order on the building permit. Work shall not be permitted to continue, unless it is continued under substantial compliance with the Certificate of Approval issued pursuant to Section 11 or the changes have been re-submitted and approved by the CARB pursuant to this ordinance,

SECTION 4.50 - SEPARABILITY AND VALIDITY CLAUSE: Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

SECTION 4.51 - REPEAL OF CONFLICTING ORDINANCES OR PARTS THEREOF: All Ordinances or parts of Ordinances adopted heretofore by the City of Canton, Mississippi, which are in conflict herewith or inconsistent with the provisions of this Ordinance are hereby

repealed.

SECTION 4.52 - FAILURE TO ENFORCE ORDINANCE: Failure to enforce any provision of this Ordinance shall not constitute a waiver nor imply that the action is legal.

SECTION 4.53 - EFFECTIVE DATE OF ORDINANCE:

A. This Ordinance shall become effective thirty days from and after its adoption.

B. Adopted this, the_____day of 1997, at the regular meeting of the Mayor and Board of Aldermen of the City of Canton, Mississippi.

CHAPTER FIVE

SIGNS

SECTION 5.01 PURPOSE:

This Ordinance is adopted for the following purposes:

A. Assist the local business community in providing signage which directs the public to each individual business establishment.

B. Provide for consistent and equitable signage requirements for both large and small businesses.

C. To provide for a reasonable system of control of signs

D. To encourage a desirable urban characteristic that has a minimum of overhead clutter.

E. To enhance the economic value of the community and each area thereof through the regulation of such things as size, location, design, and illumination of signs.

F. To encourage signs which are compatible with adjacent land use.

G. To reduce possible traffic and safety hazards through sign regulation.

H. Insure that the type and amount of signage accurately reflects the character of the City of Canton.

SECTION. 5.02 DEFINITIONS.

Abandoned Sign: A sign, which no longer correctly advertises a bona fide business, lessor, owner, project, or activity conducted or product available on the premises where such sign is displayed.

Advertising Sign: See "Off Premises Sign"

Animated Sign: Any sign which moves or which appears to move by any means, including fluttering or rotating. Animated signs shall include but are not limited to pennants, flags, balloons, ribbons, streamers or propellers. For purposes of this Ordinance, this term does not

refer to flashing or changing signs, all of which are separately defined.

Balloons: Any display or arrangement of inflated objects, including large inflated characters, blimps, replicas of hot air balloons, etc. which are anchored to the ground, a building or pole with the intention to attract the attention of the public to a location or business.

Banners: Any streamer, flag-like pennant or other object, whether constructed of fabric or of other materials, furnished by a recognized manufacturer, which, with or without insignia, attracts the attention of citizenry to a location or business.

Board: Sign Appeals Board.

Building Face or Wall: All window and wall areas of a building in one plane or elevation**.**

Business Sign: A sign which directs the attention to a business, profession, commodity, service or entertainment conducted, sold, or offered upon the same lot where the sign is located.

Campus Environment Office Project: A multi-building commercial development consisting of buildings with uniform architecture located within a subdivision containing covenants and restrictions and arranged with common areas and similar landscaping.

Changeable Copy Sign (Manual): A sign on which copy is changed manually (i.e., reader boards with changeable copy) the area of which shall be included within the allotted face of sign square footage, and if ground mounted, enclosed under a locked and vandal proof case, at the discretion of the Building Official.

Changing Sign (Automatic): A sign such as an electronically or electrically controlled public service time, temperature and date sign, message center or reader board, where different copy changes are shown on the same lamp bank.

Civic Signs: Signs used for announcements, directing and identification by churches, schools and civic organizations. i.e. Lions Club, Rotary etc.

Construction sign: A temporary sign erected on the premises on which construction is taking place, during the period of construction, and indicating the names of the architects, contractors, owners, financial supporters, sponsors and similar persons or firms involved with the construction and development of the project.

Copy: The wording or graphics on a sign surface.

Development Sign: A temporary sign relating to the promotion of a sale or rental of a new development or subdivision being constructed on the site upon which the sign is located, or

located off-site and containing information and directions to a new development or subdivision.
Directional Sign: An off premises sign denoting the name and direction to a civic organization.

Exterior Directory Sign: A sign containing the building identification and address and the name and location of each tenant, and allowed in any project where one or more tenants does not have an exterior entrance or does not qualify for an exterior sign.

Facade: The face of a building most nearly parallel with the right of way line of the street upon which the building faces.

Face of Sign: The entire area of a sign on which copy could be placed, and in the instance where a double faced sign is utilized, the area of one face shall be included to determine face square footage, if both faces include the same copy.

Flashing Sign: Any sign, which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, changes in the degree of light intensity, or any externally mounted intermittent light source.

Front Footage: The lineal width measured parallel to the street frontage of the heated and enclosed structure, not including out-building or appurtenant structures, unless said structure has no street frontage in which case the front footage shall be the structure*s side width of principal entrance.

Ground Level: Immediate surrounding grade.

Ground Sign: A sign mounted at or near ground level the face of which is no more than thirty-six (36) inches and no less than twenty-four (24) inches above the centerline of the adjacent street, highway, or right of way.

Height of Sign: The vertical distance measured above the centerline of the adjacent Street, highway, or right of way to the highest point of the sign.

Interstate Viewable Sign: A sign located within the interstate zone, placed within the required rear yard of the business requesting the sign and is used to identity the name of that business.

Instructional Sign: A sign conveying instructions strictly for the direction safety and convenience of the public with respect to the premises on which it is maintained, such as a sign designating the entrance to or exit from a parking area, a sign identifying restrooms, a trespassing sign, a danger sign and similar signs.

Mall: A shopping center in which access for tenants is provided by a roofed or enclosed common pedestrian area.

Multi-Family Projects: A project consisting of other than single-family dwellings, including, but not limited to, multi-family dwellings, apartments, and condominiums.

Multi-Story Office Building: An office building three (3) or more stories in height, regardless of the number of tenants or occupants.

Office Building: A building principally used by companies to conduct business, or the uses allowed in the RC-1, C- I, C-2 Zoning Districts of the City.

Office Park: A project of one or more buildings that has been planned as an integrated unit or cluster on property that is under unified control or ownership.

Off Premises Sign: A sign directing attention to a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained, including, but not limited to, billboard signs.

On Premises Sign: See "Business Sign".

Opening Sign: A temporary sign erected only for that limited period during which an enterprise not theretofore in operation begins its operation initially or at a new location.

Outdoor Advertising Sign: An off-premises sign commonly referred to as a billboard and supported by one or more poles.

Pole Sign: A sign erected on a free-standing frame, mast, or pole and not 'attached to any building (Allowed in interstate zone only).

Political Sign: A temporary sign erected to publish the name of a candidate or to enlist votes in any official public election.

Portable Signs: Any sign constructed on a trailer with wheels which may or may not be detached or which is designed to be transported from place to place by any means for temporary use and is not designed to be nor is it permanently affixed to a building or lot.

Project Sign: A sign erected to display the identity of a single building, business, office, or shopping complex. The name of each tenant is to be displayed.

Real Estate Sign: A temporary sign employed to announce or display the sale or lease of real property, said sign being erected on the property for sale or lease**.**

Regional Retail Center: A commercial center developed as a unit, providing for the sale of

goods or personal services, and comprising a minimum of forty (40) acres and 400,000 square feet of floor area.

Retail Business: A business principally engaged in the sale of commodities, services, or goods to the ultimate consumer.

Roof Line: The apex, or highest point of the roof. If there is a series of roofs, the apex of the lowest roof will be considered.

Roof Sign: A sign which is erected, constructed, or maintained on a roof All bracing to the roof shall be concealed (not visible from road or ground) by the same material as the face of the sign.

Set Back: The minimum horizontal distance between the face of curb, the edge of pavement, or the right of way line and the sign structure as specified in a particular section of this Ordinance.

Shopping Center: A commercial area consisting of two or more retail businesses providing convenience goods, general merchandise, office or recreational activities; providing for off-street parking adjacent to such activities.

Sign: Any device, structure, fixture or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, good or service, activity, place, person or any other item of information.

Sign Area: The surface area of a sign computed as including the entire area within a rectangle, triangle, circle, or other regular geometric form, or aggregates thereof, encompassing all of the display area of the sign and including all of the elements of the matter displayed. Base, apron, supports, and other structural members not bearing advertising matter shall not be included in computation of surface area. Border or trim shall be included in computation of surface area.

Sign Conversion: The permanent affixation to building, pole, or lot of a portable sign.

Sign Structure: Any structure which supports, has supported, or supporting a sign including decorative cover.

Single Office Building: An office building containing four (4) or less tenants or occupants and less than three stories in height.

Street: A public thoroughfare which affords the principal means of access to abutting property.

Street Banner: A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame.

Strip Plaza: A linear arrangement of two or more businesses or offices under one or many ownership or management providing off-street parking and consisting of a similar or compatible architectural or graphic character of theme.
Subdivision Entrance Sign: An on-site sign, masonry wall, landscaping, or similar materials or features, which separately or together form a display to identify the subdivision, provided that the legend of such sign shall consist only of the name of the subdivision.

Temporary Sign: A sign which is not permanent and is allowed for a specific time period.

Wall Sign: A sign which is fastened and parallel to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign, and which does not extend more than twelve (12) inches from such building or structure.

Window Sign: A business sign painted on or posted in a window and visible from a public right of way.

SECTION 5.03 GENERAL SIGN REQUIREMENTS:

The following types of signs, along with Civic Signs subject to the limitations prescribed for them, shall be the only signs permitted for uses authorized in the commercial and industrial zoning districts of the City of Canton:

In instances where a sign setback requirement from the public right of way is not physically possible, the Building Official may allow for a smaller sign setback from the right of way if in his judgment the placement of the sign will in no manner constitute a traffic hazard, create a nuisance or infringe upon the rights of an adjacent property owner. In no instance will a sign be allowed to be placed in the public right of way. County and local government signs shall comply with the appropriate building classification.

Exception: Canton Historic District

A. Single Business Location (One building/one or more tenants).

1. The occupant of a single business structure with one tenant may have one (1) wall sign, total area of wall signage shall not exceed one (1) square foot of sign for every foot of front footage of the applicable building, subject to the following restrictions:

(a) The maximum square footage wall sign allotment shall not exceed one hundred and fifty (150) square feet except as provided herein.

(b) Where a single business fronts on more than one street, the allowable square footage for the wall sign shall be computed by using only one wall and the allowable area can be used on any street side. The wall chosen will be the owner/applicant decision.

2. Single business location with 2 or more tenants may each have tenant identification on the ground sign.

3. Refer to Appendix A for height, size, and set-back requirements of ground signs. The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign and maintained in accordance with the Canton Landscape Ordinance. If a single business fronts on more than one street, the allowance for a ground sign shall be determined pursuant to Appendix "A", based upon the number of lanes for each street.

4. If the occupant of a single business structure elects to use a wall, sign: The wall signs shall not be higher than the roof line or facia of the building.

5. If the occupant elects to use changeable copy, only one of the signs, wall or ground sign, may have changeable copy. If a changeable copy sign is used, the base of the changeable copy sign shall not be less than seven (7) feet above the ground.

B. **Single Office Building:**

1. Each single office building with four (4) or less tenants shall be allowed one ground mounted project sign per street frontage.

(a) Refer to Appendix A for height, size and set-back requirements of ground signs. The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign.

(b) The sign shall contain the name of the project and Street address and may have up to four (4) tenants, along with the owner*s name on the building and the building name.

2. Each business within a single office building which has an exterior entrance shall be allowed one wall mounted sign no larger than four square feet adjacent to the entrance

C. **Strip Plaza. Office Parks and Shopping Centers:**

1. Strip plazas, office parks, and shopping centers shall be allowed to display one ground sign per street frontage to identify the center and tenants. Refer to Appendix A for height, size, and set-back requirements of ground signs. The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign and maintained in accordance with the landscape ordinance. The Street address shall be included on the sign.

2. Each individual business within the strip plaza, office park, or shopping center shall be allowed to display one wall sign. The size of the wall sign shall be computed by taking the length of the wall of the tenant*s leased area and multiplying it by 1.0 (the length of wall times 1.0 equals total allotment for sign square footage,)

3. Private Sign Standards Required: In the case of an office park, strip plaza, shopping center or other grouping of five or more tenants or establishments, the developer shall prepare a set of sign standards for all exterior signs to be approved by the Zoning Commission. Such standards shall run with all leases or sales of portions of the development. Zoning Commission, when reviewing these standards, shall consider the size, colors, materials, styles of lettering, appearance of any logo, type of illumination, and location. Sign permits shall not be issued until the Zoning Commission has approved the sign standards after having been assured that such standards will be enforced by the developer or owner. The sale, subdivision, or other partition of the site after development does not exempt the project or portions from complying with these regulations relative to number of signs, and the harmony and visual quality of signs to be installed. All businesses which come under this section shall submit private sign standards within ninety (90) days after the effective date of this Ordinance.

D. **Regional Retail Center. Entrance Signs**:

Each regional retail center shall be allowed one ground mounted sign for each entrance. The entrance sign shall not exceed fifteen (15) feet in height from the grade; shall not exceed eight (8) feet in width; and shall be at least ten (10) feet from the pavement edge or curb of the public street or outside of the public right of way, whichever is further.

