

APPLICATION PACKET FOR REGISTRATION OF NONCONFORMING USE OR STRUCTURES

the city of **RIDGELAND**



M I S S I S S I P P I

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APPLICATION FOR REGISTRATION OF NONCONFORMITY
- Pursuant to the Official Zoning Ordinance, Section 40, Nonconformities -
THE CITY OF RIDGELAND, MADISON COUNTY, MISSISSIPPI

APPLICATION FOR REGISTRATION OF NONCONFORMING USE OR STRUCTURES

(Also use for Nonconforming Lots of Record and Nonconforming Occupancy)
(Official Form March 2014)

COMES NOW, _____, (the "Applicant") and
[Name of Applicant(s)]

respectfully submits this Application to the Director of Community Development of the City of Ridgeland, Mississippi, to grant a specific Nonconforming Class status as set forth in Section 40 of the City of Ridgeland Zoning Ordinance, as more specifically described in this Application for that real property described in this Application, and in support of this Application would show as follows:

1. The name of the Applicant is _____
(hereinafter referred to as "Applicant").
2. The Applicant's mailing address is _____
_____ and (if applicable) the Applicant's
attorney or representative's name and mailing address is _____
_____.
3. The Applicant's phone number is _____ and the Applicant's
attorney's phone number is (if applicable) _____.
4. The record title holder of the property is _____,
and a copy of the property deed with legal description is attached hereto as Exhibit "A".

5. If the Applicant is not the owner of the property, the owner's address and phone number is _____
_____.

6. A copy of the written authority of the owner's representative to act on behalf of the Owner is attached hereto as Exhibit "B", if applicable.

7. Property Information:

Street address of the property: _____

Ridgeland, Mississippi 39157

Tax Parcel ID Number(s): _____

Date acquired by current owner:

Value of improvements, if any, made after the date of the last assessment on the tax rolls but before March 6, 2014. _____

Gross area under roof: _____

8. A survey of the property certified by a licensed land surveyor is attached as Exhibit "C". The survey shall clearly illustrate and indicate the property boundaries of the parcel(s) being registered, total acreage, the location of structures, number of residential or commercial units in each building (if multiple units are present), and exterior facilities.

9. The property is presently zoned _____, according to the official zoning map of Ridgeland, Mississippi.



10. Applicant declares the following as the nonconforming condition for which this

registration is submitted (see Section 40.02): _____

11. Applicant requests the follow Nonconforming Class Status (check one):

- Administrative Class A Nonconformity (Section 40.03.C)
(Petition and Application for Class A Nonconforming Use, Lot, or Structure shall be attached to this Application) Prior to approval by the Director of Community Development, an Administrative Class A status requires notice by certified mail return receipt.
- Designated Class A Nonconformity (section 40.03.D)
(Petition and Application for Class A Nonconforming Use, Lot, or Structure shall be attached to this Application. Designated Class A status requires public notice, a hearing, and approval by the Mayor and Board of Aldermen.)
- Class B Nonconformity (Section 40.05 and 40.12)

12. Describe any additional information, circumstances, or conditions that the Applicant requests to be considered. If additional space is needed, attach continuation sheets, and attach any supplemental information or documents as Exhibit 'D':

13. SUBMISSION OF THIS APPLICATION AND SUPPORTING DOCUMENTATION DOES NOT IMPLY APPROVAL OF THE NONCONFORMITY. A DETERMINATION WILL BE MADE BASED ON THE INFORMATION PROVIDED BY THE APPLICANT AND/OR OTHER RESOURCES. FAILURE TO PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE CITY MAY RESULT IN THE DELAY OR DENIAL OF THIS APPLICATION.

14. Applicant shall submit one (1) original and one (1) copy of this Application and all Exhibits.

15. The undersigned Applicant hereby applies for registration of the Nonconformity shown in this application and certifies that the submitted information and attachments are true and accurate. Information contained in the materials submitted will be used for the purposes of administering the formal City of Ridgeland, Mississippi Nonconformity registration process. All of the statements and representations contained in the attached documents in support of this application shall be deemed a permanent part of the application for all purposes. *(Pursuant to 28 U.S.C. § 1746, I, the undersigned Applicant, declare under penalty of perjury that I am authorized to submit the foregoing registration application on behalf of the identified owner (if the owner is a corporate or other business entity) or on my own behalf (if the owner is an individual), and the information presented in the foregoing is true and correct.)*

