ARTICLE IV: GENERAL PROCEDURES

SECTION 4.1: Development Orders and Permits

This section sets forth application and review procedures required for obtaining development orders and permits as may be required. Procedures for appealing decisions also are provided.

4.1.1 Withdrawal of Applications

An application for development approval may be withdrawn at any time. Caution: The withdrawal of any application for development approval which occurs after the publication of any notices which may be required by this Code or other law will result in the application losing its relative position in priority for plan review and will require the applicant to resubmit its application at the initial step in the development review process required for the particular development. Such resubmittal will require payment of the necessary fees in order to activate the plan review process and reestablish relative position and priority for plan review.

Note: Nothing in this section shall be construed to prevent the Planning Commission or the City Council from delaying action or decision on any application. In the event the Commission or City Council votes to delay review or decision on any application, said application will retain its relative position and priority for plan review purposes.

4.1.2 Authorization for Development Permit

No development activity may be commenced without a final development order, except as provided by Section 4.1.4.

4.1.3 Prerequisites to Issuance of a Development Permit

No development order or permit shall be issued unless the proposed development activity:

A. Is authorized by a development order issued pursuant to this Code; and

B. Conforms to the building codes and fire codes as adopted by the City; and

C. Conforms to technical construction standards and any other engineering standard for stormwater, sewage, water, streets, traffic and other engineering concerns as may be adopted by the City of Gautier.

4.1.4 Exceptions to the Requirement for a Development Order

A construction permit may be issued without a development order if any of the following conditions apply:

A. Construction has begun or was approved prior to the adoption of this ordinance;

B. Alterations to existing improved properties that will not alter gross floor area, use of structure or land, or change/add to the impervious surface of the site;

C. The construction or alteration of a one-or two-family dwelling on a lot in a valid recorded subdivision, approved prior to the adoption of this Code;

D. The resurfacing of a vehicle use area that conforms to all requirements of this Code;

E. A minor replat granted pursuant to procedures of this Code;

F. Clearing and grading of land:

1. Single-family lots: the clearing and grading is limited to the proposed development area. The applicant shall submit a site plan indicating the proposed development area prior to issuance of the clearing permit.

2. All other lots: the clearing and grading is limited to the proposed development area. The applicant shall submit:

a. A site plan indicating the proposed development area;
b. An existing tree survey with all trees of 12-inch diameter at breast height or greater;
c. A landscape plan, in accordance with this ordinance, which identifies the trees and landscaping to be replanted (reforestation, front perimeter, common areas, and soil erosion control) after the clearing and grading is completed;
d. An erosion and sedimentation control plan;
e. All applicable federal and state permits; and
f. A drainage plan, if requested by the Public Works Director.

G. All items identified within the submitted landscape plan must be planted within 30 days after the completion of the clearing/grading. Clearing, grading, and replanting activities shall be completed within 90 days of the issuance of the permit. Failure to satisfy these requirements will result in a code violation and the doubling of the required tree counts for the site; and

H. Minor alterations to existing improved properties that will alter gross floor area, use of structure or land, or change/add to the impervious surface of the site provided that:

1. The proposed change does not require additional parking spaces beyond those already existing on the site;

2. The proposed change cannot increase impervious surface area beyond 750 square feet. An increase in impervious surface up to 750 square feet must meet the requirements of the City's stormwater regulations;

3. The proposed change does not exceed "de minimus" level of service standards for concurrency.

General plan requirements must be provided at the time a building permit is submitted to the City.

It is the intent of this subsection to exempt projects that adhere to the criteria listed in numbers 1, 2, and 3 above from the formal development order process, but not the requirements of the Unified Development Ordinance. This process moves the review of a project against the Unified Development Ordinance requirements from the Development Order stage to the Building Permit stage. A building permit cannot be issued for a project that does not meet the requirements of the Unified Development Ordinance.

4.1.5 Pre-Application Procedures

Prior to filing for a formal and scheduled review of proposed development plans, if required by this Code, by the Technical Review Committee, the applicant shall request the Economic Development Director, or designee, to set a time for discussion of the proposed development. Checklists appropriate to the proposed development shall be provided to the applicant by the Planning Director, or designee. In addition, the applicant shall be directed to the appropriate City departments or other agencies so that the applicant may obtain information from such department(s) and/or agency(s) prior to filing for formal review, if necessary, by the City Technical Review Committee.

Note: No comment made by any persons associated with the City during any pre-application conference or discussion shall be considered either as approval or rejection of the proposed development or development plans.

4.1.6 Designation of Plans as Minor or Major Developments

Before submitting a development plan for formal review, the applicant shall provide the City with sufficient information to make a determination as to whether or not the plan will be designated a major or minor development. For purposes of these procedures, all development plans shall be designated, in writing, by the Economic Development Director, or his designee, as either exempt from the development order process (in accordance with this ordinance), a minor development, or major development according to the criteria below.

A. Major development. A development order application shall be deemed a major development if it satisfies one or more of the following criteria:

1. Development order applications requesting Tier 3 approval.
2. Major subdivisions requiring the replat of more than 2 lots.
3. Major developments consisting of greater than 2.25 acres.
4. All planned unit developments (PUD's), unless located within the Corridor Overlay District’s designated lands qualifying for expedited permitting.

B. Minor development. A development plan shall be designated as a minor development if it is neither a major development nor a development exempt under Section 4.1.4 of this Code.

4.1.7 Procedures for Development Plan Review

All applications for a major or minor development order or a major or minor deviation to a development order shall be processed in a timely manner. This shall entail prompt review and responses from both the applicant and the members of the Technical Review Committee (TRC). No property shall have more than one development order application under review by the City at

any one time. The applicant shall adhere to the following procedures when seeking approval for a major or minor development order or a major or minor deviation to a development order:

A. The applicant for a proposed development order shall submit a complete application package (i.e. application, development plans, applicable fees, etc...) to the Economic Development/Planning Department.

B. Within five working days of receipt of the application package for review, the Economic Development/Planning Department shall either:

1. Determine that the application package is incomplete and inform the developer, in writing, of the deficiencies. The applicant shall submit an amended application package within 30 calendar days to maintain the application's relative position and priority for plan review. If the applicant fails to submit an amended application package within 30 calendar days, the application does not maintain its relative position and priority for plan review; or

2. Determine that the application package is complete as received and proceed with the review procedures listed below.

C. The complete application package shall be placed on the agenda for the next scheduled meeting of the TRC.

D. The Economic Development/Planning Department shall post the subject property, place a copy of the TRC agenda on the City Bulletin Board at City Hall and ensure a copy is displayed on the City's website 5 days before the meeting.

E. The Economic Development/Planning Department shall make available to each TRC member a copy of the application package prior to the scheduled TRC meeting. The application package shall at a minimum contain all information which is pertinent to the member's functional area(s).

F. The TRC shall review the proposed application package and submit comments, if any, in writing to the Chairman of the committee, who will be the Economic Development Director or designee, before or during the TRC meeting.

G. The TRC Chairman shall review the plan and comments of the TRC and determine whether the application complies with the requirements of this Code pursuant to guidance received from the TRC.

H. Following the required public notice and hearing, the TRC Chairman shall either approve, approve with conditions, approve with modifications or deny the application and shall:

1. Determine conformity of the proposed development with the Comprehensive Plan, this Code, other applicable requirements and the items enumerated in (G) above.

2. Hear and address concerns and desires of surrounding landowners and other affected persons.

3. Consider any rule, objective or policy of the Comprehensive Plan or any other criterion applicable to the particular development proposals in formulating his or her recommendation to either approve, approve with conditions, approve with modifications or deny the application.

I. If the application has been approved with modifications at the public hearing, the applicant shall adhere to the procedures listed below until the TRC concludes that the application is approved, approved with conditions, approved with modifications or denied.