1. **Building Sign**: An individual business establishment may have one wall sign per street frontage, with the sign surface area not exceeding fifteen percent (15%) of

the surface area of the wall to which it is attached. However, an individual business establishment whose building is located in excess of two hundred (200) feet from the property line of the street on which it fronts may have a wall sign whose surface area does not exceed twenty-five percent (25%) of the wall on which it is located.

E. **Campus Environment Office Project:**

1. Each campus environment project shall be allowed no more than two project signs per entrance. Refer to Appendix A for height, size, and set-back requirements of ground signs. The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign.

2. A campus environment project may have a ground mounted address sign for each building. The address sign shall be out of the right of way, no higher than four (4) feet and no wider than three (3) feet.

3. Exterior directories shall be allowed for each building within a campus environment project. The purpose of the directory shall be for customer convenience, direction, and safety. There shall be one directory for each main entrance to the building. The directories shall not exceed fifteen (15) square feet per face. Directories shall be located no more than seventy-five (75) feet from building entrance(s) and set back at least fifteen (15) feet from curb entrance or edge of pavement. No exterior directory shall exceed six (6) feet in height as measured from surrounding grade. Building identification letters shall not exceed six (6) inches and tenant identification shall not exceed four (4) inches. Each tenant listing shall be of identical size, shape, and color. Directories may be a changeable copy sign (manual).

F. **Temporary Signs:**

1. Notwithstanding other provisions of this Ordinance, a newly established, expanded in floor area, or relocated commercial business, in addition to the hereinbefore specified sign allotment, may for a period of forty-five *(45)* days display one temporary wall, window, or ground sign per street frontage. Each allowed sign shall not exceed thirty-two (32) square feet in face area. Ground signs shall not exceed six (6) feet in height and shall be set back from the curb face or edge of pavement no less than ten (10) feet. A permit fee of Ten Dollars ($10.00) shall be charged.)

2. A business may request from the Building Official a temporary conditional use permit to allow a temporary sign (banner) related to a sale or a new product. The

temporary banner, which may be made of fabric, but cannot be a portable sign, shall not exceed an area of thirty-two (32) square feet and shall not exceed six (6) feet in height. Balloons may be used as part of the decoration but should be attached to the banner and not extend greater than ten feet from the banner. The sign shall be set back from the curb face or edge of pavement no less than ten (10) feet. A temporary conditional use permit issued under this paragraph shall not exceed a period of twelve (12) months. Businesses shall not be allowed more than one banner, at any given time, displayed on the exterior of the business. A permit fee of Thirty-five Dollars $35.00 shall be charged.

G. **Construction Signs:**

During the course of physical construction under a valid building permit issued by the City of Canton, two-sided ground sign not to exceed thirty-two (32) square feet in face area per side shall be permitted. Construction signs shall be no greater than eight (8) feet in height and located on the premises no less than fifteen (15) feet from the face of curb or edge of pavement or outside of the public right of way, whichever is further. The construction sign shall be permitted to stand no longer than the period during which construction is physically in progress under a valid building permit.

H. **Real Estate Signs**:

One ground or wall sign advertising the sale or lease of real estate shall be permitted upon the premises of the property for sale or lease, provided said sign does not exceed thirty-two (32) square feet of sign area. If not attached to a building, the sign shall not exceed five (5) feet in height and shall be set back no less than ten (10) feet from the face of the curb or edge of pavement or outside of the public right of way, whichever is further. Real estate signs shall be removed within seven (7) days of the closing of the sale, rental, or lease of the premises.

I. **Special Provisions for Service Stations and Convenience Stores:**

1. A service station/convenience store which is engaged in the retail distribution of petroleum and petroleum products in addition to the sign allotment hereinbefore provided shall be entitled to the following additional signs:

2. One non-illuminated price sign per street front, said sign not to exceed two (2) square feet in face area, and located upon the pump island nearest to said street or upon the face of the station building.

3. Two non-illuminating self service or full service signs per pump island, said signs not to exceed two (2) square feet in sign area nor to be located at a height more

than eight (8) feet from the surrounding grade.

4. Signs displaying the federal and state stamps, octane ratings, pump use directions, no smoking signs, and other signs as required by federal, state, and local authorities provided that the aggregate total square footage of same shall not exceed four (4) square feet per pump island.

J. **Multi-Story Office Building:** Each Multi-Story Office Building shall be permitted:

1. One ground mounted project sign per street frontage.

   (a) Refer to Appendix A for height, size and set-back requirements of ground signs. The base of all ground signs shall be fully landscaped with planters and shrubbery in all direction, not less than the dimensional width of the sign.

   (b) The sign shall contain the name of the project and the street address and may contain the owner*s name.

2. Each business within a Multi-Story Office Building which has an exterior entrance, shall be allowed one wall sign no larger than four square feet adjacent to the entrance, unless otherwise prohibited.

3. The same signage as a single office building if said building contains four (4) or fewer tenants.

4. An exterior directory permitted in Campus Environment Office Projects in the building contains more than four (4) or fewer tenants.

5. The owner of any multi-story office building may submit private sign standards which would allow additional signage in accordance with such standards. Before any additional signage may be permitted the Zoning Commission must find:

   (a) That because of unusual characteristics of a particular parcel of land and building or buildings located thereon that additional or different signage is necessary to prevent an injustice or undue hardship to any occupant of such a building; and

   (b) That the private sign standards provide for type of signage that is permitted to another office classification, (i.e. office park, single office building, campus environment office project); and

   (c) That the application of regulations related to another office

classification would eliminate the injustice or undue hardship to any occupant of such a building; and

(d) That the private sign standards meet all the requirements for private sign standards otherwise provided for by this ordinance.

SECTION 5.04 CIVIC SIGNS:

The following types of signs, subject to the limitations prescribed for them, shall be the only signs permitted for use by churches, schools and civic organizations whether located in commercial or residential zoning districts in the City of Canton In instances where a sign setback requirement from the public right of way is not physically possible, the Building Official may allow for a smaller sign setback from the right of way if in his judgment, the placement of the sign will in no manner constitute a traffic hazard, create a nuisance or infringe upon the rights of an adjacent property owner. In no instance will a sign be allowed to be placed in the public right of way.

EXCEPTION: Canton Historic District

A. **<u>Ground Signs</u>**:

Each civic organization shall be allowed one ground sign per location. This sign shall have a height no greater than eight (8) feet, an area of no more than 48 square feet and shall be set back at least five feet *(5 *)* from the edge of pavement or curb, or outside of the right of way, whichever is further. The area surrounding the sign shall be landscaped.

B. **<u>Wall Signs:</u>**

Each civic organization may have a wall sign of no greater than 48 square feet for each side of the building which has street frontage. The sign copy may contain the name and/or the denomination of the church or civic organization. Civic organizations may place a sign on the entrance signs of the city with approval of the Mayor and Board of Aldermen of the City of Canton, Mississippi.

C. **<u>Changeable Copy Sign (Manual)</u>:**

In lieu of the ground sign set out in "A" above, the civic organization may have a ground mounted changeable copy sign (manual) which may contain the name of the institution or organization; the name or names of the persons connected with it; and greetings, announcement of events or activities occurring at the institution or similar messages.

D. **Directional Sign**:

Each civic organization may have two (2) off-premises directional signs. The signs shall be no larger than six (6) square feet, no higher than six feet. The copy of the sign can contain only the name of the organization, its logo, and the directional arrow. More than one civic organization on a street corner shall be placed on one six (6) square foot sign.

E. **Temporary Sign:**

An organization may request from the Building Official a temporary conditional use permit to allow a temporary sign pertaining to campaigns, drives, or events of a civic, philanthropic, educational, or religious nature. The temporary sign, which may be made of fabric, but cannot be a portable sign, shall not exceed thirty-two (32) square feet nor be higher than six feet (6'). The sign shall be set back from the edge of the right of way at least ten feet (10'). No more than one temporary sign shall be allowed per street frontage. The temporary permit shall be for no more than fourteen days and shall be allowed no more than four times per year.

SECTION 5.05 RESIDENTIAL SIGNS:

The following types of signs, along with Civic Signs, subject to the limitations prescribed for them, shall be the only signs permitted for use within the residential zoning districts of the City of Canton.

Exception: Canton Historic District

A. **Development Sign:**

1. While a formerly recorded subdivision, approved on a plat of record, is under physical construction, there shall be permitted two (2) temporary off-premises signs giving exclusively the name and directions to the subdivision. The sign face of each sign shall not exceed thirty-two (32) square feet. The height of the sign shall not exceed eight (8) feet, The off-premises development sign shall require the approval of the Zoning Commission concerning location, setback, copy, lighting, and design and the request shaft be made along with the site review request.

2. In addition to the off-premises development signs, one two-sided on

premises construction sign, as provided in Section 1005-C, shall be permitted per entrance.

B. **Multi-Family Project Identification Signs:**

All multi-family projects, apartment complexes and/or condominiums with four (4) or more units shall be permitted two (2) externally lighted ground or wall signs for identification. If the project fronts on more than one street, two (2) additional multi-family project identification signs shall be permitted at a major entrance on the additional street frontage. Refer to Appendix "A" for height, size, and set-back requirements of ground signs. The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign. Wall signs shall be subject to the same requirements as Single Business Locations (Section 1002).

C. **Subdivisions Entrance Signs**:

In single family detached residential developments which have an approved plat of record, there shall be permitted two subdivision entrance signs at the intersection of every minor and major arterial street with the subdivision. The entrance signs shall be permanent signs and shall contain only the name of the subdivision. Refer to Appendix "A" for height, size, and set-back requirements of signs, if used. The base of all signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign.

D. **Construction Signs:**

A temporary construction sign shall be permitted during the course of physical construction under a valid building permit issued by the City of Canton. For a single family detached dwelling or a duplex, the sign face area shall not exceed nine (9) square feet. For a multi-family project, the sign face area shall not exceed thirty-two (32) square feet and shall conform to all other requirements set out in Section 5.05.B above. Construction signs for single family detached dwellings and duplexes shall be set back at least five *(5)* feet behind the curb face or edge of pavement, or outside of the right of way, whichever is further, and shall not exceed five *(5)* feet in height. Construction signs shall not be permitted to stand more than ninety (90) days without the express approval of the Zoning Commission.

E. **Real Estate Signs:**

In all residential districts, one temporary sign advertising the sale or lease of real estate shall be permitted upon the premises of the property for sale or lease. Said signs shall not exceed the dimensions of two (2) feet by three (3) feet, with a total maximum sign face area of six (6) square feet per face, with a maximum of two (2) faces on a single plane of material. The maximum height of said signs shall be five *(5)* feet, and said signs shall be set back no less than five (5) feet from the curb face or edge of pavement or outside of the right of way, whichever is further. Signs shall be removed within seven (7) days of the sale or lease of the property.

F. **Off Premises Real Estate Sign:**

SECTION 5.06 EXEMPT SIGNS:

The following signs are exempt from the provisions of this Ordinance:

A. Official public notices and notices posted by public officers in the performance of their duties.

B. Governmental signs for the control or direction of traffic and other regulatory purposes.

C. Flags or emblems of the United States, the State of Mississippi, or their political subdivisions, these flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes.

EXCEPTION: In residential areas the flag shall not exceed 60 square feet in area and shall not be flown from a pole, the top of which is more than 40 feet in height.

D. Memorial plaques, cornerstones, historical tablets, and the like.

E. Signs not visible from the front of the lot upon which they are situated, such as drive-up menu boards at Fast Food Facilities.

F. Signs posted in conjunction with door bells or mailboxes, none exceeding thirty-six (36) square inches in surface area.

G. Small, illuminated or non-illuminated instructional signs, none exceeding four (4) (6) square feet in surface area.

H. Address signs, not more than one for each street frontage of each principal use on a lot and none exceeding seventy-two (72) (120) square inches in surface area, showing only the numerical address (and name of residence) designations of the

premises upon which they are situated. All address signs shall be prominently displayed and written in contrasting colors to the color of the structure or background against which said signs are placed in order to facilitate emergency identification for public service employees.

I. Decals, numerals, names, addresses, hours, credit information, etc., attached to doors or windows and all of which occupy a total area of one (1) square foot or less.

SECTION 5.07 NON-CONFORMING SIGNS

A. **Intent:**

Signs which were legally in existence prior to the adoption of this Ordinance which do not conform to the provisions of this Ordinance are declared non-conforming signs. It is the intent of this section to recognize that the eventual elimination, as expeditiously and fairly as possible, of non-conforming signs is as much as subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this Ordinance.

B. **Variance From Non-Conforming:**

Signs which are legally in existence on the date of adoption of this Ordinance which are within twenty percent (20 percent) of being in compliance with the set-back, maximum height and maximum sign area allowances of this Ordinance shall be deemed to be in compliance with this Ordinance and not non-conforming. However, if any one requirement is greater than the allowances by more than twenty percent (20 percent), the entire sign must be brought into compliance pursuant to the remainder of this section.

C. **General Non-Conforming Sign Provisions:**

Subject to the exceptions and amortization schedule hereinafter set forth, any non-conforming signs may be continued in operation and maintenance after the effective date of this Ordinance provided that non-conforming signs shall not be:

1. Changed to or replaced with another non-conforming sign including changing the sign face (except on changeable copy signs which comply with this regulation and Outdoor Advertising Signs.)