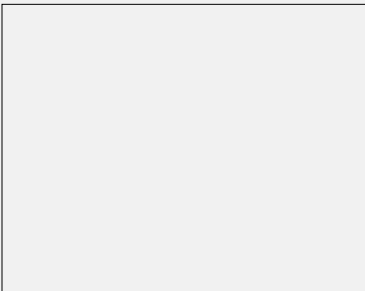
Applicant (Print Name)

Applicant (Signature)

Date

Applicant Title

F O R O F F I C I A L U S E O N L Y



Received By: _____
(Print Name)

(Title)

(Signature)

PETITION AND APPLICATION FOR CLASS A NONCONFORMING USE, LOT, STRUCTURE, OR OCCUPANCY

(Official Form March 2014)

COMES NOW, _____, (the "Petitioner") and
[Name of Petitioner(s)]

respectfully petitions the Mayor and Board of Aldermen of the City of Ridgeland, Mississippi, to grant Class A Nonconforming status as set forth in Section 40 of the City of Ridgeland Zoning Ordinance, as more specifically described in this Petition for that real property described in this Petition, and in support of this Petition would show as follows:

1. The name of the Petitioner is _____
(hereinafter referred to as "Petitioner").
2. The Petitioner's mailing address is _____
_____ and (if applicable) the Petitioner's
attorney or representative's name and mailing address is _____
_____.
3. The Petitioner's phone number is _____ and the Petitioner's
attorney' or representative's phone number is (if applicable) _____.
4. The record title holder of the property is _____.
A copy of the property deed with legal description is attached hereto as Exhibit "A".
5. If the Petitioner is not the owner of the property, the owner's address and phone number
is _____
_____.

6. A copy of the written authority of the owner's representative to act on behalf of the Owner is attached hereto as Exhibit "B", if applicable.

7. The street address of the property is: _____

Ridgeland, Mississippi 39157

Tax Parcel ID Number(s):

8. A survey of the property certified by a licensed land surveyor is attached as Exhibit "C". The certified plat or map clearly illustrates and indicates the total acreage, number of residential or commercial units in each building (if applicable), and exterior facilities.

9. The property is presently zoned _____, according to the official zoning map of Ridgeland, Mississippi.

10. Petitioner requests the follow Nonconforming Class Status (check one):

Administrative Class A Nonconformity (Section 40.03.C)

Designated Class A Nonconformity (section 40.03.D)

11. A vicinity map or plat depicting an area of at least 300' surrounding the subject property in all directions is attached to this Petition as Exhibit "D". The vicinity map includes the current zoning classification of all lands within 160' of the subject property.

12. A list of the names and addresses of all owners of property within 160 feet of the subject property, excluding road rights-of-way, according to the most recent county tax roll is attached as Exhibit "E".

13. Site and architectural plans for development/improvement of the property may be attached as Exhibit "F".

14. Petitioner intends to use the subject property for the following purpose(s) in accord with requested Class A Nonconforming Status: _____

_____ .

15. Class A Nonconforming Status of the property is requested for the following reason(s):

_____ .

16. Petitioner declares that the continuance of the described Nonconforming Use, Lot, Structure, or Occupancy would not be contrary to the public health, safety or welfare, or the spirit of this Ordinance, if approved. Petitioner offers the following statement to support this declaration (attach additional sheets, if necessary): _____

14. Petition declares that the use, lot, structure, or occupancy does not and is not likely to significantly depress the value of nearby properties. Petitioner offers the following statement to support this declaration: _____

18. Petitioner declares that the use, lot, structure, or occupancy was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance to the nonconformity. Petitioner offers the following statement to support these declarations: _____

- 19. Petitioner files herewith one original (1) and ten (10) legible copies of this Petition and all exhibits attached hereto.
- 20. In the event that the Petitioner is seeking and Administrative Class A Nonconforming Status, Petitioner acknowledges the Petitioner must give at least fifteen (15) days notice, to all property owners owning property within 160' of the subject property by certified mail, return receipt requested, of the request set forth in this petition and of the end date of the comment period. Except as otherwise determined, all certified mail receipts and any certified mail return receipts shall be submitted prior to the granting of the status.
- 21. Petitioner acknowledges that Petitioner has received a copy of the Procedural Rules of the City of Ridgeland Zoning Board, has read the same and fully understands the requirements, rights and duties set forth therein.
- 22. The required \$150.00 filing fee has been paid with the filing of this Petition.