1. From the date on which the Economic Development/Planning Department issues a consolidated comments letter or memo to the applicant pertaining to the technical review of the application, the applicant shall have not more than 60 calendar days to resubmit a revised package for technical review, unless the one-time 15-day extension is approved as stated below. If a resubmittal package is not received by the Economic Development/Planning Department within 60 calendar days from the date on which the Economic Development/Planning Department issued comments to the applicant pertaining to the technical review of the application, the process shall start over and the applicant shall be required to submit a new application package, complete with a new application, new plans, new fees, etc., to the Economic Development/Planning Department. The application shall be subject to all new regulations that are in effect at the time of the new application. The applicant may only request one 15-day extension to the 60-day resubmittal deadline during the entire review process. The request shall be in the form of a written letter indicating why the extension is needed. Requests for an extension shall be reviewed by the City Manager or designee, with a recommendation by the Economic Development Director or designee. The applicant shall receive a letter indicating whether or not the request has been granted or denied. If the request is denied, the letter must specifically indicate the reason(s) for such denial.

2. From the date of application, the applicant shall have not more than nine months to obtain technical review approval of the project, unless the one-time three-month extension is approved as stated below. If technical approval is not received within nine months from the date of application, the process shall start anew and the applicant shall be required to submit a new application package, complete with a new application, new plans, new fees, etc., to the Economic Development/Planning Department. The project shall be subject to all new regulations that are in effect at the time of the new application. The applicant may request one three-month extension to the nine-month deadline during the entire review process. The request shall be in the form of a written letter indicating why the extension is needed. Requests for the one-time three-month extension shall be reviewed by the City Manager or designee, with a recommendation by the Economic Development/Planning Director or designee. The applicant shall receive a letter indicating whether or not the request has been granted or denied. If the request is denied, the letter must specifically indicate the reason(s) for such denial.

J. Once the TRC has come to a conclusion that the application is approved, approved with conditions, approved with modifications or denied, the application shall adhere to the requirements of Section 4.1.8 if it is classified as a major development or adhere to the requirements of Section 4.1.9 if it is classified as a minor development.

4.1.8 Major Developments

The following procedures, in addition to those listed in Section 4.5, shall apply to all major development order applications:

A. The Technical Review Committee (TRC) shall review the proposal and submit comments, if any, in writing to the Chairman of the Committee. Once the TRC has come to the conclusion that the proposal can be approved, approved with conditions, approved with modifications or denied, the Chairman shall forward each TRC members written recommendation through the City Manager to the City Council. In addition to the written recommendations of each TRC member, information provided to the City Council shall include, but not be limited to, the following:

1. Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site and surrounding land uses.

2. Impact on concurrency requirements and level of service standards (LOS).

3. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas, if any; the preservation of natural features or protection of sensitive lands, if any; proposed parking areas; internal traffic circulation systems, if any; the approximate total ground coverage of paved areas and structures; stormwater management, and water and sewage distribution, collection and treatment systems.

4. Conformity of the proposed development with the Comprehensive Plan, this Code and other applicable regulations.

5. Other applicable factors, rules, regulations or criteria prescribed by the Comprehensive Plan, this Code or other law.

B. Following the required public notice and hearing, the City Council shall either approve, approve with conditions, approve with modifications or deny the Technical Review Committee's recommendation and shall:

1. Determine conformity of the proposed development with the Comprehensive Plan, this Code, other applicable requirements and the items enumerated in (A) above.

2. Hear and address concerns and desires of surrounding landowners and other affected persons.

3. Consider any rule, objective or policy of the Comprehensive Plan or any other criterion applicable to the particular development proposals in formulating its recommendation to either approve or deny the development proposal.

4. If the proposal is approved or approved with conditions, the City Council shall instruct the City Manager, or designee, to authorize the issuance of a development order that complies with Section 4.1.

5. If the proposal is approved with modifications, a development order may be authorized by the City Manager, or his designee, once the required modifications have been completed and approved by the appropriate TRC members.

6. If the proposal is denied based upon the applicant's failure to meet the requirements of this Code in the proposed development plan(s), the application will become null and void, the applicant will lose in-line priority consideration for concurrency. The applicant will have to submit a new application and start the review process over in order to secure consideration for approval of the proposal.

4.1.9 Minor Developments

The following procedures, in addition to those listed in Section 4.5, shall apply to all minor development order applications:

A. If the proposal is approved or approved with conditions, the Economic Development Director, or designee, shall authorize the issuance of a development order that complies with Section 4.1.

B. If the proposal is approved with modifications, a development order may be authorized by the Economic Development Director, or his designee, once the required modifications have been completed and approved by the appropriate TRC members.

C. If the proposal is denied based upon the applicant's failure to meet the requirements of this Code in the proposed development plan(s), the application will become null and void, the applicant will lose in-line priority consideration for concurrency. The applicant will have to submit a new application and start the review process over in order to secure consideration for approval of the proposal.

4.1.10 Major or Minor Deviations to a Development Order

Deviations to a development order may constitute either a major deviation or a minor deviation. The following regulations establish the procedures for processing such deviations.

A. Deviations which have been determined as a minor deviation(s) shall necessitate a formal amendment of such order. Such an amendment shall be reviewed and processed pursuant to the requirements of Section 4.1.9.

B. Deviations which have been determined as a major deviation(s) shall necessitate a formal amendment of such order. Such an amendment shall be reviewed and processed pursuant to the following requirements:

1. Major deviations to an existing minor development order shall be reviewed and processed pursuant to the requirements of Sections 4.1.8 and 4.1.9. However, should the deviation satisfy any of the criteria set forth in Section 4.1.11, when combined with the initial approval and any other authorized deviations, the deviation shall then be reviewed and processed pursuant to the requirements of Section 4.1.12.

2. Major deviations to an existing major development order shall be reviewed and processed pursuant to the requirements of Sections 4.1.8.

4.1.11 Simple Deviations to a Development Order

A simple deviation to a development order is a project that does not require review by the Technical Review Committee (TRC), but instead requires review only by City staff members involved in the development review process. Simple deviations to a final development order shall be determined by the Economic Development Director or designee using the following criteria:

A. Changes to the previously approved development plan cannot require approval by non-City staff members of the TRC

B. The proposed changes to the development plan only include rearranging or reducing, in accordance with Code provisions, any driveways/accessways, parking, impervious surface, stormwater management facilities, or buildings on the subject property.

Vending, whether permanent, temporary, or mobile, on the exterior of a developed site shall be considered a change of use and shall be processed as a simple deviation unless it does not meet the criteria listed in Subsections A. and B. listed above.

4.1.12 Development Order

Provided the development plan meets all requirements of the Unified Development Ordinance and Code of Ordinances the City shall issue a development order to the developer within seven calendar days from the approval date of said development order application. The development order is not a construction permit. An approved development order is required prior to the City's issuance of any construction permit(s). A development order shall, as a minimum, include the following:

A. An approved final development plan with findings and conclusions;

B. A listing of federal, state or regional permits, if any, which must be obtained prior to the issuance of any development permit;

C. If modifications must be made to the development plan before a development order may be issued, a listing of those modifications and the time limit for submitting a modified plan (not more than 14 calendar days);

D. Notification that development shall commence within a 12-month period and continue until completion in accordance with terms and conditions of approval;

E. If necessary to maintain concurrency, a schedule of construction phasing consistent with the availability of capacity of one or more services and/or facilities;

F. If necessary or required, a schedule of public services or public facilities to be provided by the applicant, prior to the issuance of any certificate of occupancy or within specified time periods;

G. Any alternate service impact mitigation measures to which the applicant has committed in a recordable written instrument;

I. A security in the amount of 100 percent of the cost of any public improvements required as a result of the anticipated impact of the development or as required by regulations in this Code or other law; and

J. Such other conditions as may be required to assure compliance with this Code, the comprehensive plan or other law.

SECTION 4.2: Procedures for the Coordination of Plat and Development Plan Approval

This procedure applies to all projects that require plat and development plan approval. This procedure is established to ensure efficient processing of approved developments seeking building permits and will also eliminate piecemeal plat approvals.

1. Plats and development plans may be processed simultaneously through the required approval procedures identified in this Ordinance for procedures for development plan review and procedures for subdivision or resubdivision of land.

2. If the applicant wishes to process these items (plat and development plan) separately, approval of the development plan will be required prior to the approval of the plat.