2. Structurally altered so as to extend their useful life.

3. Expanded.

4. Relocated.

5. Re-established after damage of more than fifty percent (50%) of the value at the time of such damage or destruction.

6. Modified in any way that would increase the degree of nonconformity of such sign.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a sign or structure declared unsafe by the Building Official. Such signs may be improved only to the extent that such improvement does not exceed fifty percent *(50%)* of the current market value of the existing sign structure.

D. **Termination of Non-Conforming Signs/Amortization Schedule:**

1. Any non-conforming sign or sign structure which is partially destroyed by fire, accident, or natural cause beyond fifty percent (50%) of its current market value shall thereafter be removed or reconstructed in conformance to the provisions of this Ordinance.

2. Any non-conforming sign or sign structure which is improved and altered to comply with the provisions of this Ordinance shall thereafter be considered as conforming.

SECTION 5.08 PROHIBITED SIGNS:

A. **General.**

1. Animated Signs

2. Flashing signs having intermittent or animated illumination or moving parts. No signs shall have lights which imitate or resemble official emergency vehicle or traffic signs or signals Changeable Copy Signs (Automatic) are allowed to provide time and temperature only.

3. Strips or strings of lights, banners, flags, balloons or pennants, along and within outlining property lines, sales areas, roof lines, doors, windows, wall edges, or other architectural features of a building, which are not a part of the original structure. This prohibition shall not apply to Holiday lights displayed between Thanksgiving Day and New Year*s Day of each

calendar year.

Exception: Canton Historic District.

4. Signs on public property, other than those erected at the direction of and with the permission of a public authority having jurisdiction.

5. Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure, including but not limited to, portable signs (including sign conversions).

6. No sign or other device regulated by this Ordinance shall be erected continue to be displayed in such a manner as to obstruct the free and clear vision of vehicle drivers; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic or government sign, signal, or device; or which makes use of the words “stop”, “look”, “danger”, or any other words, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.

7. Signs which contain reflective materials, which present a hazard or danger to traffic or the general public.

8. Signs which exhibit more than two (2) faces.

9. Off-Premises Signs, except outdoor advertising signs, which were erected as of the effective date of this Ordinance.

10. Signs which contain words or pictures of an obscene, indecent, or immoral character which could offend public morals or decency.

11. Beacon or strobe lights.

12. Signs which are structurally unsound or which are rendered structurally sound by guy wires or unapproved facing or bracing.

13. No sign shall be placed on a vehicle or trailer which is parked or located for the primary purpose of displaying said sign (this does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).

14. Pole signs (other than outdoor, advertising signs, and signs within the interstate zone) with poles greater than three (3) feet in height.

15. Signs installed, erected, enlarged, or structurally altered in violation of the provisions of this Ordinance.

16. Signs erected on or that project above a roof line or above the face of flat roofed buildings (i.e., roof sign).

EXCEPTION: Signs fifty (50) years old or greater in which the original business is still in operation.

17. Any changeable copy sign (manual) that does not have locked, vandal-proof cover if required by the Building Official.

18. Signs which obstruct any window, door, fire escape, stairway, or any other opening intended to provide air, ingress, or egress for any building or structure, are hereby prohibited.

19. No sign or advertising device shall be erected on, be placed on, projected, or overhang any right of way, city walkway, street, alley or easement.

20. The tacking, painting, posting, or affixing of signs, posters, or advertising devices of any kind on trees, fences, rocks, utility poles, and other such structures is hereby prohibited.

EXCEPTION: Canton Historic District, Privately owned property (temporary sign)

21. Structures not meeting construction standards, out of date political billboards, and advertising of defunct businesses, and signs or structures which have been erected without **a** permit having been issued therefore and thus are illegal are prohibited.

22. Signs which are illegal under federal or state laws or regulations are prohibited.

23. All signs which are not expressly permitted by this Ordinance or any other ordinance of the City of Canton.

24. Any wall mounted sign for any office use located more than three (3) stories above ground level regardless of whether the same is adjacent to **an** exterior entrance.

B. <u>Portable and Flashing Signs</u>:

1. Due to the manifest traffic safety hazards, the use of portable and/or flashing

signs, with or without changeable copy board attached are declared a public nuisance and therefore prohibited. This includes not only intact portable signs, but also sign conversions.

2. Upon written notice by the City to the owner or lessee of such portable and/or flashing sign, such sign shall be removed within twenty-four (24) hours.

3. Upon failure to comply with this notice, the City Building Official shall initiate legal proceedings against the owner or lessee. If found in violation, owner shall be responsible for all costs incurred in removing the sign in addition to any court-assessed fees and penalties.

SECTION 5.09 ILLUMINATION:

A. **General:**

Illuminated signs shall adhere to the following provisions and restrictions in addition to those stated in the sign requirements by zoning.

1. The light for or from any illuminated sign shall be so shaded, shielded, or directed that intensity will not be objectionable to surrounding areas, as determined by the Zoning Commission.

2. No sign shall have blinking, flashing, or fluttering lights or other illuminating device which has a changing light intensity, brightness or color.

3. No colored lights shall be used at any location in any manner so as to be confused with or construed as traffic control devices.

4. Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.

5. Exposed bulbs shall not be used on the exterior surface of any sign, except when approved by the Board of Sign Appeals.

SECTION 5.10 STRUCTURAL REQUIREMENTS:

All Signs shall comply with the pertinent requirements of the adopted Standard Building Code and the National Electrical Code.

SECTION 5.11 INSPECTION: REMOVAL AND SAFETY:

A. **Inspection:**

All signs shall be inspected periodically by the Building Official for compliance with this Ordinance.

B. **Maintenance**:

All signs (temporary and permanent) and components thereof shall be kept in good repair and in a safe, and clean condition.

C. **Removal of Signs**:

The building official shall give written notice of the removal of any permanent sign erected or maintained in violation of this Ordinance. Upon failure to comply with this notice, the building official shall issue a summons to the owner into City Court. Temporary signs erected or maintained in violation of this Ordinance may be removed by the Building Official without notice. The Building Official shall remove any sign immediately and without notice if the sign presents an immediate threat to the safety of the public. Any sign removal shall be at the expense of the property owner.

D. **Obsolete and Abandoned Signs:**

1. Any sign which advertises or pertains to a business, product, service, event, activity, or purpose which is no longer conducted or that has not been in use for three (3) months or which is no longer imminent, or any sign structure that no longer displays any sign copy for a period of at least three (3) months shall be deemed to be obsolete or abandoned.

2. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management shall not be deemed abandoned or obsolete unless the property remains vacant for a period of six (6) months for non-conforming signs, or twelve (12) months if the signs otherwise conform to all provisions of this Ordinance.

3. Obsolete or abandoned signs are prohibited and shall be removed by the owner of the property, his agent, or person having the beneficial use of the

building or site upon which such sign or sign structure is erected within thirty (30) days after written notification from the Building Official.

4. In the event of non-compliance with the aforesaid terms and provisions, then the Building Official shall have the authority to cite the sign owner and/or lessee into City Court for hearing.

SECTION 5.12 PERMITS AND FEES:

A. Permits and Fee Requirements:

1. All permanent signs permitted under this Ordinance, including existing signs, shall require a permit. Existing signs permitted under this ordinance, the permit fee will be waived.

2. No sign shall be erected, altered, or relocated without a permit, except as otherwise provided herein. Electrical permits as required shall be obtained at the same time as the sign permit.

B. **Non-conforming Existing Signs. Permits. and Terms**:

A sign that would be permitted under this Ordinance only with a sign permit, but which was in existence on the effective date of this Ordinance or on a later date when the property is annexed to the City and which was constructed in accordance with the ordinances and other applicable laws in effect on the date of this construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this Ordinance, shall be issued a Non-conforming Sign Permit if an application in accordance with Section 5.12.B of this Ordinance is timely filed. Such permit shall allow the sign(s) subject to such permit, which were made non-conforming by the adoption of this Ordinance, to remain in place and be maintained for a period ending no later than the date set out in Section 5.07.D .(a), provided that no action is taken which increases the degree or extent of the nonconformity. However, any non-conforming sign shall either be eliminated or made to conform with the requirements of this Section when any proposed change, repair, or maintenance would constitute an expense of more than fifty percent (5 0%) of the current market value of the existing sign structure.

C. **Applications**:

The permit application shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, drawing showing the

design, location, materials, finishes, and colors of the sign and such other pertinent information as may be required to ensure compliance with the ordinance and requirements of the City. Applications shall be on forms provided by the City.

D. **Lapse of Sign Permit:**

A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of ninety (90) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises that the sign permit will lapse if such activity is not renewed.

E. **Fee Establishment**:

Fees for sign permits are attached hereto as Appendix "B".

F. **Nullification**:

A sign permit shall become null and void if(l) the work for which the permit was issued has not been completed within a period of six (6) months after the date of the permit; (2) the sign varies in any respect from the approved design or location.

G. **Permit Exceptions**:

The repainting, cleaning, and other normal maintenance to prolong the life of the sign as originally approved shall not be considered as creating a sign and does not require a sign permit.

SECTION 5.13 ADMINISTRATION AND PENALTIES:

A. **Enforcement (Building Official.)** :

The building official or his duly authorized representative is hereby authorized and directed to enforce all the provisions of this Ordinance. Upon presentation of proper credentials, the building official or his duly authorized representative may enter at reasonable times any building, structure, or premises in the City of Canton to perform any duty imposed upon him by this Ordinance.

B. **Standards for Variances**:

The Zoning Commission shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

1. The particular physical surrounding shape, topographical, or location conditions of the specific property or structure involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance was carried out;

2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property, or structure in the same general area;

3. The request for variance is based upon a clause in a lease executed and effective prior to the effective date of this Ordinance or upon the subsequent renewal of said lease; if the original lease contains an automatic renewal clause.

4. The variance will not authorize signs, sign structures, or other sign-related activities other than those permitted by this Ordinance;

5. Financial returns only shall not be considered as a basis for granting a variance;

6. The alleged difficulty or hardship has not been created by any person having an interest in the sign, sign structure, or property after the effective date of this Ordinance;

7. That granting the variance requested will not confer on this application any special privilege that is denied by this Ordinance to other land structures, signs, sign structure, or buildings similarly situated.

8. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure for sign purposes;

9. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area which the sign is located;

10. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

C. **Prohibition of Prohibited Signs**:

Under no circumstances shall the Zoning Commission grant a variance for a sign or sign structure which is expressly prohibited under the terms of this Ordinance.

D. **Conditions and Restrictions by the Board**:

The Board of Aldermen may impose such conditions and restrictions upon the property, sign, or sign structure as may be necessary to comply with the provisions set out in this ordinance, to reduce or minimize the injurious effects of such variation upon surrounding property and better carry out the general intent of this Ordinance. The Board of Aldermen may establish expiration dates as a condition or as a part of the variances.

E. **Board Has Powers of Administrative Official on Appeals Reversing Decisions of Administrative Official**

In exercising its powers, the Zoning Commission may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

F. **Variance Appeals**:

Any person including any agency of the City government aggrieved by a decision of the Zoning Commission on a variance may appeal to the Board of Aldermen, The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, bearing, or proceeding under this chapter shall be final and subject to review only for illegality or want of jurisdiction.

G. **Penalties**:

Any person, firm, 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's continuance of violations shall be considered a separate offense. The owner of any sign, building, or premises, or part thereof, where any matter in violation of this Ordinance shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.

SECTION 5.14 SEVERABILITY:

If any section or provision of this section 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.

SECTION 5.15: EFFECTIVE DATE

This Ordinance shall be in force and effective thirty (30) days from and after passage.

APPENDIX A

TO CANTON SIGN ORDINANCE

ALLOWANCE FOR GROUND SIGNS

Roadway	Maximum Height setbacks	Maximum Sign Area (feet)	Maximum Sign Area For Shopping Centers StripPlaza,Office Park (sq. feet)	Maximum Sign Area For Shopping Centers StripPlaza,Office Park (sq. feet)
2-4	**5' or more**	tenants		tenants
2and3Lanes	*5*	16	80	80	120
4 Lanes orMore	*5*	16	80	80	120
Interstate Zone	*5*	**40 (Front Yard)**		**160**
		100 (Rear Yard)		160

Setback distance is the minimum distance the leading edge of the sign must be from the roadway right of way. Height includes the measurement from grade to the top of the sign, including the The interstate zone includes all property, any part of which lies between the right-of-way of the interstate to a line 2000 feet in depth and parallel to the interstate right of way. Total signage, including the ground sign, for all businesses within the interstate zone is 500 square feet. Each business is entitled to one Interstate viewable sign. Roadway criteria will be based on a list maintained by the Building Official and provided and determined by the Mayor and Board of Aldermen.)

APPENDIX B

ORDER ESTABLISHING SCHEDULE OF FEES UNDER

CANTON SIGN ORDINANCE

IT IS HEREBY ORDERED that the following fees be imposed upon and collected from persons obtaining permits for signs in the City of Canton:

Filing Fee $ 10.00

Signs; On Premise

1 sq. ft. through 50 sq. ft. **$** 50.00
51 sq.ft. to 99 sq.ft. $75.00
100 sq. ft. and **above** **$ 100.00**

Signs: Off Premise
Temporary Sign Fee $ 35.00/annual

Repairing, relocating, or refacing an existing sign as set forth in this schedule, when at the same location, the fee shall be one-half that of a new sign, with a minimum fee of $15.00 each.