Respectfully submitted,

PETITIONER

DATE



- 40.01 INTRODUCTION AND PURPOSE.** It is the intent of this ordinance to require the discontinuance or removal of Nonconformities within specified time periods unless the city has determined to allow the nonconformity to continue only under limited circumstances in accordance with this section.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change of plans, construction, or designated use of any building for which a Building Permit has been issued and is still active and currently open prior to February 4, 2014 and for which actual construction has been initiated within six (6) months of the effective date of this ordinance and has carried on diligently to completion thereafter. “Actual construction” includes placing construction materials in permanent position and fastened in a permanent manner, and also includes excavation or demolition or removal of existing Structures initiated preparatory to rebuilding, provided that construction of a Structure begins promptly thereafter and is part of a continuous construction process diligently pursued to completion.

- 40.02 TYPES OF NONCONFORMITIES.** For purposes of orderly regulation, four types of Nonconformities are recognized under this ordinance:

- A. Nonconforming Lot of Record:** A Lot of Record lawfully existing on February 4, 2014 the dimensions of which, subsequently do not meet the area or width requirements, or both, of this ordinance.
- B. Nonconforming Structure:** Any Structure lawfully existing on February 4, 2014 but which subsequently does not comply with the bulk, placement and dimensional requirements of this ordinance.
- C. Nonconforming Use.** The use of any land, lot, building, structure, or parts thereof, which lawfully existed on February 4, 2014 but which subsequently does not comply with all or some part of the use requirements of this ordinance.
- D. Nonconforming Occupancy.** The presence or any structure, use, fixture, modification, or improvement to raw land that does not comply with the requirements of this or other municipal ordinances such as the size and configuration of parking and loading spaces, landscaping, signage, property maintenance, fire protection requirements, and the like.

- 40.03 ADMINISTRATIVE CLASSES OF NONCONFORMITIES.** For procedural and enforcement purposes, Nonconformities of any type shall be assigned to one of three administrative classes described in this subsection. Any Accessory Structure or Use shall automatically be assigned the nonconformity class of the main building or dominant use to which it pertains.

A. **Class A Nonconformities.** Class A Nonconformities are those that do not conform to the strict application of this ordinance, but which, if allowed to continue, would not be contrary to the public health, safety or welfare of the city, and that are not likely to significantly depress the value of nearby properties. To minimize the burden of enforcing nonconformity regulations, this ordinance provides for three sub-classes of Class A Nonconformities:

- **Categorical Class A Nonconformities:** nonconformities whose characteristics can reasonably be identified on a collective basis and whose impacts can be considered and determined to be acceptable without the need for site specific evaluation.
- **Administrative Class A Nonconformities:** these are similar to Categorical Class A Nonconformities, but require site-specific evaluation of minor potential impacts before they can be determined to be acceptable nonconformities through a simple administrative process.
- **Designated Class A Nonconformities:** nonconformities where site-specific characteristics and impacts need to be considered through a public notice and hearing process.

B. **Categorical Class A Nonconformities:** The following nonconformities shall be deemed to be Class A without the need for any review or approval process, unless changed under the reclassification procedure in Section 40.07.

1. **Nonconforming Lots of Record.** In any district in which single-family dwellings are permitted, Categorical Class A Nonconformity status shall apply to single-family dwellings and customary accessory buildings on any single nonconforming Lot of Record, 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.

Categorical Class A Nonconformity status shall likewise apply to single-family Lots of Record with continuous frontage in single ownership prior to the enactment of this Ordinance and which remain in the same ownership (or if the lots are conveyed by inheritance or as a gift among family members) following enactment of this Ordinance. Such lots 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. However, further division of such nonconforming lots of record shall be prohibited, and the nonconforming status shall be lost if such lots change ownership except by inheritance or gift between or among family members.

These foregoing provisions shall apply even though such single lot of record fails to meet the requirements for area or width that are

generally applicable in the district, provided that the required front, rear, and side yard dimensions and other requirements of the proposed single-family residential use conform to the regulations in the district in which such single nonconforming lot of record is located.