3. Projects approved prior to the effective date of this code that, as a condition, require plat approval prior to issuance of building permits are not affected by this Code. However, any requests for amendments to active development orders will not be processed until the required plat has been approved.

SECTION 4.3: Construction Permits

After a development order has been issued, the applicant may, within 12 months of the issuance of the development order, apply for the necessary construction permits. The City shall issue the necessary construction permits if the proposed construction is consistent with and approved pursuant to the development order. If the application for a construction permit

deviates from the development plan the City shall notify the applicant within five working days of the construction permit application. Warning: If the applicant has not obtained a construction permit(s) within 365 days of issuance of the development order, the development order is void and the application for plan approval must be re-initiated.

SECTION 4.4: Post-Permit Changes

After a construction permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms and conditions of the development order without first obtaining a deviation to the order. Similarly, except for minor field modifications as may be allowed by the building codes and associated mechanical, electrical, plumbing, gas and fire safety codes, it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the construction permit without first obtaining a City-approved modification to the permit. Note: Construction standard field changes must be made available to the City Inspector for inspection purposes consistent with the building, mechanical, electrical, plumbing, gas and fire safety codes adopted by the City.

SECTION 4.5: Building Permits

A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the City Manager or his designee. No building permit shall be issued by the City Manager or his designee except in conformity with the provisions of this article.

B. No permit for erection, alteration, moving or repair of any building shall be issued until an application has been reviewed and approved by the Economic Development Director or his or her designee.

C. No nonconforming use shall be maintained until a certificate of zoning noncompliance shall have been issued by the City Manager or his designee. The certificate of zoning noncompliance shall state specifically wherein the nonconforming use differs from the provisions of this article; provided that, upon amendment of this article owners or occupants of nonconforming uses shall have six months to apply for certificates of zoning noncompliance. In cases where nonconforming uses existed at the time of enactment of this Ordinance, certificates of zoning noncompliance shall be issued based upon facts stated in affidavits. Failure to make such application within six months shall be presumptive evidence that the property was in nonconforming use at the time of the enactment or amendment of such ordinance.

D. The City Manager or his designee shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

E. Upon application, the City Manager or his designee may issue up to a 12-month permit for the temporary parking of a construction trailer on a lot during the construction of a permanent structure on such lot; the construction trailer is to be removed within two weeks following the completion of construction. Extension of a 12-month permit shall be at the discretion of the City Manager or his designee.

F. In addition to all other building permit requirements, all construction involving the paving or increasing of the impervious coverage of properties will require a building permit subject to City Engineer approval.

4.5.1 Application for Building Permit

A. All applications for building permits shall be accompanied by plans and a survey or plot plan in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and location on the lot of buildings or improvements already existing, if any; the location of any existing easements; and the location and dimensions of the proposed buildings or alterations. The application shall include only such other information as lawfully may be required by the City Manager or his designee, including existing or proposed uses of the building and land, the number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot, and such matters as may be necessary to determine conformance with, and provide for the enforcement of, this article. The application shall be certified as correct by the applicant. Complete plans are not required for buildings which are exempt from requiring an architect's signature and seal by Mississippi Statutes. Architects' affidavits are required in accordance with the Building Code.

B. One copy of the plans shall be returned to the applicant by the Building and Zoning Administrator, after he shall have marked such copy either as approved or disapproved. One copy of the plans, similarly marked, shall be retained by the City Manager or his designee for at least two years.

4.5.2 Expiration of Building Permit

If the work described in any building permit has not been initiated within six months after the date of issuance thereof, such permit shall expire. No further work as described in the expired permit shall proceed unless and until a new building permit has been obtained. Additionally, if work described in the building permit issued was commenced within six months after the date of issuance thereof, then work must be substantially completed within two years from the date of issuance.

4.5.3 Certificates of Zoning Compliance for New, Altered, or Nonconforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the City Manager or his designee stating that the proposed use of the building or land conforms to the requirements of this article. Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance.

4.5.4 Construction and Use to be as Provided in Application, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the City Manager or his designee authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other

use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this article.

SECTION 4.6: Submittals

Applications for development review shall be available from the ED Department. A completed application shall be signed by all owners, or their agent, of the property subject to the proposed development plan. Signatures by other parties will be accepted with notarized proof of authorization by the owners. In the case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and embossed with the corporate seal.

4.6.1 General Plan Requirements

All preliminary and final development plans submitted pursuant to this code shall conform to the following standards:

A. All plans shall be drawn to a scale of one-inch equals 20 feet, unless the City Manager, or his designee, determines that a different scale is sufficient or necessary for proper review of the proposal.

B. For all multifamily residential and all nonresidential development proposals, the trimline sheet size shall be 24 inches by 36 inches. A one-half-inch margin shall be provided on all sides except for the left binding side(s) where a two-inch margin shall be provided if multiple sheets are used.

C. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.

D. The front cover sheet of each plan shall include:

1. A general vicinity or location map drawn to scale showing the position of the proposed development in the section, township and range, together with the principal roads, City limits, and any other pertinent orientation information.

2. A complete legal description of the property.

3. The name(s), address(es) and telephone number(s) of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.

4. The name, business address and telephone number of those individuals responsible for the preparation of the drawing(s).

E. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow and date.

F. The plan shall show the boundaries of the property with a metes and bounds description referenced to a section, township and range and tied to a section or quarter section or subdivision name and lot numbers.

G. The area of the property shown in square feet and acres.

H. The applicant shall submit a sufficient number of copies of the proposed plans, as determined by the ED Department, necessary to complete the review.

I. Applicants for all developments shall submit sufficient documentation which clearly conveys the required information. It is the responsibility of the developer (applicant) to submit sufficient information in a form that allows ready determination of whether the requirements of this code have been met.

J. Unless otherwise noted, plans for all development projects shall contain:

1. The location of existing property or right-of-way lines, both for private and public property, streets, buildings, transmission lines, sewers, sidewalks, airports, bridges, culverts, drainpipes, water mains, fire hydrants, and any other public or private easements.

2. Any land rendered unusable for development purposes by deed restrictions or other legally enforceable covenants or limitations.

3. All watercourses, water bodies, floodplains, wetlands, important natural features, wildlife areas, soil types and vegetative cover on or adjacent to the site.

4. The location of environmentally sensitive lands designated by the Army Corps of Engineers, if any.

5. Existing land use, the zoning district of the subject site, and the land use category under the comprehensive plan

6. The location and intensity or density of the proposed development.

7. A general parking and circulation plan.

8. Points of ingress and egress and any planned public or private roads, rights-of-way, pedestrian ways, bicycle paths or transportation facilities.

9. The existing and proposed stormwater management systems on the site and proposed linkage, if any, with existing or planned public stormwater management systems.

10. Proposed location and sizing of potable water and wastewater facilities to serve the proposed development.

11. Proposed open space areas on the development site and types of activities proposed to be permitted on such open space areas.

12. Lands to be dedicated or transferred to a public or private entity and the purposes for which the lands will be held and used.

13. A description of how the plan mitigates or avoids potential conflicts between land uses including a compatibility review (if required) as provided in Article V Special Design Criteria.

14. Architectural elevations of all buildings sufficient to convey the basic architectural intent of the proposed improvements.

15. A soils map of the site.

16. A recent aerial photograph encompassing the project area and identifying the project area and total land areas. The scale shall be no smaller than one inch equals 400 feet.

17. A map of vegetative cover including the location and identity, by common name, of all protected trees.

18. A topographic map of the site clearly showing the location, identification and elevation of benchmarks, including at least one benchmark for each major water control structure.

19. A map showing the locations of any soil borings or percolation tests as may be required by this Code.

20. The location of any underground or overhead utilities, culverts and drains on the property and within 100 feet of the proposed development boundary.

21. The 100-year flood elevation boundaries where appropriate.

22. Total area calculation with percentage of total site to be covered by impervious surface(s) and landscaping.

23. Grading plans specifically including perimeter grading.

24. Construction phase lines.

25. Building plans showing the location, dimensions, gross floor area, floor plan for multifamily residential structures including hotels and motels, and proposed use of buildings. For the purposes of this criteria, hotel and motel dwelling units are considered residential floor space.

