

ARTICLE III: ADMINISTRATIVE & ENFORCEMENT POWERS AND DUTIES

SECTION 3.1: City Council

The City Council of the City of Gautier shall exercise all powers vested in the governing body as provided in *Mississippi Code Annotated Section 17-1-17 (1972)* and shall have final authority over certain zoning and planning related matters as itemized in *Section 3.1.1*

3.1.1 Powers and Duties

As the governing body of the City of Gautier the City Council shall be responsible for final action regarding the following:

- A. Amendments to the text of the Comprehensive Plan;
- B. Amendments to the text of this Ordinance;
- C. Applications for zoning map changes;
- D. Application for Conditional Uses
- E. Applications for Major Site Plans
- F. Plat approval as required by this Ordinance

SECTION 3.2: Planning Commission

The Planning Commission shall exercise all powers vested in such bodies as provided in *Mississippi Code Annotated Section 17-1-17 (1972)* and shall act as the Advisory Committee to the City of Gautier in zoning and planning matters. The Planning Commission shall adopt reasonable rules and regulations governing the conduct of its zoning affairs and in keeping with the provisions of this Ordinance.

3.2.1 Powers and Duties.

The Planning Commission shall have the following powers and duties as hereinafter listed:

- A. Establish rules of procedure and official bylaws as needed to perform the functions of the commission.
- B. To hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by an administrative official in carrying out any provision of this ordinance.
- C. To initiate and recommend to City Council approval of area-wide re-zonings, and text amendments to this ordinance.
- D. To prepare and recommend to City Council adoption of a Comprehensive Plan for the City.
- E. To prepare and recommend to City Council for adoption zoning regulations and to recommend zoning boundaries, including the power to hold public hearings on re-zonings.

- F. To prepare and recommend to City Council approval or denial of conditional uses for each zoning district in accordance with the provisions of this Ordinance.
- G. To hear and rule on Variances from Dimensional Requirements of this Ordinance including area regulations of buildings and setbacks of signs.
- H. To call on any department for assistance in its duties and it shall be the duty of such departments to render all such assistance as may reasonably be required.
- I. To compel attendance of witnesses at hearings and to administer oaths.
- J. Where there is practical difficulties or unnecessary hardship in carrying out the strict letter of this ordinance, the Planning Commission shall have the power to authorize Variances from the dimensional requirements of this ordinance provided such variances are not contrary to the public interest and do not constitute a use variance which is prohibited by State Statute.
- K. To prepare and recommend action on urban conservation, rehabilitation and redevelopment programs allowed by state law.
- L. To prepare reports and recommendations on general planning and zoning problems referred or remanded by the City Council for review.
- M. To act as the City's Tree Board in accordance with Section 3.4.

3.2.2 Membership; Term; Officers; Vacancies

The Gautier Planning Commission shall be composed of seven (7) members who serve at the will and pleasure of the City Council. The City Council shall appoint members to represent each of the five (5) wards and two (2) at-large positions. Each member of the Council shall nominate a person who is a resident of Gautier and who resides in their respective ward and the Mayor and Council person at large shall each nominate a person to be on the Commission. If a Council member is unable to find an eligible nominee from their ward, then the position may be filled from another ward. There shall be no more than two (2) Planning Commissioners from any one ward at any time.

The Council shall vote on the nomination of appointees and the appointed members of the Planning Commission serve at the will and pleasure of the City Council.

Officers shall consist of a Chairperson and a Vice Chairperson. Officers for the Planning Commission shall be elected by members of the Planning Commission annually at the first meeting of the calendar year.

Should a Planning Commission member have three (3) consecutive absences or five (5) non-consecutive absences within a period of twelve (12) months, such member shall be replaced by the City Council.

3.2.3 Meetings Dates and Proceedings

The Planning Commission shall have a meeting on the first Thursday of each month at a regularly established schedule, time, and place open to the public. Additional meetings may be scheduled on the third Thursday of each month or on additional dates at the call of the Chairperson if additional meetings are required to discharge the duties and responsibilities of the Commission.

3.2.4 Quorum, Rules and Records

Four (4) members of the Planning Commission shall constitute a quorum for transaction of business and a majority vote of the quorum shall rule. To preserve order during conduct of meetings and public hearings, the Economic Development Director shall act in the capacity of Sergeant at Arms. Meetings shall be conducted in accordance with Roberts Rules of Order.

The Planning Commission may adopt bylaws or necessary rules and regulations to govern the performance of duties which shall include:

- A. Order and allocation of time for presentations.
- B. Role of spokesperson for Commission to the press.
- C. Conflicts of Interest.
- D. Voting procedures.
- E. Establishment of Committees.
- F. Any other matter concerning the conduct or meeting procedures that does not conflict with the provisions of this Ordinance.