If a nonconforming Lot of Record is too narrow or too small to build a house and yet provide the required yards specified for a particular district, a Variance under Section 600.08 of this Ordinance is required.

Categorical Class A Nonconformity status shall not apply to adjacent Lots of Record with continuous frontage that come into single ownership after the time of enactment of this Ordinance. Such lots shall be considered together as a single undivided parcel for the purposes of this Ordinance; and no portion of the combined parcel shall be used in a manner which diminishes compliance with the dimensional and yard requirements of this Ordinance, nor shall any division of any parcel be made that does not comply with this Ordinance.

2. Existing Class A Nonconformities. Unless changed by the procedures set forth herein, any Class A conformity existing prior to February 6, 2001 under the zoning ordinance then in effect shall have a Categorical Class A Nonconformity status.

C. Administrative Class A Nonconformities. The Director of Community Development may grant Administrative Class A Nonconformity status for lots or structures under the same conditions and using the same procedures established for Variances that may be granted under Section 600.08.D, “Variances Granted by Director of Community Development or His Designee.”

D. Designated Class A Nonconformities. Class A Nonconformities may be designated by the Mayor and Board of Aldermen, after application by any interested person or the Director of Community Development or his designee, 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 strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

40.04 CLASS A DESIGNATION PROCEDURE; CONDITIONS: A written application shall be filed with the Director of Community Development or his designee 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 Mayor and Board of Aldermen

to make a determination of the matter. The Mayor and Board of Aldermen may require the furnishing of such additional information as it considers necessary. The notice and hearing procedure before the Mayor and Board of Aldermen 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.

In considering an application for Designated Class A Nonconformity status or an application to revoke a previously assigned Class A status, the Mayor and Board of Aldermen may determine that the nonconformity should be assigned a Class B Nonconformity status and assigned an appropriate amortization period. Assignment to a Class B status shall be made if the Mayor and Board of Aldermen determines that the impacts of the nonconformity are more detrimental than those allowed for Class A Nonconformities, but that relegating the nonconformity to a Class C status would deprive the owner or occupants of the property of any reasonable use of the property, would violate the law, or would deprive the owner or occupants of a constitutionally protected right.

40.05 CLASS B NONCONFORMITIES. Any registered nonconformity not classified as Class A shall be classified as a Class B Nonconformity, and shall be subject to the amortization provisions of Section 40.12.

40.06 CLASS C NONCONFORMITIES. Any nonconformity that is not a Class A or Class B Nonconformity shall be deemed to be a Class C Nonconformity. This provision is self-effectuating without further action by the city.

40.07 CLASS A REVOCATION OR RECLASSIFICATION PROCEDURE. Any Class A status may 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. Any interested party may petition the city to revoke a Class A status by filing a request with the Director of Community Development or his designee. Such a request shall be processed through the public notice, hearing, decision-making, and appeal procedures in the same manner as an application for a Class A designation. Before revoking a Class A status, the Mayor and Board of Aldermen shall adopt written findings describing its reasons for revocation.

40.08 RULES FOR CLASS A NONCONFORMITIES.

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, 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 assessed valuation of such structure. No Class A structure shall be used, altered, or enlarged in a way which increases its nonconformity.

40.09 RULES FOR CLASS B NONCONFORMITIES.

Class B Nonconformities shall be subject to all of the rules as Class A Nonconformities (set out in Section 40.08), and in addition to those rules, shall be subject to the following:

No Change or Enlargement. 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.

Repairs and Maintenance. 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 assessed value 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.

Unsafe Conditions. 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. This provision is intended to reinforce the currently adopted Building Code and Property Maintenance Code of the City of Ridgeland.

40.10 RULES FOR CLASS C NONCONFORMITIES. Within one year of February 4, 2014, all Class C Nonconformities shall cease any use, condition, operation, or occupancy that makes it a nonconformity, and shall be brought into compliance with this ordinance or removed. Further, any structure previously occupied or utilized as a Nonconforming Use in whole or in part shall either be converted to a conforming use, or shall be demolished.

40.11 REGISTRATION OF NONCONFORMITIES. Except for Categorical Class A Nonconformities, all nonconformities, regardless of type, shall register by completing and submitting an original and one (1) copy of the “Application Packet For Registration of Nonconforming Use or Structures” to the Community Development Department of the City of Ridgeland, MS. If the Application Packet is mailed to the City, then there must be included one original and one copy, together with a self-addressed stamped envelope addressed to the Owner. The registrant shall provide such supporting information as the city may reasonably require as part of that registration.