26. Building setback distances from property lines, abutting rights-of-way and all adjacent buildings and structures.

27. Minimum floor elevations of buildings within the 100-year floodplain, if any.

28. The location, dimensions, type, composition and intended use of all ancillary structures.

29. The location and specifications of any proposed refuse dumpsters or containers.

30. Cross sections and specifications of all proposed pavement.

31. Typical and special roadway and drain sections and summaries of quantities.

32. Information sufficient to determine compliance with the landscape and tree protection regulations of this Code.

33. The location, accompanied by all necessary drawings, construction plans, wiring plans, etc., of all proposed signs.

34. The proposed number, minimum area and location of lots, if the development involves a subdivision of land.

35. All lots shall be numbered either by progressive numbers or in blocks progressively numbered or lettered except that blocks in numbered editions bearing the same name may be numbered consecutively throughout several editions.

36. All interior excluded parcels shall be indicated and labeled accordingly.

37. All contiguous property shall be identified by development title, plat book and page, or if the land is unplatted it shall be so designated.

38. Total number and type of residential units categorized according to number of bedrooms. The total number of residential units per gross acre shall be given.

39. Location of on-site potable water wells, if any, and potable water wells within 200 feet of any property line, if any.

40. Restrictions pertaining to the type and use of existing or proposed improvements, waterways, open spaces, buffer strips and the like shall require the establishment of restrictive covenants and such covenants shall be submitted with the final development plan for recordation.

41. If the development includes private streets, an ownership and maintenance association document shall be submitted with the final development plan and the dedication contained on the development plan shall clearly indicate the roads and maintenance responsibility to the association without recourse to the City or any other public agency.

42. If the development is to be phased for any reason, a master plan for the entire project shall be submitted with the development plan for the first phase or phases for which approval is sought. In addition, a schedule

indicating approximate development phasing, including the sequence for each phase, shall be included.

43. The manner in which historic and archeological sites on or near the site will be protected.

Section 4.7: Procedures for Subdivision or Resubdivision of Land

4.7.1 Generally

A. These regulations shall be administered by the community development and engineering departments. It is the responsibility of such community development and engineering departments to carry out the provisions of this section and make recommendations as to the suitability of proposed subdivisions.

B. Except as provided by Section 4.8, no person shall divide any parcel of property into two or more parcels without complying with the provisions of this section.

4.7.2 Preliminary Approval

A. Preliminary approval is not required. However, the developer is encouraged to request preliminary approval whenever the developer is not certain that the proposed subdivision will meet all requirements of applicable laws and regulations. Preliminary submittals shall consist of three copies of drawings or other data indicating the concept of the proposed subdivision. The Economic Development Director or designee will return comments, if any, from the Technical Review Committee to the developer.

B. The public hearing, after due public notice is fulfilled for the preliminary approval process and any later consideration on preliminary or final approval, may be considered without readvertising under old business.

C. Upon preliminary approval the developer may proceed with producing the required documents and request final approval.

D. If the proposed subdivision is disapproved upon consideration for preliminary approval, before further consideration the developer must resubmit his plans as a completely new design indicating substantial differences from the disapproved design.

4.7.3 Final Approval

No lot proposed to be created shall be sold or offered for sale until a Final Plat has been approved by the City Council and recorded with the Office of the Chancery Clerk of Jackson County.

4.7.4 Agreement with Preliminary Plat

If a Preliminary Plat is approved, the Final Plat shall agree substantially to the Preliminary Plat and construction plans as approved by the City. The Technical Review Committee may approve minor modifications of the approved Preliminary Plat provided such modifications are consistent with conditions or changes requested by the City.

4.7.5 Filing of Final Plat with City

Upon completion of construction, the subdivider shall submit three (3) sets of the Final Plat. Said Final Plat/Record Drawings shall appropriately bear the certifying signature and seal of a professional land surveyor and/or engineer registered in the State of Mississippi.

4.7.6 Agreement with Preliminary Plat and Construction Plans

The final plat shall agree substantially with an approved Preliminary Plat. The Technical Review Committee may approve minor modifications of the approved Preliminary Plat provided such modifications are consistent with conditions or changes requested by the Council or the members of the Technical Review Committee.

4.7.7 Material which must accompany Final Plat

The following must be submitted at the time of Final Plat submittal:

A. Two (2) copies of the proposed deed restrictions or Restrictive Covenants which, directly affect the land being subdivided

B. Electronic version of Final Subdivision Drawings in AutoCAD format recorded on a compact disk

4.7.8 Final Plat Specifications

A. The Final Plat shall be drawn in permanent ink on linen, mylar or other material of similar quality and durability. Three (2) linen backed prints of the original plat and one (1) sepia or other reproducible copy shall be submitted. In case of conflict between these regulations and the laws, regulations or statutes of Jackson County, the State of Mississippi or the United States government, the county, state and federal statutes shall prevail.

B. The Final Plat shall be drawn at a scale of one (1) inch equals one hundred (100) feet. Sheet size shall be eighteen inches by twenty-four inches (18” x 24”). If the complete plat cannot be show 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.

4.7.9 Required on Final Plat

A. Name of subdivision

B. Name and address of the owner and subdivider

C. Title, graphic, scale, north arrow, date and engineer or surveyor’s seal on each sheet

D. Primary control points, approved by the City Consulting Engineer, or descriptions and “ties” to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referenced.

E. Tract boundary lines, right-of-way lines of streets, easements and other sites with accurate dimensions, bearings or deflection angles and radii, arc and central angles of all curves. A written description of tract shall be placed on plat.

F. Name and right of way width of each street and clear designation of public alleys and other right of way

G. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use, and a dedication thereof to the public use

H. Accurate dimensions for any property to be used for non-residential lots, and the purpose of such lots

I. Location, dimensions and purpose of any easements

J. Block and lot numbers

K. Building envelope on each lot (Showing required front, side and rear yards)

L. Location and description of boundary monuments

M. Reference to recorded subdivision plats of adjoining platted land by record name, book and page number

N. The following notes shall be included on the Final Plat: (a) Wetland, (b) SWPPP, and (c) Easement

O. Any other data required by the Statutes of Mississippi or City of Gautier, relating to subdivision plats.

P. Plat Certificates

4.7.10 Final Plat Certificates

Each Final Plat shall carry the following certificates thereon:

A. Certification by professional land survey that the plat was prepared by the surveyor or under the surveyor's supervision, signed and dated by the surveyor and bearing the surveyor's Mississippi registration number and seal

B. Certifications by owner or owners that he or they is/are the owner(s) of record of the land embraced in the development

C. Certification by owner, which sets forth, the description of right-of-way, areas and improvement dedicated by the owner to the public and extent of title, which is being dedicated

D. Certification of approval of Final Plat by the City Consulting Engineer

E. Certification of Comparison of the original and all copies

F. Certification of Final Acceptance by the City of Gautier City Council

G. Certification of Recordation by the Office of the Chancery Clerk of Jackson County

4.7.11 Review by Staff

A. After the appropriate city departments have had the opportunity to confirm the accuracy and adequacy of the Record Drawings and the subdivider has remedied any identified deficiencies – either in the drawings or the work, each department head shall indicate concurrence by signature. Requisite departmental reviews shall include Economic Development/Planning, Public Works and Fire Departments.

B. Upon securing the requisite signatures, the ED Department shall prepare the Final Plat/Record Drawings for submittal to the City Council and appropriately schedule its presentation.

4.7.12 Approval by City Council

If the plat is found to substantially conform to relevant city ordinances and relevant state and federal regulations, the City Council shall approve the plat, and shall cause its approval to be entered on the plat as required. After affirmative City Council action, the Economic Development Department shall appropriately advise the Subdivider.

4.7.13 Recording of Final Plat with Chancery Clerk

A. Upon approval by the City Council, the subdivider shall be responsible for recording the plat, the restrictive covenants, and any other pertinent agreements required by the Council in the Office of the Chancery Clerk of Jackson County within sixty (60) days of the date of approval by the Council.