CHAPTER SIX

MINIMUM LANDSCAPE REQUIREMENTS

SECTION 6.01: PURPOSE AND INTENT

It is the purpose and intent of this Ordinance to establish regulations controlling the preservation and planting of trees and shrubs, at all new construction sites, including commercial, industrial, residential subdivisions and other land uses, excluding Canton Historic District and individual residential sites. Furthermore, the intention of this provision is the retention of suitable species of native understory that can be incorporated into landscape plans for development plan approvals. Additional benefits resulting from this ordinance are:

A. Aid in the prevention of erosion and sedimentation.

B. Reduce storm water runoff and the cost associated therewith.

C. Aid in the removal of carbon dioxide from the atmosphere, the generation of oxygen and in the filtration of air pollutants.

D. Maintain the water table level and provide for reforestation of areas where the original forest cover has been removed.

E. Provide shade in summer, thus reducing air conditioning costs.

F. Aid in the control of drainage and the restoration of denuded soil subsequent to construction and grading.

G. Protect and enhance property values.

H. Protect and enhance the physical and aesthetic environment of Canton as a whole.

I. Provide, where applicable, visual screening and sound attenuation.

J. Generally protect and enhance the quality of life and general welfare of Canton.

SECTION 6.02: DEFINITIONS.

A. **Trees -** Trees shall be defined as self-supporting, woody, perennial plants which normally grow to a minimum height of fifteen feet (15′) or greater in Madison County. All

deciduous trees shall have a minimum caliper one and one half inches (11/2") and minimum height of six feet (6 ‘) to eight feet (8′) in height at the time of planting. At least fifty percent (50%) of trees shall be of a native variety. The following trees are recommended, but are not limited to:

Live Oak; Shummard Oak; Bald Cypress; River Birch; Ornamental Pears; Green Ash; Crape Myrtle; Hoffies; Redbud; etc.

B. **Caliper**- The diameter of a tree at the specified distance above ground level. Existing trees shall be four and one-half feet (4 1/2') above ground level. New trees shall be six feet (6) above ground level.

C. **Shrubs & Hedges** - Shrubs and hedges are self-supporting, woody species. Hedges where planted, shall be maintained so as to form a continuous solid visual screen within two (2) year after time of planting.

D. **Ground Covers** - Ground covers include plant material which reach a maximum height of twelve inches (12 “) and may be used in lieu of grass. Ground covers must present a finished appearance and be reasonably complete at time of planting.

E. **Lawn Grass** - Grass shall include all species normally grown as permanent lawns in Madison County. Grass may be sodded, plugged, sprigged or seeded, except that solid sod shall be used in areas subject to erosion or which have a slope of three to one (3-1) or greater.

F. **Tree Survey**- A survey prepared by a Landscape Architect or other professional thoroughly familiar with landscape plant material and design. The survey shall contain the following:

1. The location and species of all trees six inches (6”) caliper or greater within the areas to be modified and 25 feet (25’) beyond in each direction even Wit crosses the property lines;

2. The location and species of any trees less than six inches (6”) caliper which the applicant wishes to count toward the minimum standard of tree coverage on the site, and;

3. Any area where there are dense groups of trees which may be shown as outline but noting any tree six inch (6”) caliper or greater.

G. **Service Area** - An area used for outside storage of garbage, trash, equipment, or similar uses on commercial and industrial sites.

H. **Tree (medium)**- Crown spread at maturity of 30 feet.

I. **Tree (large)**- Crown spread at maturity of greater than 30 feet.

SECTION 6.03: GENERAL REGULATIONS.

A. **Tree and Landscape Plan** - All industrial, commercial, and multi-family development, subdivision plat and/or site plan, shall include a landscape plan which shall be prepared by a registered landscape architect or other professional thoroughly familiar with landscape plant materials and design. Exception: Developments/buildings that do not require a design professional pursuant to the Standard Building Code may use other professionals thoroughly familiar with landscape plant materials and design. Said plan shall include and show, as a minimum:

1. Tree Survey;

2. All trees proposed for removal;

3. All trees and/or groups of trees to be preserved; and,

4. In the event of cut or fill, excavation, or the trenching for utility lines in proximity to trees, designated for preservation, the method of preservation shall be consistent with accepted landscape industry standards. In the case of large retaining walls, tree wells or other structural amenities, construction details may be required for review and approval.

B. **Installation** - All plant material to be installed shall be shown on the planting plan with the following information: species size and method of planting.

C. **Guarantee** - All elements of the planting plan shall be guaranteed for at least two growing seasons after installation.

D. **Maintenance**- Property owners must maintain new and existing landscaping (i.e. replacement of dead or dying plants) and meet minimum landscape ordinance requirements at all times.

E. **Ground Cover/Topping -** All landscaped beds shall be covered with a suitable lose material (i.e. pine straw, bark, mulch etc.) to help control weeds and prevent erosion.

SECTION 6.04: MINIMUM LANDSCAPE REQUIREMENTS. COMMERCIAL DEVELOPMENT:

A. **PERIMETER LANDSCAPE**.

1. Green spaces shall be required between parking lots and right-of-ways and property lines, and shall be a minimum often feet (10′) in width along the front and five feet (5′) along sides and rear.

2. One medium tree is required for every thirty (30) linear feet of green space! Buffer areas along property lines or one large tree for every forty (40) linear feet of green space I buffer area.

3. If said right-of-way landscaping is beneath utility service, suitable shrubs may be substituted.

4. Species variety shall be in proportion to the number of trees planted.

Required Number of Trees	Minimum Species
1-10	2
11-30	4
31-60	6
61-100	8
101-200	10
201-and more	15

5. In the case of unusual site limitations, an exception may be requested and a different mix and number of species may be proposed for review and approval. A description of the unusual site limitations and the reasons for the proposed actions must accompany the request upon submittal of the site plan.

6. All plant materials must meet minimum standards as set forward in the American Association of Nurserymen, Inc

7. A hedge, decorative fence, soil berm or other visual landscape barrier shall

be placed in such a manner as to screen the vehicular area from adjacent properties and/or from public streets. Said barrier shall be a minimum height of three feet (3′) but shall not cause visibility problems for the safe movement of traffic on or adjacent to the site.

8. Any remaining areas on the site which are not planted with trees shrubs or ground cover shall be planted with turf grasses or other approved plant material.

B. **INTERIOR SITE LANDSCAPING (PARKING LOTS):**

1. Terminal islands:

   (a) Continuous rows of parking spaces shall be terminated at each end by landscaped islands which shall be a minimum size of 70 square feet, the smallest dimension to be no less than seven feet (7);

   (b) A minimum of one tree is required for each terminal island;

   (c) The remaining portion of the terminal island shall be landscaped with shrubs or ground cover excluding gravel, sand and pavement.

C. INTERIOR PARKING AREA ISLANDS (Required islands in parking lot):

1. Landscaped islands shall be located within parking areas and spaced at one per fifteen (15) parking spaces. Size shall be a minimum of four (4′) feet wide and fifteen (15′) feet in depth.

2. A minimum of one tree is required for each island.

3. Any design which helps to relieve the monotony or increases the tree cover potential of the paved vehicular area is encouraged.

D. SERVICE AREAS:

All service areas shall be screened with a combination of shrubs and fencing with a minimum height of six feet (6). CARB shall approve fence around service area. Rod iron and chain link is not an acceptable fence material.

E. **FOUNDATION PLANTING:**

1. Foundation Planting shall be required around the perimeter of all multi-

family, commercial, and industrial buildings and shall comply with the following criteria:

(a) Foundation planting shall extend a minimum of four feet from the building foundation.

(b) Foundation planting shall not obstruct egress or ingress.

(c) Foundation planting shall consist of trees, shrubs, and ground cover.

RESIDENTIAL DEVELOPMENT (Subdivisions) excludes individual lots.

F. **PERIMETER LANDSCAPE**.

1. One medium tree is required for every thirty (30) linear feet of green space /buffer areas along property lines or one large tree for every forty (40′) linear feet of green space/buffer area along property lines.

2. If said right-of-way landscaping is beneath utility service, suitable shrubs may be substituted.

3. Species variety shall be in proportion to the number of trees planted.

Number of Trees	Minimum Species
1-10	2
11-30	4
31-60	6
61-100	8
101-200	10
200+	15

4. In the case of unusual site limitations, an exception may be requested and a different mix and number of species may be proposed for review and approval. A description of the unusual site limitations and the reasons for the proposed actions must accompany the request upon submittal of the

site plan.

5. All plant materials must meet minimum standards as set forward in the American Association of Nurserymen, Inc.

SECTION 6.05: REQUIRED PLANT MATERIALS AND REGULATIONS GOVERNING INSTALLATION

The following table provides minimum required planting for specific types of developments. Proposed materials shall be disapproved where they are clearly incompatible, botanically, with existing or proposed materials; or where the proposed materials have characteristics that are detrimental to the public welfare, including but not limited to, susceptibility to disease and wind damage and propensity for damaging or interfering with nearby utilities or public right-of-way or otherwise fail to fullfill the intent of this ordinance.

MINIMUM REQUIREMENTS

Type Development	Deciduous	Evergreen	Shrubs
Commercial Office Development and Associated Parking	Total of 75" of caliper per gross acre	Total of 50" of caliper per gross acre	Total of 25 shrubs per disturbed acre
Retail Commercial Development and Associated Parking Areas	Total of 50" of caliper per gross acre	Total of 25" of caliper per gross acre	Total of 25 shrubs per disturbed acre
Industrial Develop-ment and Associated Parking Areas	Total of 50" of caliper per gross acre	Total of 36" of caliper per gross acre	Total of 25 shrubs per disturbed acre

These standards are for landscaping around and within the particular types of development as described. The Landowner/Developer must submit calculations which show proposed development is in compliance.

A. **Deciduous trees**: All deciduous trees shall be a minimum of six feet (6) in height and a minimum of one and one half inch (11/2") caliper at time of planting.

B. **Evergreen trees**: All evergreen trees shall be a minimum of six feet (6) in height at time of planting.

C. **Shrubs**: Upright shrubs shall be a minimum of eighteen (18") in height and spreading shrubs shall be a minimum of 16-20" in height at time of planting.

D. **Unusual Site Characteristics**: Where unusual physical site characteristics so dictate, additional plantings may be required, as determined during the review process. This applies to buffers, conflicts in adjacent land use, visual screen, etc.

E. **Screening**: In all development where the subject use abuts a less intensive use, additional screening for noise and visual benefits shall be required as a part of the landscape plan herein required. The same approval process shall be applicable.

F. **Credits**: Credit shall be given, against the above requirement for all trees as defined herein that are preserved.

SECTION 6.06 STREET TREE PLANTING.

All "street trees" shall be of such species that do not damage pavement and utilities, are not susceptible to disease and wind damage, have low branching heights or other undesirable characteristics for street side location, such as, but not limited to, interference with vehicular or. pedestrian traffic and the City's maintenance of streets. Street trees shall be planted in grass strips at least six feet (6) wide.

Median strip plantings are encouraged but shall be specifically approved contingent upon the width and other physical factors regarding the specific location.

SECTION 6.07 EFFECT ON EXISTING TREES.

Nothing contained in this Ordinance shall be construed as a mandate to cut down existing trees which do not conform to the placements described herein for newly planted trees. Existing trees which are preserved on the site may be credited toward the minimum requirement.

SECTION 6.08 PENALTIES.

Failure to abide by this Ordinance shall result in a "Stop Work Order" being placed on site work and a citation to municipal court issued. Every tree that is illegally removed may count as a separate offense and for every tree illegally removed, replacement trees must be planted with a total combined caliper equal to the amount of caliper removed. In addition, no "Certificate of Occupancy" will be issued for any site until said site is brought into compliance.
It is the intent of this ordinance to be enforced by the Building Official and reviewed by the Canton Architectural Review Board (CARB).

APPENDIX A

Tree Protecting Guidelines: Any tree or buffer area shown to be preserved on a site or subdivision plan shall be protected by the following:

Definition: The critical root zone - a circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to a point that is the maximum drip point from any branch of the tree.

I. The critical root zone must be protected by construction. The barricade should be large enough to include everything in the critical root zone, constructed of sturdy material that is conspicuous and tall enough to be easily seen by operators of construction equipment.

1. No person shall deposit, place, store or maintain in the critical root zone any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any protected tree.

2. Subdivision covenants where common area and/or buffers exist need to reflect the Homeowners Association obligation to preserve and protect such trees and/or buffer.

3. House pads must be placed outside of the critical root zone of any tree proposed to be preserved.

4. Any trees to be preserved which may be affected by changes in grade or the laying of underground utilities must be protected by Mississippi Forestry Commission acceptable practices.

CHAPTER SEVEN

FLOOD PLAIN DAMAGE PREVENTION

SECTION 7.01: STATUTORY AUTHORIZATION, FINDINGS OF FACT. PURPOSE AND OBJECTIVES.

A. **STATUTORY AUTHORIZATION:** The Legislature of the State of Mississippi has in Title 17, Chapter 1. Mississippi Code 1972 Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety. and general welfare of its citizens. Therefore, the Mayor and Board of Aldermen of Canton Mississippi does hereby adopt the following flood plain management regulations.