The Community Development Department shall date and sign the original and the copy, which shall be conclusive proof that the Application Packet was accepted for filing and the use or structure registered in accordance with the requirements of this Ordinance.

Registration shall be effective upon filing the specified form with the Community Development Department, which shall not refuse to accept a proffered form on the basis that it is incomplete as long as the form identifies the owner of the property

upon which the nonconformity is located and the property itself with sufficient particularity to determine the location and boundaries of the specific parcel(s) involved.

A separate form shall be submitted for each lot of record, provided that where adjacent lots of record form a contiguous parcel for which a common registration is sought for a logically common development, a single form may be submitted.

The Community Development Department shall examine each registration for completeness, and shall notify the registrant either that the registration is complete, or that additional information is required to process the registration. Where additional information is required, the Community Development Department shall identify with particularity what information is required. The registrant shall have 60 days from the notice to supply the additional information.

The registration shall state which nonconformity class status the registrant is seeking, and the registration shall serve as an application for a determination of such status.

The Community Development Department shall evaluate all completed registrations, and shall advise the registrant of its determination that the nonconformity will be treated as one of the following:

- Categorical Class A Nonconformity
- Administrative Class A Nonconformity
- Class B Nonconformity
- Class C Nonconformity

Any person (whether the registrant or a non-registrant interested party) may contest the determination of the Community Development Department, and such contest shall be considered under the same procedures established for considering Designated Class A Nonconformities.

Any nonconformity required to register under this ordinance that fails to do so within six (6) months of becoming a nonconformity shall be deemed to be a Class C nonconformity, and thereafter shall not be entitled to any benefits of Class A or Class B status unless expressly granted by the procedures established by this ordinance.

Failure or neglect of the Owner to identify or register uses or structures which are non-conforming as defined in this Ordinance, or subsequent amendments thereto, shall not exempt such use or structures from the applications of this Ordinance and shall not toll or extend the time period for the termination of such use or structure.

40.12 AMORTIZATION OF CLASS B NONCONFORMITIES.

A. All Class B Nonconformities shall cease or shall be brought into compliance with this ordinance upon the expiration of the period of time required to amortize the remaining economic life of such nonconformity calculated in accordance with the formula set forth in this Section 40.12, unless modified on appeal under Section 40.13. Further, any structure previously occupied or utilized as a nonconforming Use in whole or in part shall either be converted to a conforming use or demolished upon the expiration of the amortization period.

B. Definitions for Amortization Formula

The words, phrases and letters used in the Formula have the following meanings:

- “B”** means the Base Unrecoverable Cost
- “AV”** means the Assessed Valuation according to the Tax Rolls of the Madison County Tax Collector upon the effective date of this Ordinance
- “F⁻”** (the capital letter “F” followed by the arithmetic minus sign “-“) means the Factors that Decrease Unrecoverable Costs, which shall include at a minimum the sum of the value of the raw land underlying the property and depreciation of improvements on the subject property utilizing straight-line depreciation.
- “F⁺”** (the capital letter “F” followed by the arithmetic plus sign “+“) means the Factors that Increase Unrecoverable Costs, which shall include at a minimum the sum of the following factors:
- The costs of Demolition and Restoration of the property; and
 - Value of any Improvements made to the property after the date of the last assessment for tax rolls and before the effective date of this Ordinance.
- “I”** means Net Income after Expenses but before Income Taxes, averaged over three years
- “Y¹”** means the Preliminary Amortization Period
- “Y^{Adj}”** means the Inflation Adjusted Amortization Amount
- “Y²”** means the Final Amortization Period

C. Statement of Amortization Formula

Step 1 Calculate Base Unrecoverable Cost (B)

$$B = AV - F^- + F^+$$

Step 2: Determine Net Income (I)