A record of proceedings shall be taken and maintained by the Planning and Economic Development Department and shall be a matter of public record. The Planning Commission may secure the services of a Court Reporter to assist in recording the meeting which shall become the official transcript of the meeting and shall be available upon request from the Court Reporter. Fees for such transcripts shall be payable by the requesting party.

3.2.5 Planning Commission Recommendation

The Planning Commission shall hold a vote at which time the majority shall formulate a recommendation of “for,” or “against” each petition presented at the public hearing. A matter which does not receive a majority vote shall be sent to the City Council as having “no recommendation.”

In circumstances where approval or denial by the City Council is required, the recommendation of the Planning Commission shall be sent to the City Council for their consideration and official action. The Economic Development Director shall provide a Finding of Fact to the City Council along with the recommendation of the Planning Commission and other data and materials on all zoning or development related proceedings of the Planning Commission's Meeting.

SECTION 3.3: Technical Review Committee

The Technical Review Committee (TRC) is that group of staff persons, architecture review members and/or consultants which have the duty to review certain development plans as hereinafter provided for in this Ordinance. The TRC also has authority to approve minor development plans, plats and conditional uses as described in Section 3.3.1 Powers and Duties.

The Technical Review Committee process is designed to provide the developer with one central review of the development proposal and conserves the time and efforts of city employees in the various departments. It expedites the process for obtaining development permits. A plan review fee shall be charged in accordance with the adopted fee schedule.

3.3.1 Powers and Duties

The Technical Review Committee shall be responsible for providing technical review of the following items. A summary shall be forwarded to the appropriate governing authority.

- A. Signs
- B. Site plans and construction plans, when requested
- C. Subdivision Plats

Further, the Technical Review Committee shall have authority of final approval for the following items. However, the Economic Development Director or the applicant may request the item be considered as a major development for Planning Commission recommendation and Council approval.

- A. Minor Development Plans or exempt plans, as per Section 4.1.6
- B. Exterior design of all structures including signs in commercial, mixed use and industrial zoning districts.
- C. Minor Conditional Uses
- D. Minor Plats consisting of less than 2.25 acres and minor replats

In the event the Economic Development Director does not receive comments from any of the concerned departments, he/she shall act in their behalf based on his/her knowledge of the needs and requirements of that particular department.

3.3.2 Membership

The Technical Review Committee shall be chaired by the Economic Development Director or his/her designee and consists of one representative from each of the following county or city departments or divisions as applicable.

- A. Fire Marshall Office
- B. Building and Zoning Administrator
- C. Public Works Director
- D. Police Department (as needed)

In addition, the Technical Review Chairman may invite architects, design professionals, and representatives from other entities such as the County Health Department, Pascagoula Public Schools, utility providers or other entities that may be affected by the proposed development within the City on a case-by-case basis.

SECTION 3.4: Tree Board

The Tree Board acts as the Advisory Committee to the City of Gautier on issues dealing with the management of trees on public properties and functions as an appeal body to staff decisions relative to Tree Removal Permits. The Tree Board has adopted by-laws establishing meeting times, dates and places of meetings, election officers, and the processes by which reviews and/or appeals are heard.

3.4.1 Powers and Duties.

The Tree Board shall have the following powers and duties as hereinafter listed:

- A. Establish rules of procedure and official bylaws as needed to perform the functions of the board.
- B. To hear and decide appeals where it is alleged there is an error in any order, requirements decision or determination made by an administrative official in carrying out decisions of staff regarding the removal of trees on private property.

- C. To rule on matters pertaining to the preservation and/or removal of trees located on public property.
- D. To call on any department for assistance in its duties and it shall be the duty of such departments to render all such assistance as may reasonably be required.
- E. To amend the decisions of an administrative official where in cases where there are practical difficulties or unnecessary hardship in carrying out the strict letter of this ordinance regarding the preservation of trees on private property.
- F. To compel attendance of witnesses at hearings and to administer oaths.
- G. To prepare plans and programs on an annual basis that would promote the preservation of significant trees within the City.

SECTION 3.5: Other Advisory Bodies

From time to time, other boards or committees may be asked by the City Council to participate in an advisory capacity to planning or development projects or processes including but not limited to:

- A. Recreation Committee
- B. The Economic Development Committee
- C. The Historic Preservation Commission

Modifications to the exterior of any structures or the yards of any structures which are designated as local landmarks, or are within a legally recognized local historic district shall be reviewed and approved by the Historic Preservation Commission in accordance with review process adopted by the City.

SECTION 3.6: Department of Planning and Economic Development

3.6.1 Economic Development Director

The Economic Development Director shall have the following general duties:

- A. Maintain the Official Zoning Map in good and useful condition and properly recording on the Map all of the amendments to the Ordinance that change boundaries of the Zoning District.
- B. Process applications for all Public Hearings, Development Orders, Rezoning, Conditional Uses, Variances, and Home Occupations.
- C. Provide information to the public and property owners related to growth management and zoning matters.
- D. Issue letter of zoning compliance upon request.
- E. Maintain records and maps on non-conforming uses, structures and undeveloped lots.
- F. Provide staff for Planning Commission meetings, preparing routine staff reports and recommendations on zoning and planning matters to be heard by the Commission.
- G. Keep permanent records of zoning decisions, Technical Review Committee decisions, and other zoning and development matters.