B. A copy of the approved Final Plat/Record Drawings will be retained in the Planning and Economic Development Department.

C. Failure of the subdivider to record the Final Plat within the required filing period shall nullify the final platting process and shall require resubmittal of the Final Plat for approval by the City Council.

SECTION 4.8: Minor Replats/Minor Subdivisions

Where development involves a minor replat or minor subdivision as defined in Article II, the City may issue a construction permit without requiring a final development order. However, City approval of the minor replat or minor subdivision is required prior to the issuance of a construction permit. Minor replats or minor subdivisions follow the procedures outlined in this subsection only.

A. Submittals consisting of an application and supporting documentation (agent affidavit, proof of ownership, etc.), three copies of drawings and other data indicating the concept of the proposed subdivision shall be delivered to the Economic Development/Planning Department. The City Manager or designee will return comments, if any, to the developer.

B. Prior to approval of a minor replat or minor subdivision by the City Manager or designee, the following standards shall be met:

1. Each proposed lot must conform to the requirements of this Code, and other adopted ordinances of the City.

2. If any lot abuts a street right-of-way that does not conform to the design specifications provided in this Code, the owner may be required to dedicate one-half the right-of-way width necessary to meet the minimum design requirements.

C. After receiving City approval, the developer is required to record the minor replat or minor subdivision in the official county records at no expense to the City. After recording, one recorded mylar copy (size 24 inches by 36 inches), two paper copies of the recorded copy (size 24 inches by 36 inches), two reduced paper copies of the recorded copy (size 11 inches by 17 inches) and one copy of the

recorded homeowners association documents, if applicable, shall be filed with the Economic Development/Planning Department within ten days.

D. If the proposed subdivision is disapproved, upon final consideration, before further consideration, the developer must resubmit his plans as a completely new design indicating substantial differences from the disapproved design.

SECTION 4.9: Guarantees and Sureties

Applicability. The provisions of this section apply to all proposed developments in the City, including, but not limited to, subdivisions, PUD's, private road subdivisions and private developments.

A. Nothing in this section shall be construed as relieving the developer or applicant of any requirement relating to concurrency or maintenance of level of service as may be required by this ordinance or the comprehensive plan.

B. Any item which may be deemed as a health, safety and welfare issue by the City Manager, or his or her designee, is not subject to the posting of security/surety.

C. Infrastructure items are the only items which are subject to the posting of a security/surety. No buildings or portions thereof shall be applicable for the posting of security/surety under this section. Securities/sureties may be posted for provisions of the landscape plan in accordance with this ordinance.

D. The City retains the right to refuse an applicant or developer the option of posting security/surety based upon the past performance of an applicant.

4.9.1 Improvements, Agreements Required.
Improvements, agreements required. The approval of any development plan shall be subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways, water and sewer lines, street lights, signage, striping, parking facilities, sidewalks, open space and recreation facilities shall be satisfactorily constructed according to the approved development plan.

A. The following information shall be provided by applicant:

1. Agreement that all improvements, whether required by this Code or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this Code.

2. The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five years from the recording of the plat or 30 percent occupancy of the development, which ever comes first. NOTE: Nothing in this section shall be construed to relieve the applicant of meeting any concurrency requirements applicable to the project.

3. The projected total cost for each improvement. Cost for construction shall be proposed by an estimate prepared and provided by a Mississippi-registered Professional Engineer (signed, sealed and dated).

4. Specification of the improvements to be made together with the time table for making improvements.

5. Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making said improvements, the City shall utilize the security/surety provided in connection with the agreement.

6. The amount and type of security/surety provided to insure performance.

7. Provisions that the amount of the security/surety may be reduced periodically as construction proceeds and improvements are made.

8. All developers upon application shall sign an agreement to indemnify and hold harmless the City, its officer, employees and agents who perform improvements not fulfilled by the developer or owner as identified in security/surety documents.

9. Developers agree to provide property access to City employees and/or their authorized agents who perform improvements not fulfilled by the developer or owner and identified in security/surety documents. Property access will be unrestricted to areas necessary to complete necessary work elements.

10. Prior to release of bond or security/surety, the City shall review the project account records for any unpaid invoices or fees due to the City. All developers and applicants agree and consent to the City recovering all unpaid invoices and fees from the security/surety prior to the release of security/surety.

B. Amount and type of security/surety:

1. The City Manager, or his or her designee, shall be responsible for determining the adequacy of the security/surety proposed to be provided by the developer. Should the security/surety be forfeited and, for any reason, the funds from the security/surety are not sufficient to complete all required work, the developer and/or contractor shall be responsible for any fund amount above the original surety, security or any other form of guarantee.

2. Security/Surety requirements may be met but are not limited to the following:

a. Deposit in the form of Cash, Certified Check, Cashier's Check or Money Order (required for Certificate of Occupancy);

b. Irrevocable letter(s) of credit (Commercial/Designated Places of Assembly/Multi-Family only);

c. Performance or surety (insurance) bond(s) issued by insurance companies licensed to do business in the State of Mississippi (Commercial/Designated Places of Assembly/Multi-Family, subdivision, P.U.D., Plat release only); or

d. Certificates of Deposit issued by State or Federally licensed banks provided that the Certificate of Deposit can be converted to cash (or any other asset) only with the prior approval of the City (for Commercial/Designated Places of Assembly/Multi-Family only).

NOTE: Interest earned on the Certificate of Deposit shall be retained by the applicant if the applicant completes the required improvements secured by the Certificate of Deposit within the time limits established in the Final Development Order. The City shall retain all interest earnings on the Certificate of Deposit if, for any reason, the City is required to use the Certificate of Deposit, or any portion thereof, for completion of improvements required of the applicant. Use of this technique will require evidence of agreement between the applicant, the bank issuing the Certificate of Deposit, and the City.

3. The amount of security/surety for single family residential development shall be a minimum of $1,500.00 or 100 percent, whichever is greater, of the total construction costs for the required improvements (public and private). The amount of security/surety for all other developments shall be a minimum of $5,000.00 or 100 percent, whichever is greater, of the total construction costs for the required improvements (public and private). Upon approval of the City Manager, or his or her designee, the amount of security/surety may be reduced commensurate with the completion and final acceptance of required improvements not more than once during the term of the improvements. In no case, however, shall the amount of the security/surety be reduced to less than the designated minimum, necessary for completing the remaining required improvements. The following conditions also will apply to the posting of any security/surety:

a. Amount of security/surety which will be permitted shall not exceed 10% of the project cost provided on the building permit application.

b. Administrative fee of $250.00 shall be assessed and paid at the time of application and post of security/surety. The Administrative fee does not include any inspection fees.

c. Security/surety handling fee of ten percent of the total amount of security/surety shall be assessed and paid prior to reduction or release of said security/surety.

d. Inspection fees are outlined in most current fee resolution and shall be assessed and paid prior to reduction or release of security/surety.

4. Security/surety documents must reflect the names of the subdivision or planned unit development and the developer and developer's authorized agents.

5. Security/surety shall be provided prior to the issuance of the final development order.

6. Expiration of surety may be extended in time, not more than two occasions for a total of 16 months, after which the security/surety shall be forfeited in accordance with this section. Extension of time shall be based on merits of completion of bonded items as inspected and determined by the City Manager or his or her designee.

C. Inspection of improvements:

1. Inspection of the following phases of construction may be conducted by the Public Works Director. These phases shall be inspected and certified by the developer's engineer:

   a. Subgrade or stabilized subgrade;
   b. Curbs and concrete work;
   c. Roadway base;
   d. Surface course;
   e. Drainage structures and systems.

2. The developer's engineer shall provide certification(s) that all infrastructure, including potable water and wastewater systems, have been constructed in accordance with the approved development plan. Testing documentation shall be provided to the Public Works Director, along with copies of MSHO and MDEQ certification(s). Inspection by the developer's engineer will not preclude the Public Works Director from inspecting any and all aspects of construction.