I = Net Income after Expenses but before Income Taxes

Step 3: Calculate Preliminary Amortization Period (Y)

$$Y^1 = B/I$$

Step 4: Calculate Inflation Adjusted Amortization Amount (Y^{Adj})

$$Y^{Adj} = B \times (1 + (1.5\% \times Y^1))$$

Step 5: Divide Inflation Adjusted Amortization Amount by Net Income to get Final Amortization Period

$$Y^2 = Y^{Adj}/I$$

D. Example of Formula Applied to Values for Illustration:

Step 1: Calculate Base Unrecoverable Cost: $B = AV - F^- + F^+$

In this example, for the Step 1 calculation of Base Unrecoverable Value, assume the following values:

$$AV = \$1,000,000$$

$$F^- = \$500,000$$

$$F^+ = \$100,000$$

Applying this to Step 1 of the Formula, Base Unrecoverable Value is calculated as follows:

$$B = \$1,000,000 - \$500,000 + 100,000$$

$$B = \$600,000$$

$$\text{Base Unrecoverable Value} = \$600,000.$$

Step 2: Determine Net Income:

I = Net Income After Expenses but Before Taxes

Net Income (I) can be determined by an analysis based upon publicly-available data for similar business operations in the geographic area, or by presentation by the Owner of audited financials of the actual property in question.

In this example, for the Step 2 calculation of Annualized Income, assume the following values:

Carry forward Base Unrecoverable Value from Step 1

Applying this to Step 2 of the Formula, Annualized Income is calculated as follows:

$$I = \$600,000 (10\%)$$

$$I = \$60,000$$

Step 3: Calculate Preliminary Amortization Period: $Y = B/I$
In this example, for the Step 3 calculation of Preliminary Amortization Period, use the values determined in Steps 1 and 2, as follows:

$$Y^1 = \$600,000 / \$60,000$$

$$Y^1 = 10 \text{ years}$$

Step 4: Calculate Inflation Adjusted Amortization Amount:

$$Y^{\text{Adj}} = B \times (1 + (1.5\% \times Y^1))$$

$$Y^{\text{Adj}} = \$600,000 \times (1 + (1.5\% \times 10))$$

$$Y^{\text{Adj}} = \$690,000$$

Step 5: Divide Inflation Adjusted Amortization by Income to get Final Amortization

$$Y^2 = \$690,000 / \$60,000$$

$$Y^2 = 11.5 \text{ years}$$

40.13 APPEAL OF AMORTIZATION FORMULA.

Any owner or occupant aggrieved by the application of the amortization formula or of the factors used in the formula's calculation may appeal to the Mayor and Board of Aldermen on the basis of any one or more of the following grounds:

- The formula fails to consider factors unique to specific use or property involved such that the calculated remaining economic life unreasonably understates the true remaining economic life of the nonconformity.
- The data used for calculating the formula are inaccurate as applied to the nonconformity.
- Financial conditions unique to the specific use or property involved make it unreasonable to apply the formula to the nonconformity.

The burden of proof and persuasion for the appeal shall be on the appealing owner or occupant. In addition to showing the grounds described above, the appealing owner or occupant must demonstrate the specific different or additional factors that should be considered, the accurate date that should be used, or a different amortization methodology to calculate the remaining economic life of the nonconformity.

The procedure for appealing the amortization formula shall be the same as used for considering a Variance, including the notice and hearing provisions.

- 40.14 EXISTING NONCONFORMITIES ARE NOT ENHANCED.** A nonconformity existing at the time of the enactment or amendment of this ordinance shall not enjoy any greater right to continue its nonconforming status than it had prior to the enactment or amendment. It is the intent of this ordinance for preexisting nonconformities to be brought into compliance with the ordinance at least as quickly and as completely as they would have in the absence of an amendment.
- 40.15 RESERVED.**
- 40.16 NONCONFORMING SIGNS.** See *Sign Ordinance of the City of Ridgeland* for regulations concerning nonconforming signs.
- 40.17 REGULATIONS CONCERNING NONCONFORMING ACCESSORY USES AND/OR ACCESSORY STRUCTURES.** The most restrictive regulation of the following regulations shall apply to nonconforming accessory uses and/or accessory structures:
- A.** No nonconforming accessory use or accessory structure, or other structures incidental to a nonconforming use in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered.
 - B.** No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by discontinuance, damage, or destruction unless, such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.
 - C.** Any part of a nonconforming accessory use or accessory structure which is destroyed by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50% of the assessed value (per the Madison County Tax Assessor) prior to the casualty of such structure shall not be restored.
- 40.18 REPAIRS AND MAINTENANCE OF NONCONFORMING ACCESSORY USES, ACCESSORY STRUCTURES, AND/OR OTHER STRUCTURES.** On any nonconforming accessory use, nonconforming accessory structure, or other structures incidental to 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 assessed value (per the Madison County Tax Assessor) of the nonconforming accessory use, nonconforming accessory structure, or other structures incidental to a nonconforming use provided that the cubic content or assessed value existing when it became nonconforming shall not be increased.