B. **FNDINGS OF FACT**:

1. The flood hazard areas of Canton, Mississippi are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

C. **STATEMENT OF PURPOSE**:

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of Initial construction;

3. Control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other development which may increase erosion or flood damage, and,

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. **OBJECTIVES**:

The objectives of this ordinance are:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions.

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in flood plains;

6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;

7. To ensure that potential home buyers are notified that property is in a flood area.

E. **METHODS OF REDUCING FLOOD LOSSES**.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,

5. Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or may increase flood hazards in other areas.

SECTION 7.02. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Accessory structure (Appurtenant structure) means a structure which is located on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential.

Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the flood plain administrator*s interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the flood plain within a community subject to a one-percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood"). Base flood is the term used throughout this ordinance.

Basement means that portion of a building having its floor sub-grade (below ground level) on all sides.

Breakaway wall means a wall that is not port of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building, see Structure.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone VI – V30, or VE or V.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a flood plain, which may impede or alter the flow capacity of a flood plain.

Existing Construction any structure for which the "start of construction" commenced before the adoption of this ordinance.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community before the adoption to this ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a) The overflow of inland or tidal waters;

b) The unusual and rapid accumulation or runoff of surface waters from any source. Flood Boundary and Flood way Map (FBFM) means the official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory flood way.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone **A.**

Flood Insurance Rate Map (F[RM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Flood plain means any land area susceptible to flooding.
Flood plain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the flood plain, including but not limited to emergency preparedness plans, flood control works, flood plain management regulations, and open space plans.

Flood plain Management Administrator is the individual appointed to administer and enforce the flood plain management regulations.

Flood plain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Flood way means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Flood way fringe means that area of the flood plain on either side of the regulatory flood way where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The City of Canton requires that the variance is exceptional, unusual, and peculiar to the property involved, Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one*s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic Structure means any structure that is:

a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:

b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:

c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior: or

d) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:

6. By an approved state program as determined by the Secretary of the Interior, or

7. Directly by the Secretary of the Interior in states without approved programs.

Lowest adjacent grade means the elevation of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the provisions of this code.

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land

divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).
National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

New Construction means any structure for which the "start of construction" commenced after the adoption of this ordinance. The term also includes any subsequent improvements to such a structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain regulations adopted by a community.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Public safety and nuisance, anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle that is:

a) Built on a single chassis;

b) 400 square feet or less when measured at the largest horizontal projection;

c) Designed to be self-propelled or permanently towable by a light duty truck; and

d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreat

Regulatory flood way means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the

market value of the building at the time of each such flood event

Special flood hazard area (SFHA) means an area having special flood and shown on a FHBM or FIRM as Zone A. AO, Al-A30, AE. A99, or AH.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair. reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as cleating, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the tune of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work performed. This includes any combination of repairs, reconstruction, alteration, or improvements to a building taking place during (the life of the building) in which the cumulative cost equals or exceeds 50 percent of the market value of the building either:

a) Before the improvement or repair is started; or,

b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred "substantial damage" or "repetitive loss," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

a) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified prior to permit issuance by the Code Enforcement Official and which are solely necessary to assure safe living conditions; or,

b) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

SECTION 7.03: GENERAL PROVISIONS.

A. LANDS TO WHICH THIS ORDINANCE APPLIES: This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Canton, Mississippi.

B. **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:** The areas of special flood hazard identified by the Federal Emergency Management Agency in the flood insurance study. dated February 4, 1998, with accompanying Flood Insurance Rate Maps and Flood Boundary, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Canton City Hall

C. **ESTABLISHMENT OF DEVELOPMENT PERMIT:** A development permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities.

D. **COMPLIANCE:** No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this

ordinance and other applicable regulations.

E **ABROGATION AND GREATER RESTRICTIONS:** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. **INTERPRETATION:** In the interpretation and application of this ordinance all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body, and;

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

G. **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Canton or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

H. **PENALTIES FOR VIOLATION:** Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall be guilty of a misdemeanor. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Building Official from taking such other lawful actions as is necessary to prevent or remedy any violation.

SECTION 7.04: ADMINISTRATION.

A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR:

The City of Canton hereby appoints the Building Official to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Ordinance Administrator, the Flood Plain Management Administrator and/or the administrator.

B. PERMIT PROCEDURES:

Application for a Development Permit shall be made to the Building Official on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Application Stage:

   a.) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
   b.) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;

   c.) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Article 5, Section B (2) and Section D (2);

   d.) Description of the extent to which any watercourse will be altered or relocated as result of proposed development, and;

2. Construction Stage:

   Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Flood Plain Management Administrator a certification of the NGVD elevation of the lowest floor or flood-proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. (The Flood plain Management Administrator shall review the lowest floor & flood-proofing elevation survey data submitted) The permit holder immediately and prior to further progressive work being permitted top shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

C. DUTIES AND RESPONSIBILITIES OF THE FLOOD PLAIN MANAGEMENT ADMINISTRATOR.

Duties of the administrator shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied;

2. Advise permitter that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.

3. Notify adjacent communities, the State Flood Plain Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings in accordance with Section 7.04, Sub-Section B (2).

6. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 7.04, Sub-Section B (2).

7. Review certified plans and specifications for compliance.

8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Management Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

9. When base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, then the Floodplain Management Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5.

SECTION 7.05: <u>PROVISIONS FOR FLOOD HAZARD REDUCTION</u>.

A. GENERAL STANDARDS:

In all areas of special flood hazard the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

2. Manufactured homes shall be anchored to prevent flotation, collapse. or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

3 New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance, and,

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

B. SPECIFIC STANDARDS:

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article 3, Section B, the following provisions are required:

1. Residential Construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter waits be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article *5,* Section B (3).

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the level of the base flood elevation. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the BFE (plus any community free board) elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section C (9).

3. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

    a.) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

        i Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding,

        ii The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and,

        iii Openings may be equipped with screens, louvers, valves **or** other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

b.) Access to the enclosed area shall be necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

c.) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

4. Standards for Manufactured Homes and Recreational Vehicles.

a.) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring

b.) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

i. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the ground.

iii. The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of Article *5,* Section B (4)(b)(i) and (iii) above.

c.) All recreational vehicles placed on sites must either:

i. Be fully licensed and ready for highway use, or

ii. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of

Article *5,* Section B (4)(a) or (b) (i) and (iii), above, **or** be on the site for fewer than 180 consecutive days.

iii. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

5. Flood ways. Located within areas of special flood hazard established in Article 3, Section B, are areas designated as flood ways. Since the flood way is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

a.) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

b.) If Article *5,* Section B *(5)(a)* is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article *5.*

c.) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Article *5,* Section A (2), and the elevation standards of Article *5,* Section B (I) and the encroachment standards of Article *3,* Section **B** *(5)* (a), are met.

C. **STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOOD WAYS,**

Located within the areas of special flood hazard established in Article 3, Section B, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

1. When base flood elevation data or floodway data have not been provided in Accordance with Article 3, Section B, then the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the

provisions of Article 5. If data is not available from outside sources, then the following provisions (2 and 3) shall apply.

2. No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to 3 times the width of the stream at the top of the bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

3. In Special Flood Hazard Areas without Base Flood Elevation Data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site.

D. STANDARDS FOR SUBDIVISION PROPOSALS.

1. All subdivision proposals shall be consistent with the need to minimize flood damage,

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.

E. **CRITICAL FACILITY.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

7.06. <u>VARIANCE</u> <u>PROCEDURES</u>.

A. DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Mayor and Board of Aldermen of the City of Canton shall hear and decide appeals and requests for variances from requirements of this ordinance.

B. **DUTIES OF VARIANCE AND APPEALS BOARD.**

The Mayor and Board of Aldermen shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Flood plain Management Administrator in the enforcement **or** administration of this ordinance. Any person aggrieved by the decision of the Mayor and Board of Aldermen, or any taxpayer may appeal such decision to the appropriate court.

C. **VARIANCE PROCEDURES.**

In passing upon such applications, the Mayor and Board of Aldermen shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger of life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area,

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. CONDITIONS FOR VARIANCES.

1. Variances shall only be issued when there is:

   a.) A showing of good and sufficient cause:

   b.) A determination that failure to grant the variance would result in exceptional hardship; and,

   c.) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an "historic structure," a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See Article 6, Section E.)

4. The Flood Plain Management Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency or Mississippi Emergency Management Agency upon request. (See Section E.)

E. **VARIANCE NOTIFICATION**.

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood

elevation will result in increased premium rates for flood insurance up to amounts as high as *$25* for $100 of insurance coverage, and;

2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Flood Plain Management Administrator in the Office of the City of Canton.

The Flood Plain Management Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

F. **HISTORIC STRUCTURES**.

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

G. SPECIAL CONDITIONS .

Upon consideration of the factors listed in Article 6, and the purposes of this ordinance, the Mayor and Board of Aldermen may attach such conditions to the granting of variances as it deems necessary **to** further the purposes of this ordinance.

H. **NO-IMPACT CERTIFICATION WITHIN THE FLOOD WAY.**
Variances shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.

7.07. SEVERABILITY .

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

CHAPTER EIGHT

STORM WATER RUNOFF MANAGEMENT

SECTION 8.01: PURPOSE:

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

A. The subdivision layout, redevelopment and improvement of lands located within the City of Canton.

B. The construction of buildings and drainage of the sites on which structures are located, including parking and other paved areas.

C. The design, construction and maintenance of storm water drainage facilities and systems.

SECTION 8.02: GENERAL CRITERIA AND STANDARDS:

A. **Applicability**:

This ordinance shall be applicable within the City of Canton's jurisdictional area and shall apply to any residential development of four acres or more or any nonresidential development of two acres or more. Compliance with this ordinance shall be required prior to approval of a site plan or preliminary plat for any development as set forth in the Subdivision Regulations and/or Zoning Ordinance.

B. **Limitation on Storm Water Runoff:**

No development, to which this ordinance is applicable, shall be undertaken that increases the rate of surface runoff to downstream property owners or drainage systems.

C. **Detention of Excess Storm Water Runoff**:

The increased storm water runoff resulting from the proposed development shall be detained by the provision of retention or detention facilities; sometimes referred to as "Storm Water Retarding Structures or Facilities."

D. **Storage Capacity**:

Retention or detention facilities shall be designed with sufficient capacity to accommodate all runoff caused by the development in excess of that runoff which would occur from the site if left in its natural, undeveloped condition. This storage shall be sufficient to store all excess flows as reflected in Ill **(B)(1).**

E. **Channel Stability**:

The storm water runoff from the proposed development shall not increase channel instability downstream.

F. **Retention/Detention Facilities in Flood Plains**:

If detention storage is provided within a flood plain of a major stream, no storage volume for the facility may be provided below the high water elevations established for that flood plain.

G. **Storm Water Bypass**:

Drainage systems shall have adequate capacity to bypass, through the development, the natural flow from all upstream areas.

H. Drainage Way Maintenance:

It shall be unlawful to dump trash, debris, landscape waste and other deleterious materials in any and all drainage ways in the City.

SECTION 8.03 IMPROVEMENT REGULATIONS:

A. **Required Information**:

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

1. **Contour Map:** A topographic map with two foot (2′) minimum interval contours, meeting National Map Accuracy Standards, of the land to be subdivided and such adjoining land whose topography may affect the layout or drainage of the subdivision. On such a map, the following shall be shown:

a. The banks and centerline of streams and channels;

b. The normal shoreline of lakes, ponds and retention/detention basins, and lines of inflow and outflow;

c. The location, size and slope of storm water conduits and drainage swales;

d. Storm, sanitary and combined sewers and outfalls of record;

e. Delineation of upstream and downstream drainage features and watersheds which might affect or be affected by the proposed development;

f. Base flood (100-year) elevation (BFE) and flood ways for the property, established pursuant to Canton's Flood Ordinance.

g. Environmental features including the limits of wetlands areas and any designated natural areas.

2. **Drainage Plan:**

A comprehensive drainage plan shall be designed to safely and completely handle the storm water runoff and to detain increased storm water runoff - This plan shall provide and be accompanied by maps and/or other descriptive material showing the following:

a. The extent and area of each watershed tributary to the drainage channels in the development;

b. The storm sewers and other storm drains to be built, the basis of their design, the outfall and outlet locations and elevations, receiving stream or channel and its 100 year high water elevation and the functioning of the drains during 100 year high water conditions;

c. Existing streams and flood plains to be maintained and new channels to be constructed including their locations, cross-sections and profiles;

d. Proposed culverts and bridges to be built including their materials, elevations, waterway openings and basis of design;

e. Existing retention/detention facilities to be maintained, enlarged or altered and new facilities to be built including their design;

f. The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed;

g. The slope, type and size of all sewers and other waterways;

h. Any proposed environmental enhancement or mitigation features;

i. Retention/detention basins to be built including a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;

j. For all retention/detention basins, design hydrographs of inflow and outflow for the 100 year peak flows from the site under natural and developed conditions

k. The formula for determining the storage for a retention/detention basin is:

The storage capacity of the proposed detention basin shall be computed in acre - feet (in conjunction with its proposed spillway) so that the Q100 (1% chance) urbanized runoff in cfs shall be reduced to no more than the Q100 (1% chance) rural or natural runoff in cfs.

An emergency spillway shall be provided to accommodate or pass flows in excess of the Q100 (1% chance) urbanized runoff.