3. The Public Works Director shall be given 48-hour advance notification of scheduled inspections.

4. The Public Works Director shall have the authority to reject materials or suspend work when not in conformity with approved plans and specifications.

5. If a developer does not schedule any inspections required by this section, the inspection fees for that unscheduled inspection shall be triple the usual inspection fee.

D. Procedures for acceptance by the City

1. Preliminary acceptance. Preliminary acceptance of physical improvements is subject to:

a. Within two weeks prior to presentation to City Council for preliminary acceptance, the Public Works Director shall inspect the facilities, review all documentation, including test data, submitted by the developer and determine that the project improvements were built to approved plans and specification.

b. The developer has posted the required security/surety as specified in section 4.9 to insure maintenance for a period of one year from the date of preliminary acceptance by the City Council. The security/surety provided for the installation of physical improvements shall not expire until the installation of physical improvements has been preliminarily accepted by the City. Responsibility of acquiring preliminary acceptance shall be the developer's.

2. Permanent acceptance. The infrastructure will not be permanently accepted into the City's maintenance program until all defects are corrected by the developer within 60 days of notification of deficiencies by the Public Works Director. In addition, failure to make required corrections specified by the Public Works Director shall result in a forfeiture of securities/sureties. Responsibility for acquiring permanent acceptance shall be the developer's.

3. The City of Gautier shall establish a administrative procedure for the acceptance of developments in the City. These developments shall include, but not be limited to subdivisions, planned unit developments (PUD's), private road subdivisions and private developments.

E. Maintenance of improvements (subdivisions, planned unit developments (PUD's), private road subdivisions or private developments).

1. A maintenance agreement and security/surety shall be provided for all streets to assure the City that all required improvements shall be maintained by the developer according to the requirements of this Code, including but not limited to roads, streets, stormwater drainage, sidewalks, street lights, open space and recreation areas.

a. There shall be a minimum maintenance period of one year.

b. The maintenance period shall begin with the preliminary acceptance by the City Council of construction of the improvements.

c. During the maintenance period, the developer shall schedule bi-annual inspections to be done jointly by the City Engineer and a representative of the developer. These inspections shall be scheduled at mid-year and prior to permanent acceptance by the City Council. The City Engineer shall advise the developer, in writing, of any corrective measures to be made during the maintenance period. It shall be the developer's responsibility to make required corrections prior to the expiration of the maintenance security/surety.

d. The security/surety shall be in an amount equal to 25 percent of the construction cost of the improvements and will be held for a period of 18 months or upon permanent acceptance, which ever is greater.

2. Whenever proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the City, a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.

a. When the proposed development is to be organized as a condominium, common facilities and property shall be conveyed to the condominium association pursuant to that law.

b. When no condominium is to be organized, an owner's association shall be created, and all common facilities and properties shall be conveyed to that association.

c. When a development requires an owner's association, proof of the establishment of the association must be filed with the Economic Development Director prior to a development order being issued. A recorded copy of the documents must be provided to the City before preliminary acceptance.

d. The developer shall submit a proposed infrastructure maintenance plan and budget. The proposed budget must be submitted for review by the Public Works Director.

3. An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the City shall be created by covenants running with the land. Such covenant shall be included with the final plat. Such organization shall not be dissolved nor shall it dispose of any common facilities or open space by sale or otherwise without first offering to dedicate the same to the City.

SECTION 4.10: Future Improvement Payment

The provisions of this section apply to all proposed developments in the City of Gautier or adjacent to public rights-of-way.

A. Nothing herein shall be construed as relieving the developer or applicant of any requirement relating to concurrency or maintenance of level of service as may be required by this Code or the Comprehensive Plan.

B. This section does not modify existing agreements between a developer and the City for final development orders granted prior to the effective date of this section.

C. This section shall apply to situations when improvements cannot be installed or constructed within a public right of way, easement, or City owned property within the City of Gautier, due to circumstances outside of the City of Gautier or the developer's immediate control. Examples of such situations include, but are not limited to improvements to and along the U.S. Highway 90 corridor and unimproved public rights of way within the City of Gautier and when a City improvement schedule coincides with an adjacent development.

4.10.1 Improvements Required

The approval of any development plan shall be subject to the developer providing an assurance payment that all required improvements within a public ROW, easement, or City owned property, including, but not limited to, sidewalks, pedestrian tracks or pathways, signage other than traffic control, handrails and permanent striping will be constructed according to the approved development plan at an undisclosed later date by the City of Gautier. The following information shall be provided by the developer:

A. The projected total cost for each improvement. Cost for construction shall be proposed by a signed and sealed and dated estimate prepared and provided by the developer's Mississippi Professional Engineer.

B. The amount and type of payment provided to assure construction.

4.10.2 Amount and Type of Future Improvement Payment

A. The City Manager, or his or her designee, shall be responsible for determining the adequacy of the amount of the payment proposed to be provided by the developer.

B. Payment requirements shall be one of the following:
1. Certified check;
2. Cashiers check;
3. Money order; or
4. Cash.

C. The amount of payment shall be 100 percent of the total construction cost for the required improvements ("future improvement payment").

D. In addition to the future improvement payment, developer shall pay an administrative fee.

4.10.3 Sufficiency of Future Improvement Payment

A. The payment shall be made prior to the issuance of a development order for commercial projects or a building permit for residential projects.

B. At such time that the improvements can be made to the public right-of-way, easement, or City-owned property, the City shall construct such improvements and use the future improvement payment to pay for the costs of the improvements. After completion of the improvements, any unused portion of the

future improvement payment shall be returned to developer. If the future improvement payment is not sufficient to pay for the improvements, developer shall pay any shortfall to the City.

4.10.4 Final Development Order and Extension of the Commencement of Construction Deadline

A final development order is valid for a period of two years from the date of issuance. However, a building permit must be issued for either the construction of infrastructure or construction of the entire project and construction must commence within said two year period after which the permitted development activity may be completed provided the conditions of this section continue to be satisfied. If a building permit is not issued within two years from the date of issuance of the final development order or a building permit is issued and construction has not commenced within two years from the date of issuance of the final development order, then the development order becomes null and void. "Construction of infrastructure" shall be defined as site work, grading, or other construction activity (not including land clearing and grubbing or demolition of existing structures) related to installation of roadways, access drives, parking lots, underground utilities, stormwater or drainage facilities, or building foundations. If construction activity ceases for a period of one year after a building permit for construction of the infrastructure or construction of the entire project has been issued, the development order will be considered null and void. No extensions to this deadline shall be allowed, except as set forth in section 4.11.

SECTION 4.11: Criteria for a Request to Extend the 12-month Deadline to Obtain a Building Permit and Commence Construction

An applicant who desires to extend the 24-month deadline shall submit a written request to the Economic Development/Planning Department, no less than 30 days, prior to the expiration of the 24-month deadline to obtain a building permit and commence construction.

A. An applicant may receive only one extension, and such extension shall not exceed one year.

B. As a condition of approval for such an extension, the applicant's project shall meet any and all applicable code requirements that were adopted subsequent to the approval of the final development order for which an extension is being requested. The applicant will have to file an application, to amend to the previously approved development order, with the City prior to the issuance of any City permit for the subject property.

4.11.1 Determination Regarding Request for Extension

All applications for extensions shall be reviewed by the Economic Development Director with input from the appropriate technical review committee members for approval, approval with conditions, or disapproval.

4.11.2 Establishing an Application Fee

The City reserves the right to establish, by resolution, an application fee, for processing and reviewing requests for extensions of time.

SECTION 4.12: Development Agreements

A development agreement may provide that the entire development or any phase thereof be commenced or concluded within a specific period of time. All development agreements shall, at a minimum, include the following:

A. A legal description of the land subject to the agreement.

B. A statement identifying the legal and equitable interest of all persons having any interest in the property described in a. above. The statement of ownership interests of any joint ventures, partnerships or corporations shall reveal all principals or directors and officers, as appropriate. Such statements shall be certified by a title company or an attorney-at-law licensed to practice in the State of Mississippi.