- H. Act as advisor to the Planning Commission and the City Council on zoning and zoning-related matters including the preparation of staff recommendations on applications for rezoning, conditional use and variance applications.
- I. Administer and advise City Council on all matters related to Flood Ordinance and Maps.
- J. Enforce or assist in enforcing the provisions of the Unified Development Ordinance.
- K. Grant certain Administrative Variances and Waivers pursuant to *Article IV*.
- L. Issue Finding of Compatibility upon request for a Conditional Uses-Minor.

3.6.2 Administrative Interpretation of this Ordinance

In addition the Economic Development Director shall also have the following responsibilities:

A. Interpretation of the Zoning Text, Zoning Map and Procedural Process

In the event there is a question concerning the general intent or meaning of any provision of this Ordinance text, or the positioning of district boundaries, or of district designation, or other matters relating to the Official Unified Development Ordinance, the Economic Development Director shall have the right to make such administrative decisions and interpretations. In making these interpretations, Economic Development Director shall:

1. Consider provisions of this Ordinance to be minimum requirements;
2. Make decisions construed in favor of the governing body and the overall community benefit;
3. Consider applicable Federal, State and Local laws, ordinances and standards;
4. Require application of the more stringent provisions wherever the provisions of this ordinance appear to impose conflicting provisions that cannot otherwise be reconciled.

B. Consultation with Appropriate Bodies or Persons

The Economic Development Director may from time to time defer interpretations to the appropriate Board and/or Governing Body.

C. Appeal from Planning and Economic Development Director's Decisions

Final action on an official interpretation of this Ordinance by the ED Director may be appealed in accordance with Section 3.7.

3.6.3 Building and Zoning Administrator

Under the direction of, and in consultation with the Economic Development Director, the Building and Zoning Administrator shall serve as the City's Building Official and Floodplain Administrator and shall issue official building permits. The Building and Zoning Administrator may also be assigned other duties as determined by the Economic Development Director.

SECTION 3.7: Appeals

Persons aggrieved with decisions of administrative staff or decisions of the Planning Commission may appeal the decisions

3.7.1 Appeal of Administrative Decision

Appeals from written administrative decisions of the Economic Development Director in the administration and enforcement of the provisions of this Ordinance shall be heard by the City Planning Commission. A "Notice of Appeal" in the form of a letter with necessary documentation shall be filed within ten (10) days from the date of the decision with the Economic Development Director outlining the circumstances and the ground of the appeal. The Economic Development Director shall place the Notice of Appeal on the agenda of the Planning Commission meeting. Appropriate fees shall apply.

Upon hearing such appeal the Planning Commission may, in conformance with the provisions of these regulations, reverse or affirm, or may modify, wholly or partially, any order, requirement, decision, or determination of the Economic Development Director and/or his staff.

3.7.2 Appeal of Planning Commission Decision

In the event that an applicant is aggrieved by a decision of the Planning Commission, the applicant shall file a notice of appeal with the City Clerk within ten (10) days from the date of the renderings of the decision by said commission or board.

The notice of the appeal shall be in writing and shall contain the following:

- A. The name, address and telephone number of the party instituting the appeal.
- B. A brief statement which shall set out separately and particularly each error which the applicant asserts or intends to assert was committed by the Planning Commission. (No error not distinctly assigned shall be heard or considered on appeal.)
- C. A complete transcript of the proceedings before the Planning Commission, at the expense of the appellant.
- D. A request for oral argument or waiver of oral argument before the City Council.

3.7.3 Appeals to a Court of Law

An appeal from the decision of the City Council may be made as provided by law for appeals from any order of the governing authorities of a municipality.

SECTION 3.8: Enforcement of Unified Development Ordinance

The Unified Development Ordinance shall be enforced by the Economic Development Director or his/her designee. Where and when violations of the provisions of this Ordinance are found, the Economic Development Director or his/her designee shall notify in writing, by mail, the person or persons responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it. The Economic Development Director or his/her designee 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 any other action authorized by this Ordinance to ensure compliance with, or to prevent violation of, its provisions.

3.8.1 Penalties for Zoning Related Violations

Zoning violations shall be considered to be a misdemeanor and fines may be assessed up to one hundred (\$100) dollars per offense with each day constituting a new and separate offense.

3.8.2 Penalties for other sections of this Ordinance

Violation of any other section of this Ordinance other than zoning shall be punishable as a misdemeanor and fines may be assess up to one thousand (\$1,000) per offense with each day constituting a new and separate offense.