

- B. **Number of Accessways Per Lot:** A minimum of one accessway per lot, or one accessway for every 100 feet of street frontage.
- C. **Width of Accessways:** The width of any accessway shall not be less than twenty (20) feet. The alignment of accessways shall be approved in accordance with Site Plan Review procedures specified under Section 600.12.
- D. **Distances between Accessways and Minimum Setbacks from Street Intersections: The spacing of accessways shall conform to the following:** (1) at its intersection with the lot line, no part of any accessway shall be nearer than twenty (20) feet to any other accessway on the same lot, nor shall any part of the accessway be nearer than ten (10) feet to any side or rear property line; (2) at intersections with other streets, no part of an accessway shall be permitted within fifty (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 Accessways:** 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.

SECTION 40 - NONCONFORMITIES

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 class B nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that class B 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.

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 structures 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. Class A nonconforming uses or structures are those which have been so designated by the Zoning Board, after application by any interested person or the Zoning Administrator, 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. All nonconforming uses and structure not designated as Class A are Class nonconforming uses or structures.

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 non-conforming 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 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 which 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 40.03-A. However, further division of such nonconforming lots of record shall be prohibited.

(NOTE: Subsection 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.)

40.04 PROCEDURE FOR OBTAINING CLASS A DESIGNATION,

CONDITIONS: A written application shall be filed with the Zoning Administrator setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains and including such other information as may be necessary to enable the Zoning Board to make a determination of the matter. The Zoning Board may require the furnishing of such additional information as it considers necessary. The notice and hearing procedure before the Zoning Board shall be the same as in the case of an application for a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based. Conditions shall be attached, including any time limit, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance. No vested interest shall arise out of a Class A designation.

40.05 REVOCAION OF CLASS A DESIGNATION: Any Class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

- 40.06 REGULATIONS PERTAINING TO CLASS A NONCONFORMING USES STRUCTURES AND STRUCTURES:** No Class A nonconforming use shall be resumed if it has been discontinued for a continuous period of at least 6 months or if it has been changed to a conforming use for any period. No Class A structure shall be used, altered, or enlarged in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity.
- 40.07 REGULATIONS PERTAINING TO CLASS B NONCONFORMING USES AND STRUCTURES:** It is a purpose of this Ordinance to make a transition from Class B nonconforming uses and structures to conforming uses and structures as rapidly and orderly as possible. No Class B nonconforming use shall be resumed if it has been discontinued for a continuous period of at least 6 months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 % of the reproduction cost of such structure. No Class B nonconforming structure shall be enlarged or structurally altered, nor shall it be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50% of the reproduction cost of such structure. No Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than used at the time of becoming nonconforming.
- 40.08 REPAIRS AND MAINTENANCE OF NONCONFORMING STRUCTURES AND/OR STRUCTURES CONTAINING A 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 having a Class B designation 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 Ridgeland.)

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.

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

40.10 PERMITTED CONDITIONAL USES CONSTITUTE CONFORMING 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.