C. The duration of the agreement, which shall meet the terms set forth in subsection 4.12.1 of this section.

D. The development uses permitted on the land, including population densities, and building intensities and height.

E. The land use designation under the City's Comprehensive Plan for all property included within the terms of the proposed agreement.

F. The current zoning classification of the property.

G. A description of public facilities that will service the development, including who shall provide and maintain such facilities.

H. The date any new facilities, if needed, will be constructed.

I. Schedule to assure public facilities are available concurrent with impacts of the development.

J. Description of any reservations or dedications of land for public purposes.

K. Description of all local development permits approved or needed to be approved for the development of the land.

L. A finding that the development permitted or proposed is consistent with the City's comprehensive plan and land development regulations.

M. Description of any conditions, restrictions, terms, or other requirements determined to be necessary by the City for the public health, safety or welfare of its citizens.

N. Statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction, shall not relieve the development of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

4.12.1 Duration of Development Agreements

The term of a development agreement shall not exceed five years. A development agreement may only be extended by mutual consent of the City Council and the developer, subject to public hearings in accordance with Section A, below.

A. General requirements for notices and hearings

1. Before entering into, amending, modifying, canceling, or revoking a development agreement, the City shall conduct at least two public hearings, one of which shall be held by the Planning Commission prior to a final public hearing before the City Council.

2. The day, time and place at which the next scheduled public hearing will be held shall be announced at the prior public hearing.

3. Notice of intent to consider a development agreement at a scheduled public hearing shall be provided by advertising the required notice in a newspaper of general circulation and readership in Jackson County approximately seven days before each public hearing on the application.

4. Required notice of intent to consider a development agreement shall specify:
   a. The time, place, and location of the scheduled hearings (2);
   b. The location of the land subject to the development agreement;
   c. The development uses proposed on the property, including the proposed population densities and proposed building intensities and height; and
   d. Instructions for obtaining further information, including the place(s) where a copy of the proposed agreement can be obtained.

4.12.2 Development Agreement Procedures

Applications requesting consideration by the City of a developer's proposed or amended development agreement shall be submitted on such forms as may be provided by the City. In addition to the information required by section 4.12, the application shall contain such information as is reasonably necessary to process and fully consider the application.

Application packages shall be accompanied by such fees and charges as may be imposed by the City Council by resolution for proper filing and processing.

Payment of application fees, submission of applications, engineering plans, surveys or any other expenditures shall not vest any rights to complete development or to obtain any requested zoning or land use classification amendments.

4.12.3 Negotiation of Development Agreements

The City Manager and City staff shall review the developer's application package and negotiate such further terms and conditions as the City Manager shall deem to be appropriate and necessary to protect the public's interest, safety, health or welfare.

Once a tentative agreement has been reached as to the terms and conditions of a development agreement, or further negotiations are not anticipated or will not reach a consensus on the development agreements' terms or conditions, the City Manager and staff shall draft a report, including any recommendations, to the City Council for consideration along with the tentative agreement.

The existence of a tentative agreement, staff report or recommendation shall not be sufficient governmental acts upon which reliance may be placed, such that further expenditures by a developer would vest any right to continue development; nor shall such actions constitute partial performance entitling the owner to a continuation or extension of the development agreement.

4.12.4 Adoption, Amendment, Extension, Modification, Revocation and Cancellation Procedures

Following such notice and public hearings as may be otherwise required, the City Council by majority vote, may act to adopt, amend, extend, modify, revoke or cancel any proposed or existing development agreement.

Where mutual consent is required by law, the City Council may act to authorize such consent prior to all other parties so doing only upon the condition that the act is not complete or official until a binding agreement is contemporaneously signed by the mayor and the representatives of all other parties.

4.12.5 Recording the Development Agreement

Within 14 days after the City enters into, extends, amends, modifies, revokes, or cancels a development agreement, the City Clerk shall have the agreement or the action on the agreement recorded with the Chancery Clerk Court in the Official Records of Jackson County.

Prior to the City's review of the status of a development agreement, the developer or property owner shall, within 14 days of the City's annual review of the development agreement, submit to the City a progress report indicating all activities and achievements since the execution of the development agreement and, if applicable, since the previous periodic report.

The City may review the land and progress of development subject to the development agreement at least once every 12 months to determine if there has been compliance with the terms and conditions of the development agreement during the period under review. The agreement shall continue in force as is, pending the next review.

If, as part of its review, the City makes a finding on the basis of substantial competent evidence that there has been a failure to comply with the terms of the development agreement, the City, following the notice and hearing provisions, may:

A. Modify the agreement as necessary to obtain and ensure compliance with the terms of the agreement; or

B. Revoke the agreement in order to protect the public's interest, health, safety or welfare.

4.12.6 Amendment, Modification, Extension, Revocations and Cancellation of Agreements

In addition to being extended pursuant to Section 4.12.4 development agreements may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest upon proper notice and hearing set forth in section 4.12.4.

In the event state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms or conditions of a development agreement, then such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws upon proper notice and hearing set forth in section 4.12.1(A).

4.12.7 Legal Status of Development Agreements

The burdens of a development agreement shall be binding upon, and the benefits of the agreement shall inure to all successors in interest to the parties to the agreement.

The City's regulations and policies governing the development of land in effect at the time of execution of a development agreement shall govern the development of all land specified in the development agreements for its stated duration.

The City may only apply subsequently adopted laws and policies to then existing development agreements if, after one duly noticed public hearing, the City determines any one of the following:

A. That such laws and policies are specifically anticipated and provided for in a development agreement; or

B. That such laws and policies are not in conflict with the prior laws and policies governing existing development agreements, and do not prevent development of the land uses, intensities, or densities set forth in existing development agreements; or

C. That such laws and policies are essential to the public health, safety or welfare, and expressly state that they shall apply to existing development agreements; or

D. That substantial changes have occurred in pertinent conditions existing at the time of approval of certain development agreements; or

E. That certain development agreements were based upon substantially inaccurate information supplied by the owner/developer.

SECTION 4.13: Building Permits and Certificate of Occupancy

It shall be a violation of this Ordinance for any person to change or permit the change in the use of land or buildings or structures or to erect, alter, move or improve any building or structure until a building permit has been obtained. No permits or Certificate of Occupancy shall be issued for any building or structure that has outstanding or unpaid fees, or taxes relating to the use or care of the property, or that has outstanding code violations until such violations are satisfied.

A. Building Permits

Whenever any structure or building is to be improved in an amount exceeding one thousand dollars ($1,000) or is erected, moved, structurally altered, or if the use of land is to be changed; a building permit shall be obtained from the Building and Zoning Administrator. The Building and Zoning Administrator shall require every applicant for a Building Permit to furnish the following information:

1. A site plan, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alternation

2. A declaration of the existing and intended use of each existing and proposed building or structure on the lot and the number of families and housing units proposed or which exists

3. Additional information relating to the proposed improvement needed to determine compliance with these regulations

4. A survey prepared by an engineer or surveyor registered or approved in the State of Mississippi of the boundaries of the lot on which the improvement is proposed to be located

5. Any other information requested by the Building and Zoning Administrator and/or the Economic Development Director

6. No building permit will be issued for any parcel of property which has outstanding and unpaid fines, fees or taxes relating to the use or care of the property.

B. Certificate of Occupancy

A certificate of occupancy shall be obtained from the Building and Zoning Administrator certifying that all of the provisions of these regulations are complied with prior to occupancy.

SECTION 4.14: Actions requiring a Public Hearing

The processes in Table No. 1 require a public hearing before the Planning Commission and approval by the City Council:

Table No. 1: Required Public Hearings		
Application for Approval of	**Planning Commission**	**City Council**
Zoning Map Change (Rezoning)	**X**	**X**
Conditional Use – Major	**X**	**X**
Conditional Use – Minor *(if appealed, or if Director chooses to hold public hearing)*	Under Certain Circumstances	Under Certain Circumstances
Home Occupation *(if appealed, or if Director chooses to hold public hearing)*	Under Certain Circumstances	Under Certain Circumstances
Variance	**X**	Under Certain Circumstances
Subdivision Approval - Major	**X**	**X**
Unified Development Ordinance Text Change	**X**	**X**
Wireless Telecommunication Facilities	**X**	**X**
Tier 3 Development Order	**X**	**X**
Development Agreement		**X**

4.14.1 Preliminary Review by Staff

A. Rezoning, Conditional Use or Variance

After review by the Economic Development Director, other appropriate staff and if required members of the appropriate Board or Committee, the Economic Development Director shall place the requested item on the agenda of the Planning Commission and shall prepare a report to accompany the application. This report shall consider and discuss all relevant criteria to be considered by the Planning Commission and the City Council.