Special consideration will be given to areas where the subject developer only owns a portion of the entire drainage basin.

l. The live detention storage to be provided shall be calculated on the basis on the 100-year frequency 24 hour rainfall as published by the US Weather Bureau for this area;

m. Landscaping plan for retention/detention facility;

n. One of more typical cross-sections of all existing and proposed channels or other open drainage facilities, showing the elevation of

the existing land and the proposed changes thereto, together with the high water elevations expected from storm water runoffs under the controlled conditions called for by this ordinance, and the relationship of structures, street and other utilities.

B. **Detention Basins**

Detention basins shall be constructed to temporarily detain the storm water runoff in excess of the volumes of runoff occurring on the site before development and will conform to the following standards:

C. **Storage Volumes**

The volume of storage provided in these basins, together with such storage as may be authorized in other detention facilities, shall be sufficient to control the excess runoff from the:

1. 2-year storm of 6 hour duration
2. 10-year storm of 12 hour duration

100-year storm of 24 hour duration;

D. **Maximum Depth**

The maximum planned depth of storm water stored shall not exceed five feet unless natural ground conditions lend themselves to greater depths.

E. **Approach Slopes**

The approach slopes of the basin shall conform as closely as possible to natural land contours. Re-grading is preferable if necessary to keep the slopes under ten percent. Erosion control measures shall be provided as well as devices or measures to insure public safety.

F. **Outlet Control Structures**

Outlet control structures shall be designed as simply as possible and shall operate automatically. They will be designed to limit discharges into existing or planned downstream channels or conduits so as not to exceed predetermined safe capacities and not in excess of flows which would have occurred with the land in its natural, undeveloped condition. If necessary, velocity dissipation measures shall be employed at the outlet to ensure that the discharge does not increase downstream erosion.

G. **Spillway**

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

H. **Appearance**

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

I. **Fencing**

Detention structures shall be enclosed by a six foot fence (plastic coated chain link) where the depth of the water would reach three feet. Each fenced structure shall be effectively and attractively screened with trees and plant material in accordance with the City's Landscape Ordinance.

J. **Retention Basins**

Basins designed with permanent pools shall conform to the standards for detention basins as specified in the manuals by the Natural Resources and Conservation Services (NRCS) and Wildlife and Fisheries of the Department of Environmental Quality.

K. **Maintenance of Facilities**

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

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

Each property owner shall, within the contents of his deed, be liable for the

combined maintenance of the improvements. A special note to this effect shall appear on any final plat of subdivision or any plat of condominium and their declarations.

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

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

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

When problems arise due to inadequate maintenance, the City Engineer or Public Works Director or their Agents of the City of Canton may inspect the improvements and compel the correction of the problem by written notice.

L. **Dedication of Facilities**

Whenever drainage facilities are planned to service several projects or a specific area deemed necessary by the City of Canton, by resolution by the Mayor and Board of Aldermen, the drainage facilities may be dedicated to the City.

M. **Inspection Facilities**

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

N. **Regional Detention**

The City may construct a regional retention/detention facility. The requirements for on-site retention/detention facilities may be waived by the City of Canton if it is determined that a development project is too small, or if engineering, aesthetic or economic factors make a combined or regional facility more practical for

construction. In this case, the City of Canton shall require a fee and/or dedication of land from the developer which the City shall use to construct the regional facility. This fee and/or dedication of land shall be based on the proportionate share for the development in its completely developed state of the present costs of constructing the regional facility.

SECTION 8.04 MISCELLANEOUS

A. **Penalties for Violation** - Any person found to be in violation of any of the terms and provisions of this Ordinance shall be guilty of a misdemeanor and subject to a fine not to exceed $500.00 or imprisoned for no more than ninety (90) days or both such fined and imprisonment. A continuance of a violation without reasonable effort on the part of the defendant to correct same shall be and constitute a new and separate offense each day.

B. **Validity** - If any term or provision of this Ordinance shall be held to be unconstitutional or otherwise unenforceable, the remainder thereof shall not be affected thereby and shall remain in full force and effect.

C. **Conflict** - All ordinances heretofore adopted on the subject of this Ordinance which are in conflict herewith are hereby repealed and the applicable provisions of the Ordinance are substituted in their place.

D. **Variances** - The Mayor and Board of Aldermen shall have the power to authorize variances from the provisions or requirements of this Ordinance as will not be contrary to the public interest. No variance from the strict application of any provision shall be granted unless it is found that:

1. Literal interpretation of the provisions of this Ordinance would deprive the owner of reasonable use of their land; and

2. Granting the variance would 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.

SECTION 8.05 REPEALING CLAUSE

All Ordinances, or Resolutions of the Mayor and Board of Aldermen of the City of Canton that conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and rescinded, but only to the extent of such conflict.

SECTION 8.06 SEVERABILITY

If any provision of Ordinance is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such findings shall not affect the other provisions hereof which shall remain in full force and effect.

CHAPTER NINE
HISTORIC PRESERVATION

SECTION 9.01: STATEMENT OF PURPOSE

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of cultural, architectural, archaeological or historical merit is a public necessity and is required in the interest of the health, prosperity and welfare of the people. Therefore, pursuant to Section 39-13-1 et seq. Of the Mississippi Code of 1972, Annotated and as amended hereinafter referred to as the Mississippi Local Government Historic Preservation Act of 1978, this Ordinance intends to:

A. Effect and accomplish the protection, enhancement and perpetuation of landmarks, landmark sites and historic districts which represent distinctive elements of the city's cultural, social, economic, political and architectural history;

B. Safeguard the City's historic, aesthetic and cultural heritage, as embodied and reflected in such landmarks, landmark sites and historic districts;

C. Foster civic pride in the accomplishments of the past;

D. Insure the harmonious, orderly and efficient growth and development of the City;

E. Stabilize the economy of the City through the continued use and revitalization of its landmarks, landmark sites and historic districts;

F. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

G. Promote the use of landmarks, landmark sites and historic districts for the education, pleasure and welfare of the people of the City of Canton.

SECTION 9.02: DEFINITIONS

Unless specifically noted otherwise, the following definitions are standard throughout this Ordinance:

Alteration: Any change because of construction, repair, maintenance or other means to a landmark site or to a building located within a historic district or designated as a landmark.

Applicant: The record owner of a landmark, landmark site or building or buildings within a historic district or the lessee thereof with the approval notarized of the owner or record, or a person holding a "bona fide" contract to purchase same who makes application for a certificate of appropriateness under this Ordinance.

Building: Any building or other structure built for shelter or enclosure of persons, animals or chattels, including fences, signs, paving and boundary walls, and any part of any such building or structure when subdivided by division walls or party walls extending to or above the roof and without openings in such separate walls. The term "building" shall be construed as if followed by the words "or any part thereof."

Certificate of Appropriateness: A document evidencing the approval of the Commission for work proposed by an applicant.

City: The City of Canton as represented by its Local Governing Board. For all intents and purposes of this Ordinance, the terms "City" and "Board" shall be interchangeable.

Commission: The Historic Preservation Commission created under this Ordinance, pursuant to Section 39-13-5 of the Mississippi Code of 1972, Annotated and as amended.

Construction: The erection of any on-site improvement to a Landmark or to a building or any parcel of ground located within a Historic District or on a Landmark Site, whether the site is presently improved or unimproved. Or hereby becomes unimproved by "demolition", "demolition by neglect" or as a result of destruction of an improvement located thereon by fire, windstorm or other casualty, or otherwise.

Demolition: The complete or constructive removal of a building on any site.

Demolition by Neglect: Neglect in the maintenance of any building or structure which is a historic landmark or which is within a historic district which results in deterioration.

Earthworks: Any subsurface remains of historical, archaeological or architectural importance or any unusual ground formations or archaeological significance.

Exterior Features: The architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures and natural features such as live trees.

A. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size, color, and location of all such signs.

B. Live trees larger than six inches (6") in diameter at a point five (5) feet above the ground shall be considered as exterior features.

Historic District: An area designated by the Commission and approved by the City through an Ordinance which contains a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development, and which meet at least one of the following criteria:

(a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or city; or

(b) Is identified with historic personages or with important events in national, state or local history; or

(c) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style. Method of construction or use of indigenous materials or craftsmanship; or

(d) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Historic Resources: As recognized by the National Register of Historic Places, historic resources consist of separate and aggregate buildings, districts, structures, sites and objects, and are defined below:

Building: A structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. Buildings may refer to a historically related complex such as a courthouse and jail or a house and barn.

District: A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.

Structure: A work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often bn engineering project large in scale. Examples: bridges, lighthouses, water towers.

Object: A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. Examples: steamboats, dredges.

Site: The location of a significant event, a prehistoric or historic occupation or

activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless or the value of any existing structures. Examples: battlefields, Indian mounds.

For the intents and purposes of this Ordinance the definition of a National Register district corresponds as a "Historic District"' buildings, structures or objects correspond as a "Landmark," and the definition of a National Register site corresponds as a "Landmark Site."

Landmark: An improved parcel of ground with a building, structure and/or object designated by the Commission and approved by the City through an Ordinance which possesses particular historic, architectural, or cultural significance by meeting at least one of the following criteria:

(a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or city; or

(b) Is identified with historic personages or with important events in national, state or local history; or

(c) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or

(d) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

Landmark Site: An unimproved or improved parcel of ground designated by the Commission and approved by the City through an Ordinance, which possesses particular historic, architectural or archaeological significance by meeting at least one of the following criteria:

(a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or city; or

(b) Is identified with historic personages or with important events in national, state or local history; or

(c) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or

(d) Has yielded, or may be likely to yield, information important in prehistory

or history.

"Landmark Sites" differ from "Landmarks" in that the physical location, not the building or structure, possesses primary significance. Although some of the criteria for "Landmark Sites" parallels the criteria for "Landmarks," "Landmark Sites" which are accompanied by buildings or structures which do or do not possess significance related t the site, may appear eligible as "Landmarks" but must be classified as "Landmark Sites." For the purpose of this Ordinance, therefore, "Landmark Sites" encompasses prehistoric or historic sites on unimproved or improved parcels of land.

Local Governing Board: (abbreviated as "Board"). The duly elected or appointed foremost authority of the City, including but not limited to the Mayor, City Council, Board of Aldermen or City Planner. For all intents and purposes of this Ordinance, the terms "Board" and City" shall be interchangeable.

Ordinary Repairs or Maintenance: Work done to prevent deterioration of a building or any part thereof by restoring the building as nearly as practicable to its condition prior to such deterioration, decay or damage.

Owner of Record: The owner of a historic resource reflected on the current county or city tax roll.

Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings: (abbreviated as "Secretary's Standards"). A federal document delineating ten standards and numerous guidelines for the sensitive rehabilitation and preservation of historic buildings. The Secretary's Standards shall be used as the guideline for judging all applications for a certificated of appropriateness.

SECTION 9.03: HISTORIC PRESERVATION COMMISSION, COMPOSITION AND TERMS

By virtue of Section 39-13-5 of the Mississippi Code of 1972, Annotated, as amended, the Local Governing Board of the City of Canton has been authorized to establish a Historic Preservation Commission to preserve, promote and develop the historical resources of the City of Canton, and to advise the Board as to the designation of historic districts, landmarks and landmark sites and to perform such other functions as may be provided by law.

All members of the Commission are appointed by the Board, and shall serve at the will and pleasure of the Board. The Commission shall consist of not less than six (6) and not more than nine (9) members of the City of Canton. All members of the Commission shall serve for terms not to exceed six (6) years, and shall be eligible for reappointment.

All Commission members shall have a demonstrated interest competence, knowledge or expertise in historic preservation. To the extent available in the community, primary historic preservation related disciplines of architecture, history, architectural history, or archaeology or from secondary historic preservation related disciplines as urban planning, American studies, American Civilization, cultural geography, cultural anthropology, interior design, law and related fields.

SECTION 9.04: RULES OF PROCEDURE

To fulfill the purposes of this Ordinance and carry out the provisions contained therein:

A. The Commission annually shall elect from its membership a Chairman, Vice Chairman and Secretary. If neither the Chairman nor the Vice Chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting. A quorum shall consist of one more than half the number of the Commission.

B. The Commission shall develop and adopt rules of procedure which shall govern the conduct of its business, subject to the approval of the Board. Such rules of procedure shall be a matter of public record.

C. The Commission, prior to exercising its power of review, further shall develop, adopt and publish criteria for determining appropriateness as set forth in Section 9.07 of this Ordinance. Such criteria shall be consistent with local, state and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation. Portfolios of illustrations, color charts , descriptions and other material illustrating and interpreting its criteria shall be made available to the general public.

D. The Commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be a matter of public record.

E. The Commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the appointment of a full Commission and regular meetings shall be scheduled at least once every three (3) months. The meeting place of said Commission shall be the Council Chamber of the City Hall, or such other place as a meeting may be adjourned to if a need to do so arises. The chairman or any two (2) members may call a special meeting by giving written notice to every other member of the Commission stating the date and time of such meeting either by hand delivery thereof at least five (5) days before the meeting date or by mailing such notice to each member, posted at least

eight (8) days before the meeting date.

SECTION 9.05: APPROPRIATIONS

The City is authorized to make appropriations to the Commission necessary for the expenses of the operation of the Commission, and make additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic properties.