- 40.19 ACCELERATED REMOVAL OF NONCONFORMITIES.** The city may, by ordinance, designate specific nonconformities which, by their nature or location, are so detrimental to the public health, safety or welfare of the city, or are so likely to significantly depress the value of nearby properties, that their removal or discontinuance should be accelerated earlier than otherwise provided in this ordinance. Such nonconformities may be designated on a site-specific basis or by specific characteristics applicable to multiple sites or uses. The accelerated removal or discontinuance of such nonconformities shall be under the schedule and conditions provided in the ordinance designating them.
- 40.20 SUBORDINATION OF NONCONFORMING USE REGULATIONS FOR CONDITIONAL USES AND VARIANCES.** Where a Use or Structure has been permitted as a Conditional Use or has been granted a Variance, the provisions of the Conditional Use or Variance shall control over the nonconforming use regulations in this ordinance to the extent of any conflict between or among them. However, to the extent that a nonconformity of such a Use or Structure, in whole or in part, is not specifically addressed by the Conditional Use or Variance, this Section 40 shall apply to that nonconformity.
- 40.21 NO VESTED RIGHT IN NONCONFORMING STATUS.** Nothing in this ordinance shall be construed to grant any owner or occupant a vested right to a nonconforming status, regardless of the type or class assigned to the nonconformity. The benefits granted to a nonconformity in this ordinance shall be construed as exceptions to the general provisions of the ordinance. Such exceptions are made as a reasonable accommodation to property owners and occupants to avoid unnecessary adverse impacts on them without significantly diminishing the long term public benefit of the full enforcement of this ordinance. Such exceptions are made with the expectation that the property, structure, use, or occupancy involved will be ultimately brought into compliance with the general provisions of this ordinance.

**PROCEDURAL RULES OF THE
CITY OF RIDGELAND ZONING BOARD
JANUARY 10, 1991, AS AMENDED
APRIL, 2009**

I. GENERAL INFORMATION:

1. When matter shall be considered:

The Zoning Board shall take up for consideration any matter properly referred to it by the Zoning Administrator at the next regular meeting of the Zoning Board after such referral is made.

2. Agenda:

The Zoning Administrator shall prepare an agenda for each meeting of the Zoning Board. The agenda shall include all old business to be brought before the Zoning Board and all matters referred to it by the Zoning Administrator since the preceding regular meeting of the Zoning Board.

3. Quorum:

For Zoning Board purposes a quorum exists when at least five (5) members are present.

4. Public Hearing:

Whenever a matter shall be first taken up for consideration by the Zoning Board, the Zoning Board shall set a date, time and place for the hearing of the matter, and having done so, shall give timely notice thereof to the person or entity who initiated the matter pending before the Zoning Board, together with any additional requirements which must be attended to by such person or entity prior to the public hearing of the pending request.

5. Conflicts:

All matters involving Zoning Board members shall be directly referred to the Mayor and Board of Aldermen for decision.

II. MINIMUM REQUIREMENTS OF REQUEST TO BE HEARD BY BOARD:

1. Request to be reduced to writing:

All requests to be considered by the Zoning Board shall be reduced to writing . All Petitions to Rezone Real Property shall be on the Official Zoning Petition Form of the City of Ridgeland Zoning Board – March 2001.

2. Minimum information to be included in request:

The following minimum information shall be included in all requests to be considered by the Zoning Board, where applicable, and if not applicable, then to the extent necessary to enable the Zoning Board and the general public to clearly understand the request being made:

- (a) Name(s) of person(s) or entity(s) making the request;
- (b) Owner(s) of the subject property(s);
- (c) Legal description of the subject property(s);
- (d) Street address of the subject property(s);
- (e) Location of the subject property(s);
- (f) Present zoning classification of the subject property(s);
- (g) The specific request(s) to be considered by the Board;
- (h) The proposed immediate use of the subject property(s);
- (i) The present use of the subject property(s);
- (j) The mailing address and phone number of the person or entity making the request to the Board;
- (k) A statement that all required filing fees (**\$150.00**) have been paid;
- (l) **One original and ten legible copies of the written request and all exhibits appended thereto.**

3. Minimum exhibits required:

All requests coming before the Board shall include the following minimum information by exhibit attached to the request where applicable:

- (a) An accurate legal description and plat or survey of the subject property certified by a civil engineer or licensed surveyor, drawn to a scale of not less than 1" = 100'. The surveyor's certificate shall state that the legal description is accurate and correct and that the property described is accurately depicted on the plat of survey.
- (b) A vicinity map or plat depicting an area of at least 300' surrounding the subject property; and/or the nearest public street intersection; and, setting forth thereon the ownership of all lands within 160' of the subject property. The vicinity map shall include the current zoning classification and existing use of all lands within 160' of the subject property.

III. PRE-HEARING REQUIREMENTS FOR ZONING PETITIONS:

1. Publication of Notice:

At least 15 days prior to the date of the public hearing notice thereof shall be published in a newspaper pursuant to applicable State statute and any such notice shall contain the following minimum information:

- (a) Name of petitioner;
- (b) Legal description of property;
- (c) Present zoning classification of property;
- (d) Proposed zoning classification, if applicable;
- (e) Date, time and place of public hearing;
- (f) Nature of request to be heard by the Board
- (g) Before whom the pending request will be heard.

2. Posting of Notice:

At least fifteen (15) days prior to any public hearing on any request for rezoning, a sign shall be posted on the subject property setting forth:

- (a) Notice that a request for rezoning is pending;
- (b) Where additional information may be obtained relative to the proposed rezoning.

3. Notice to landowners:

At least fifteen (15) days prior to any public hearing the Petitioner, at Petitioner's expense, shall serve actual notice of the public hearing on all persons owning property, according to the most recent official tax assessment roll, within 160' of the subject property. **Service shall be by certified mail, return receipt requested, restricted delivery**, and such notice shall contain all information required to be in the original request filed with the Board, together with the date, time, and place of the public hearing.

At least five (5) days prior to the public hearing, Petitioner shall file with the Zoning Administrator a verified list of all property owners so served by certified mail, together with the original return receipt.

IV. PUBLIC HEARING:

The public hearing shall be conducted on the day, at the time and in the place set forth in the notice thereof and shall be conducted in the manner which shall be determined by the Chairman of the Board to provide for an orderly

presentation of the request while providing adequate opportunity for all persons present to be heard. Generally, the hearing will be structured to provide for the presentation of the request; then those supporting the request; then those opposing the request; and finally a brief reply.

The City Zoning Ordinance and Zoning Map may be amended or modified only upon a showing that one of the following situations exists:

1. There was a **mistake** (in the nature of a clerical error) in the original zoning.

OR

1. The **character** of the neighborhood, in which the property which is sought to be rezoned is located has changed; and,
2. A public need for the rezoning exists.

The “mistake” which is referred to above does not refer to a mistake in judgment on the part of the governing authority in enacting the Zoning Ordinance or in classifying property. The type of mistake referred to here is in the nature of a clerical error in transcribing the ordinance and the boundaries involved in drawing up the zoning map.

The petition will have the burden of proof to present evidence in support of its claim that a mistake was made, or that the character and nature of the neighborhood has changed and that a public need exists for the rezoning. Unless the petitioner meets its burden of proof, the petition will be denied.

V. APPLICATION:

The procedures set forth herein shall generally apply to all matters coming before the Board whether for rezoning, variance, exception or otherwise. However, with the exception of request for rezoning, the procedures may be modified on a case by case basis by majority vote of the Board and based on the precise nature of the request when taken in light of the probable effect of the request, if granted, on the surrounding property owners and neighborhood.

VI. WAIVERS:

With the exception of the notice required to be given by State Statute pertaining to request for rezoning, all other requirements for notice may be waived by the person(s) entitled to receive any such notice. Any waiver of notice must be in writing, signed by the person(s) entitled to receive the notice, acknowledged by property authority, and filed with the Zoning Administrator at least five (5) days prior to the public hearing.

VII. FINALITY OF ACTION BY ZONING BOARD:

The action of the Zoning Board shall not become final until such action is confirmed and adopted by the Mayor and Board of Aldermen of the City of Ridgeland, Mississippi, and spread upon the minutes of the said Mayor and Board of Aldermen.