SECTION 9.06: TITLE TO PROPERTY ACQUIRED

All land, buildings, structures, sites, areas or objects acquired by funds appropriated by the City shall be acquired in the name of the City unless otherwise provided by the City. So long as owned by the City, historic properties may be maintained by or under the supervision and control of the City. However, all lands, buildings or structures acquired by the Commission from funds other than those appropriated by the City may be acquired and held in the name of the Commission, the City or both.

SECTION 9.07: NON RESTRICTIVE CLAUSE

Nothing in this Ordinance shall be construed to prevent the regulation or acquisition of historic buildings, structures, sites, areas or objects owned by the State of Mississippi or any of its political subdivisions, agencies or instrumentalities.

Furthermore, the Mississippi State Antiquities Act (39-7-1 et seq. Of the Mississippi Code of 1972, Annotated as amended), provides for the sensitive treatment of publicly owned buildings shown to possess certain architectural, historical, or archaeological significance, and so designated by the Board of Trustees of the Mississippi Department of Archives and History as Mississippi Landmarks.

Whenever a Mississippi Landmark is proposed for rehabilitation, alteration, enlargement, etc., the governing board (City Council, Board of Supervisors, etc) shall submit their plans to the Mississippi Department of Archives and History (the "Department") for review and compliance. If the Department perceives the plans to be detrimental to the Mississippi Landmark, the governing body will work with the Department to bring the project into agreement with the Secretary's Standards. In this manner, Local Governing Boards that have designated publicly owned properties as landmarks, or within a historic district may be assured that these Mississippi Landmarks will be maintained in a manner compatible with the Secretary's Standards, which is construed as a rehabilitative guideline for all designated historic districts and landmarks.

SECTION 9.08: POWERS OF THE COMMISSION

In order to preserve, promote, and develop the historic resources of the City of Canton and to accomplish the purposes set forth in the Mississippi Local Government Historic Preservation Act of 1978 and in this Ordinance.

A. The Commission shall conduct or cause to be conducted a study and survey of architectural, archaeological, cultural and historic resources within the City of Canton, if such study has not already been conducted.

B. The Commission shall recommend to the Board the adoption of Ordinances designating landmarks, landmark sites and historic districts.

C. The commission shall review applications proposing erection, alteration, restoration, demolition moving of any Landmark or building located on a Landmark site or within a Historic District so designated by the Board and shall issue or deny Certificates of Appropriateness accordingly.

D. The Commission shall not consider interior arrangement or use.

E. The Commission shall promulgate and publish such standards and rules of procedure as are necessary to carry out the provisions of this Ordinance.

F. The Commission is authorized to apply for, receive, hold and spend funds from private and public sources, in addition to appropriations made by the City for the purpose of carrying out provisions of the Ordinance.

G. The Commission is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties, and to obtain the equipment, supplies and other materials necessary for its effective operation.

H. Solely in performance of its official duties and only at reasonable times, the Commission is authorized to enter upon private land for examination or survey thereof. No member, employee or agent of the Commission shall enter any private building or structure without the express consent of the owner of record or occupant thereof.

SECTION 9.09: DESIGNATION OF LANDMARKS, LANDMARK SITES AND HISTORICAL DISTRICTS

The City may establish by Ordinance landmarks, landmark sites and historic districts

within the area of its jurisdiction. Such landmarks, landmark sites or historic districts shall be designated following the criteria as defined in Section II, and no landmarks, landmark sites or historic districts shall be designated until the following requirements have been met:

A. The Commission shall initiate a throughout investigation of the historic, architectural, archaeological and cultural significance of the buildings, structures, features, sites and surroundings of such districts, landmarks and landmark sites, The findings shall be collected in a cohesive printed format, made a matter of public record and made available for public inspections.

B. After investigation, if the Commission shall decide to recommend the designation of a historic district or landmark or landmark or landmark site, it shall prepare or cause to be prepared a proposed Ordinance to make such designation.

C. The Commission's recommendations to the City for designation of a historic district shall be accompanied by complete documentation, including, but not limited to:

1. A concise description of the extant resources in the district, offering a description of building types and architectural styles represented;

2. A concise statement of the district's historical significance;

3. Boundary description and justification;

4. An inventory of all the buildings, with each building evaluated for its significance to the district;

5. Photographs of typical streetscapes in the districts as well as of major types of contributing and non-contributing buildings.

D. No historic district or districts shall be designated until the Mississippi Department of Archives and History, acting through such agent or employee as may be designated by its director, shall have made an analysis of any recommendations concerning the proposed district boundaries. Failure of the Department to submit its analysis and recommendations to the City within sixty (60) days after a written request for such analysis has been mailed to it shall relieve the City of any responsibility for awaiting analysis; and the City may at any time thereafter take any necessary action to adopt or amend its Ordinance.

E. If a proposed Ordinance is to designate a landmark or landmark site, it may be presented to the City with a recommendation that it be adopted without

submission to the Mississippi Department of Archives and History.

F. A public hearing will be had, after notice, specifying the boundaries of any proposed historic district and the location of proposed landmarks and landmark sites. Said notice shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper in the City. If a newspaper is not published in the City then the notice shall be published in a newspaper in the County. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date. Furthermore, a copy of said notice shall be mailed by first class, postage prepaid, to every property owner, as shown on the City tax assessment rolls, whose property is proposed to be included within a historic district or to be designated a landmark or landmark site. This notice shall be mailed to the address shown for said property owners on said City tax assessment rolls and shall be mailed at least fifteen (15) days before said hearing. A failure to receive a mailed notice shall not invalidate the actions of the City taken as a result of said hearing.

G. Within sixty (60) calendar days after the public hearing held in connections herewith, the City shall adopt the Ordinance as proposed, reject it entirely or adopt the Ordinance with modification wherein any modifications shall only be to reduce the scope of the Ordinance as published.

H. Furthermore, the Commission shall notify, as soon as is reasonably possible, appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites and historic districts. An updated list and map shall be maintained by such agencies and made available to the public.

SECTION 9.10: CERTIFICATE OF APPROPRIATENESS

In order to promote the general welfare through the preservation and protection of historic resources, no exterior feature of any landmark, landmark site or building or structure within a historic district (including but not limited to walls, fences, light fixtures, steps, pavement, trees or other appurtenant features) or any above ground utility structure or any type of outdoor advertising sign, shall be erected, altered, reconstructed, restored or rehabilitated, moved, cut or demolished within any such historic district or on any such landmark site or as to any landmark until after an application for a certificate of appropriateness of such work has been submitted to and reviewed by the Commission and approved by the City. Therefore,

A. The Commission shall serve as a review body with the power to review and recommend to the City whether applications for certificates of appropriateness should be granted or denied and, if granted, what conditions, if any, should be

provided in such certificate. The City may impose conditions not recommended by the Commission.

B. In making determinations, evaluations and decisions under this article, the Commission and City shall seek to accomplish the purposes of this article; in particular, to preserve and protect the architectural and historic integrity and character of any landmark site, landmark or historic district.

C. A certificate of appropriateness shall not be required for ordinary maintenance or repair of any landmark, or building or structure upon a landmark site or within a historic district which does not involve a change in design, material color or other appearance thereof.

D. All decisions of the Commission shall be in writing and shall state the findings of the Commission, its recommendations and the reasons thereof.

E. The Commission shall not recommend disapproval of any plans without giving its recommendations for changes to be made before such plans can be reconsidered. These recommendations may be in general terms, and compliance therewith shall not ipso facto qualify such plans for approval - - only for reconsideration by the Commission.

SECTION 9.11: DISQUALIFICATION OF MEMBERS BY CONFLICT OF INTEREST

Because the City may possess few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law or real estate, and in order not to impair such residents from practicing their trade for hire, members of the Commission are allowed to contract their services to an applicant for a certificate of appropriateness, and when doing so, must disqualify themselves for the Commission for that application. In such cases, the City shall upon the request of the Chairman of the Commission or the Vice-Chairman in his stead, appoint a substitute member who is qualified in the same field as the disqualified member, and who will serve for that particular case only.

If no qualified resident of the City is able to substitute for the disqualified member, the City may appoint, in this case only, a qualified substitute who is a resident of Mississippi but not a resident of the City of Canton.

If any member of the Commission must be disqualified due to a conflict of interest more than twice in one year, the Chairman or the Vice Chairman in his stead, shall encourage the member to resign his Commission seat. Failing this resignation, and if the Commission member

continues to enter into conflicts of interest with the Commission, the Chairman or the Vice Chairman of the Commission shall encourage the City to replace the member.

Likewise, any member of the Commission who has an interest in the property in question or in property within three hundred feet of the site in question, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy or personal interest in any case to be considered by the Commission shall be disqualified from participating in the consideration of any request for a permit. In such cases, a qualified substitute shall be appointed as provide above.

SECTION 9.12: CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

Pursuant to the Secretary of the Interior's Standards for Rehabilitation, the Commission and the City shall use the following criteria in granting or denying certificates of appropriateness:

A. General Factors:

1. General appearance of the land, building or improvement under consideration;

2. Structural condition of existing building or structure;

3. Structural composition of existing building or structure or improvement and proposed alteration;

4. Architectural design of existing building or structure or improvement and proposed alteration;

5. Size of existing land parcel, building or structure or improvement and proposed alteration;

6. Historical significance of existing land, building, structure or improvement;

7. Economic use of existing land, building, structure or improvement;

8. Relative cost of proposed project and alternatives

9. The owner's legitimate right to earn a reasonable return from his investment in the site, building or structure; and

10. The relationship of the above factors to and their effect upon the immediate surroundings and, if within a historic district, upon the district as a whole and its architectural and historical character and integrity.

B. New construction (Additions to existing resource and infill construction on vacant properties);

1. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, viz, the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, and materials used in the facade, the texture inherent in the facade, the colors, patterns and trim used in the facade, and the design of the roof.

2. Existing rhythm created by existing buildings masses and spaces between them should be preserved.

3. The landscape plan should be sensitive to the individual building and its occupant, and needs and should be visually compatible with the buildings and environment with which it is visually related.

4. A new street facade should blend directionally with other buildings with which it is visually related - which is to say, when adjacent buildings have a dominant horizontal or vertical expression, that expression should be carried over in the new facade.

5. New construction must be compatible with the original construction of the historic resources, and should be distinguishable from the original construction and should enhance the architectural characteristic of the historic district.

6. No single architectural style shall be imposed.

7. The quality and excellence in design should be major determinants.

C. Exterior Alteration:

1. All exterior alternations to a building or structure should be compatible with the building itself and other buildings with which it is related, as is provided in B-1 above and in applying these standards, and original design

of the building or structure must be considered.

1. Exterior alterations shall not affect the architectural character or historic quality of the building.

D. Signs:

1. The scale of any sign should be compatible with the building and environment with which it is related.

2. The materials, style, size, color and patterns used in any sign should be compatible with the buildings and environment with which it is related.

E. Demolition:

In considering an application for the demolition of a landmark or a resource within a historic district the following shall be considered:

1. Individual historical or architectural significance of the resource.

2. The importance or contribution of the resource to the aesthetics of the district.

3. The difficulty or impossibility of reproducing such a resource because of its texture, design, material or detail.

4. The proposed replacement structure and the future utilization of the site.

F. Reconstruction:

The reconstruction of a building destroyed by fire, storm or other act of God shall be governed by the provisions of the zoning ordinance except that the Commission shall regulate the exterior design of such buildings in accordance with the criteria set forth in Section 9.12 C above.

G. Denial of Application:

An application for a certificate of appropriateness shall only be denied upon a determination that the proposed changes or project would:

1. Result in such disharmony of scale, materials, massing, spacing and/or style between the proposed project and its immediate surroundings and the

historic district, landmark or landmark site as a whole so as to undermine the architectural integrity and character of the historic district, or landmark site or landmark and inhibit the accomplishment of the purposes of this article, or

2. Result in such a change in the architectural design or character of an existing building or improvement so as to undermine the architectural integrity or character of a historic district as a whole and inhibit the accomplishment of the purposes of this article, or

3. Result in the loss of or irreparable harm to an existing building or improvement or architectural or historical significance. A certificate of appropriateness should not be denied if that denial would jeopardize the owner's legitimate right to earn a reasonable return from his investment in the landmark, landmark site or resource located within the historic district. Reasonable return from investments shall be decided and agreed upon by the owner and the Commission.

H. Stay of Demolition

If an application for a certificate of appropriateness is for the demolition of a resource within a historic district or a landmark or landmark site, action upon such application shall be stayed for a period of 180 days, during which time the Commission and the applicant shall undertake meetings and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the Commission shall cooperate in attempting to avoid demolition of the property. At the end of said 180 day period, the Commission shall meet again to discuss the application and if no mutually agreeable method of saving the property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the property is pending, the commission shall notify the City, and the building official, upon written notice of the City, may, but is not required to, issue a permit for demolition without a certificate of appropriateness having been issued.

SECTION 9.13: DEMOLITION BY NEGLECT

A. Any building or structure which is a landmark and all buildings or structures within a historic district shall be preserved by the owner or such other person or persons who may have the legal custody or control thereof against decay and deterioration and free from unreasonable structural defects. The owner or other person having legal custody and control thereof shall repair such building or structure if it is found to have one or more of the following defects:

1. The deterioration of a building(s) to the extent that it creates or permits a hazardous or unsafe condition as determined by the Building Official.

2. The deterioration, as determined by the Building Official, of a building(s) characterized by one or more of the following:

   (a) Those buildings which have parts thereof which are so attached that they may fall and injure persons or property;

   (b) Deteriorated or inadequate foundation;

   (c) Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety.

   (d) Members of walls or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

   (e) Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;

   (f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split or buckle due to defective material or deterioration;

   (g) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are insufficient to carry imposed loads with safety;

   (h) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration, or

   (i) Any fault, defect or condition in the building which renders the same structurally unsafe or not properly watertight.

B. If the Commission makes a preliminary determination that a building or structure which is a landmark or is located within a historic district is being demolished by neglect it shall direct the Building Official to notify the owner or owners of the resource of this preliminary determination, stating the reasons therefore, and shall give the record owner or owners thirty (30) days from the date of mailing such notice or the posting thereof on the property whichever comes later, to commence work to correct the specific defects as determined by the Commission.

Said notice shall be given as follows:

1. By certified mail, restricted delivery, Mailed to the last known address or the record owner or owners as listed on the county or city tax rolls; or

2. If the above mailing procedure is not successful, notice shall be posted in a conspicuous, protected place on the resource involved.

C. If the owner or owners fail to commence work within the time allotted as evidenced by a building permit, the Commission shall notify the owner or owners in the manner provided above to appear at a public hearing before the Commission at a date, time and place to be specified in said notice, which shall be mailed or posted at least thirty (30) days before said hearing. For the purpose of insuring lawful notice, a hearing may be continued to a new date and time. The Commission shall receive evidence on the issue on whether the subject resource be repaired and the owner or owners may present evidence in rebuttal thereto. If, after such hearing, the Commission shall determine that the resource is being demolished by neglect, it may direct the Building official to bring misdemeanor charges against the owner or owners if the necessary repairs are not completed within sixty (60) days of the determination by the Commission that the subject building or structure is being demolished by neglect.

SECTION 9.14: PUBLIC SAFETY EXCLUSION

None of the provisions of this Ordinance shall be construed to prevent any measure of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, other feature or part thereof, where such condition has been declared unsafe or dangerous by the Building official or the Fire Department and where the proposed measures have been declared necessary, by such authorities, to correct the said condition; provided, however, that only unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire or other calamity, or by act of God or by the public enemy, to such an extent in the opinion of the aforesaid authorities it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

SECTION 9.15: MINIMUM MAINTENANCE REQUIREMENTS

In order to insure the protective maintenance of landmarks, landmark sites and resources in the historic district, each building, whether a landmark or within the historic district, shall be maintained to meet the requirements of the Minimum Housing Code and the Building Code.

SECTION 9.16: PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

Anyone desiring to take action requiring a certificate of appropriateness concerning a landmark, landmark site or resource within a historic district for either the Building Official or the City is required, shall make application therefore in the form and manner required by the applicable code section or Ordinance. Any such application shall also be considered an application for a certificate of appropriateness and shall include such additional information as may be required by the Commission. After receipt of any such application, the building official shall be assured that the application is proper and complete. No building permit shall be issued by the Building Official which affects a resource in a historic district or landmark or a landmark site without a certificate of appropriateness. Thereafter, such application shall be reviewed in accordance with the following procedure:

A. When any such application is filed, the Building Official shall immediately notify the Chairman, or Vice-Chairman if the Chairman is unavailable, of the Commission, of the application having been filed.

B. The Chairman or Vice-Chairman shall set a time and date, which shall be not later than fifteen (15) days after the filing of the application, for a hearing by the Commission, and the Building Official shall be so informed.

C. The application shall, upon request, have the right to a preliminary conference with a member of the Commission or of the Commission staff for the purpose of making any changes or adjustments to the application which might be more consistent with the Commission's standards.

D. No later than eight (8) days before the date for said hearing, the Building Official shall mail notice thereof to this applicant at the address in the application and to all members of the Commission which shall serve as a call for a special meeting unless the hearing is set for a regularly scheduled meeting.

E. Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the City at least ten (10) days before such hearing and by posting such notice on the bulletin board in the lobby of the City Hall.

F. At such hearing, the applicant for a Certificate of Appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the governing body shall have the right to present any additional relevant evidence in support of the application.

G. The Commission shall have the right to make such recommendations for changes

and modifications as it may deem necessary in order to enable the applicant to meet the requirements of the Commission.

H. Within not more than twenty one (21) days after the hearing on an application, the Commission shall act upon it, either approving, denying or deferring action until the next meeting of the Commission, giving consideration to the factors set forth in Section 9.12 hereof. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the Commission, and whatever its decision, notice in writing shall be given to the applicant and the Building Official. The Commission shall keep a record of its actions under this Ordinance.

I. After the hearing the Commission shall submit the minutes of the meeting, which shall contain the Commission's recommendations as to whether a certificate of appropriateness should be granted or not, to the City.

J. If the applicant objects to the Commission's decision, and desires a hearing before the City, he shall file a written request with the City Clerk not more than ten (10) days after the Commission decides upon its recommendation. No action by the City shall be taken on the matter within the said ten (10) day period.

K. If a request for a hearing before the City is timely filed, the City Clerk shall, not later than the day after such request is filed, mail a notice to the applicant of a hearing date, time and place which shall be the first meeting of the City to be held more than eight (8) days after the filing of the request for hearing b the applicant. However, the applicant may request, in writing, to be heard at the next meeting of the City Council and may therein waive the above notice.

L. If the applicant does not request a hearing by the City, the City shall, without reasonable delay, make its decision based upon the minutes of the Commission including any exhibits filed with said Commission. At his own expense, and applicant may have prepared a verbatim record of the hearing before the Commission. If a verbatim record is made of the hearing before the Commission and no request for a hearing before the City is filed, the City shall make its decision from such record and the minutes of the Commission.

M. Upon approval thereof by the City, the Building Official shall issue a certificate of appropriateness. The issuance of a certificate of appropriateness shall not relieve an applicant for a building permit, special use permit, variance or other authorization from compliance with any other requirement of the laws of the City concerning zoning, construction, repair or demolition unless such is an conflict with this article or action taken hereunder. If so, this article or action taken hereunder shall control.

N. If no permit, variance, or other authorization from either the Building Official or the City is otherwise required and a certificate of appropriateness is required by this article then the applicant therefore shall file an application with the Building Official. Thereafter, the application shall be processed in the manner provided above. The application shall describe what the applicant proposes to do, how it is to be done, and such other information as the Commission or Building Official may require.

SECTION 9.17: APPEALS

The applicant who desires to appeal a decision by the City shall file an appeal to the Circuit Court of the county in which the City is located within thirty (30) days after the determination of the issue by the City in the manner provided by law.

SECTION 9.18: ENFORCEMENT AND PENALTIES

The performance of an act prohibited by either this article or by the Commission or the City as the case may be, acting under the provisions of this article, or the failure to perform an act required either by this article or the Commission or the City, as the case may be, is hereby declared to be unlawful and shall constitute a misdemeanor. The City may also enforce the provisions of this article by seeking an injunction or other legal or equitable relief, as it deems appropriate.

SECTION 9.19: SEVERABILITY

The requirements and provisions off this Ordinance are separable. If any Article, Section, paragraph, sentence, or portion thereof, be declared by any court of competent jurisdiction to be void, invalid or inoperative, the decision of the court shall not affect the validity or applicability of the Ordinance as a whole or of any part thereof other than the part held void, invalid, or otherwise inoperative.

SECTION 9.20: CONFLICTING ORDINANCES

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION 9.21: CONFLICT WITH THE MISSISSIPPI ANTIQUITIES ACT

Likewise, all Ordinances and parts of Ordinances in conflict with the Mississippi Antiquities Act (39-7-1 et seq. of the Mississippi Code of 1972, as amended in 1983) are hereby repealed.

CHAPTER TEN
VACANT AND ABANDONED BUILDINGS
"GO DARK" ORDINANCE

SECTION 10.01: STATEMENT OF PURPOSE

A. Whereas, the City of Canton finds vacant and abandoned commercial buildings create a health hazard for the surrounding community by providing shelter for rats and other vermin; and

B. Whereas, these vacant and abandoned commercial buildings become a breeding ground for gang activity, crime and jeopardized the safety of neighboring property owners, tenants and the general public; and

C. Whereas, the general deterioration of unsecured vacant commercial buildings jeopardize the insurance coverage and market value of adjacent properties; and

D. Whereas, the City of Canton has determined that existing laws do not sufficiently encourage commercial building owners to take reasonable steps to secure their property; therefore

SECTION 10.02: DUTIES OF OWNER

The owner of any commercial building that has become vacant, and any person maintaining, operating or collecting rent for any commercial building that has become vacant shall, within 30 days, do the following:

1) Enclose and secure the building;

2) Maintain all landscaping in standard condition and in accordance with the Landscaping Ordinance of the City of Canton;

3) Provide lighting for parking lots at full capacity after dark;

4) Interior lighting shall be supplied after dark;

5) All signs shall be removed;

6) Maintain the building in a secure and closed condition until the building is again occupied or until repair or completion of the building had been undertaken.

SECTION 10.03: PENALTIES

Violation of this ordinance will constitute a misdemeanor, and each day of violation will constitute a separate offense, for which a fine not less than $100.00 and/or a jail sentence not exceeding sixty days may be imposed. Each day that a violation continues to exist shall constitute a separate offence.

SECTION 10.04: EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect after its passage and publication according to law.

CHAPTER ELEVEN
TRANSIENT VENDOR ORDINANCE

SECTION 11.01: STATEMENT OF PURPOSE

The purpose of this Ordinance is to regulate transient vendors by establishing hours and dates when sales may be made, restricting sales to certain property, requiring fees and bond, issuance of permission slips, all as provided and authorized by the laws of the State of Mississippi, specifically section 21-19-35 of the Mississippi Code Annotated (1972) and sections 75-85-1 through 75-85-19 providing penalties for violations.

SECTION 11.02 DEFINITIONS

A. "Transient vendor" means any person who transacts business as defined herein within the City of Canton. The term includes a vendor who for the purposes of carrying on such business hires, leases, uses, or occupies any building, structure, motor vehicle, railroad car, or real property.

B. "Transient business" means any business conducted for the sale of goods, wares, or services or who solicits purchases, participants, or enlistees for franchises, distributor ships, contracts, or business enterprises that is carried on in any building, structure, motor vehicle, railroad car, or real property for a period of less than six months in each year.

SECTION 11.03 AUTHORITY FOR ORDINANCE

The Mayor and Board of Aldermen of the City of Canton do hereby find and adjudicate that they are authorized, pursuant to section 21-19-35 of the Mississippi Code Annotated (1972) to enact an ordinance providing for regulation of transient vendors, pursuant to the terms and provision thereof.

SECTION 11.04 LIMITATIONS TO TRANSIENT VENDOR SALES

Transient vendors may only conduct sales of any of their products or services at extended commercial premises during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday; transient vendors are not allowed to make sales of any products or services at residential premises.

SECTION 11.05 TRANSIENT VENDOR SALES PROHIBITION

Transient vendors are prohibited from selling their products on any public right-of-way and/or vacant lot within the city.

SECTION 11.06 WRITTEN PERMISSION FROM OWNER REQUIRED

Transient vendors must first obtain the written permission from the owner or legal occupier of the premises upon which sales of products may be offered.

SECTION 11.07 PERMIT REQUIRED

Transient vendors must apply for a permit by application in the sum $250.00 from the City of Canton as authorized and mandated by section 75-85-13 of the Mississippi Code Annotated. All transient vendors are required to exhibit their permit at all times during the operation of their transient business and comply with city and state sales tax regulations.

SECTION 11.08 PENAL BOND OR SURETY BOND REQUIRED

Transient vendors shall execute and post a penal bond or a surety bond issued on behalf of the municipality by a corporate surety authorized to do business in the State of Mississippi, in the sum of $2,000.00, or five percent of the wholesale value of any merchandise or service offered for sale by the applicant, as authorized by section 75-85-13 of the Mississippi Code, as amended, such bond to be conditioned as set forth therein.

SECTION 11.09 WRITTEN PERMISSION FROM CITY OF CANTON REQUIRED

Prior to offering any merchandise for sale, transient vendors must report to officials at Canton City Hall and obtain written permission and approval in order to assure that the terms and provisions of the Mississippi state law regulating transient vendors and this ordinance have been met.

SECTION 11.10 PERMIT EXPIRATION AND CAUSES FOR REVOCATION

All permits issued under the provisions of this ordinance shall expire on the date specified in the permit. In no event shall the permit issued last for a period longer than one year and expired permits must be renewed pursuant to requirements of this ordinance. Permits may be revoked by the Mayor and Board of Aldermen after notice and hearing, for any of the following causes:

1) Fraud, misrepresentation, or any false statement made in the course of carrying on the business as a transient vendor or in the application for a permit.

2) Conviction of any crime or misdemeanor involving moral turpitude.

3) Conducting the business of transient vendor in an unlawful manner or which constitutes a menace to the health, safety, or general welfare of the public.

Notice of hearing for revocation of the permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for the hearing.

SECTION 11.11 VIOLATIONS

Violation of this ordinance will constitute a misdemeanor, and each day of violation will constitute a separate offense, for which a fine not exceeding $500.00 and/or a jail sentence not exceeding sixty days may be imposed.

SECTION 11.12 REPEALER

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

SECTION 11.13 EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect after its passage and publication according to law.

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