B. Warning and Disclaimer of Liability for Staff Review

Staff approvals are reviewed only for general conformance with local codes and ordinances. They are not reviewed for accuracy of data or design, nor does the City of Gautier warrant such. These permits and approvals do not relieve the owner nor any of his representatives of the responsibility of compliance with the requirements of all local codes and ordinances.

4.14.2 Published Notification

All application reviews which require a public hearing shall be advertised in a local newspaper of general circulation in accordance with Mississippi Annotated Code of 1972.

A. Published Notice for Rezoning, Conditional Use-Major, Variance and Home Occupation

Legal advertisements for Rezonings, Conditional Uses-Major, Variances and Home Occupations (if necessary):

1. Parcel Identification Number
2. Address of the subject property (if available)
3. A description of the action requested
4. The time, date and location of the public hearing
5. A phone number to contact Planning and Economic Development Department
6. A statement that interested parties may appear at the public hearing and shall have the opportunity to be heard.

B. Published Notice for Text Changes to the Unified Development Ordinance or Comprehensive Plan

Legal advertisements for text changes to the Unified Development Ordinance or adoption or amendments to the Comprehensive Plan shall include the following information:

1. A general description of the changes being requested
2. The time, date and location of the public hearing
3. The offices at which the proposed text changes may be reviewed by the public
4. A phone number and e-mail address to contact Planning and Economic Development Department
5. A statement that interested parties may appear at the public hearing and shall have the opportunity to be heard

C. Published Notice for Comprehensive Rezoning of Property or a City-Wide Rezoning Map

Legal advertisements for comprehensive rezoning of property or for a city-wide rezoning map shall include the following information:

1. A general description of the changes being requested
2. The time, date and location of the public hearing
3. The offices at which the proposed map changes or the proposed zoning map may be reviewed by the public
4. A phone number to contact Planning and Economic Development Department
5. A statement that interested parties may appear at the public hearing and shall have the opportunity to be heard

4.14.3 Notification by Mail

A. Mailed Notice for Certain Actions which are not a Comprehensive Rezoning or a City-Wide Zoning Map

The Economic Development Director, or his designee, shall notify by first class mail all property owners within the appropriate notification distance from the property under consideration for a Rezoning, Conditional Use, Variance or Home Occupation. Such notices shall be mailed not less than 15 days prior to the public hearing. Table No. 2 shows the property owners that must be notified by mail. Approval processes not listed do not require a mailed notice.

The Economic Development staff shall supply the names and addresses of persons with a certain distance from the parcel being considered as a part of the application process. Said names and addresses shall be obtained from Jackson County tax listings of property ownership and shall be measured from property line to property line not including street-right-of ways.

Table No. 2: Notification Distance	
Type of Public Hearing Request	**Number of Feet from Subject Property**
Rezoning	500 feet
Conditional Use-Major	250 feet
Variance	Adjoining
Home Occupation	Adjoining
Wireless Telecommunication Facilities	500 feet

B. Mailed Notification for Comprehensive Rezoning or City-Wide Zoning Map

Mailed notices are not required for a comprehensive rezoning or for adoption of a city-wide zoning map after preparation of Comprehensive Plan.

4.14.4 Public Hearing Process

A. General Procedures

Applicants or a representative of the applicant shall appear before the Planning Commission at the appropriate time and place as advertised to present compelling evidence for the action they are requesting. Persons wishing to speak for or against the applicant's request shall also be given the opportunity to address the Planning Commission.

Proceedings of the hearing at the City Planning Commission Meeting shall be taken down in shorthand and/or by mechanical or tape recording, which cannot be altered. The hearing at the meeting shall use Robert's Rules of Order but without strict compliance with rules of evidence. The Chairman of the Planning Commission shall act as moderator.

B. City Planning Commission Determination

If action is needed before the City Council, the Economic Development Director shall submit the findings of fact and the recommendations of the Planning Commission to the City Clerk no later than one (1) week prior to the next available Council meeting. If necessary, the applicant shall submit a modified site plan to the Economic Development

Director, which shall show the requirements and/or conditions recommended by the Planning Commission prior to forwarding the request to the City Council.

C. Appeals to Planning Commission Action

Any citizen may appeal the decision of the Planning Commission by filing an appeal to the City Clerk within ten (10) days after the date of the Planning Commission meeting. Persons who have filed an appeal within the time specified shall be able to address the Council and state their reasons for appeal.

D. Official Transcript

If no appeal is filed by a party of record or authorized representative, it will not be necessary for the court reporter's stenographic notes to be transcribed; however, if an appeal is taken, the party filing the appeal shall order a transcript from the court reporter and pay any expense associated with such a transcript.

E. City Council Public Hearing

Within sixty (60) calendar days after the Planning Commission hearing, the City Council shall approve or deny, in whole or in part, the recommendation of the City Planning Commission, or where there is need for additional information, may remand the case to the City Planning Commission for further consideration, and this shall be done by the City Council on the record of the case.

SECTION 4.15: Zoning Map Change (Rezoning)

A zoning map change involves the rezoning of property from one zoning classification to another or the extension of existing zoning district boundaries on the Official Zoning Map. When the public welfare justifies such action, the City Council may amend the Official Zoning Map.

4.15.1 Who May Initiate

A zoning map change may be initiated by the City Council, the Planning Commission or the property owner or agent of the owner provided that:

A. Said property has not been denied a previous request for the same property or portion a property within the past twelve (12) months; and

B. All procedures and provisions for a public hearing have been met.

4.15.2 Requests for Zoning Map Change (rezoning)

Applications for a Zoning Map Change (rezoning) may be filed on the *"Public Hearing Application"* available from the Planning and Economic Development Department and shall contain or have attached to it the following information:

A. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits

B. Legal descriptions and street address

C. Copy of Protective Covenants or deed restrictions, if any

D. Copies of approval, or requests for approval from other agencies such as, but not limited to, Mississippi State Department of Health, U. S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources

E. A Detailed Project Narrative

F. Any other information requested by The Economic Development Director and/or members of the Technical Review Committee

4.15.3 Criteria for Rezoning of Property

The Planning Commission shall not recommend approval of a rezoning and the City Council shall not rezone property unless the applicant has proven by clear and convincing evidence that either:

A. There was a mistake in the original zoning, or

B. The character of the surrounding area has changed to such an extent as to justify rezoning **AND** there is a public need for additional property to be zoned in accordance with the request.

4.15.4 Three-Fifths Council Vote Needed

In accordance with *Mississippi Code Annotated Section 17-1-17 (1972)*, in case of a protest against such change signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred sixty (160) feet therefrom or of those directly opposite thereto, extending one hundred sixty (160) feet from the street frontage of such opposite lots, such amendment

shall not become effective except by the favorable vote of three-fifths (3/5) of the members of the City Council who are not required by law or ethical considerations to recuse themselves.

4.15.5 Rezoning by Court Order

In the event rezoning is required pursuant to a court order specifically establishing the zoning classification to be applicable to the property which is the subject matter of the suit, the procedural requirements of the Unified Development Ordinance for rezoning property shall not apply. A certified copy of the final court order shall be filed with the Economic Development Director after all available time for appeal has expired. The Economic Development Director shall enter the zoning change on the official zoning map and place the certified copy of the court order in the immediate area of the official zoning map, and cause the zoning change to be entered in the minutes of the city council.

SECTION 4.16: Comprehensive Rezoning

A comprehensive rezoning may be initiated by the following: property owners of twenty-five contiguous parcels of land, the owner(s) of ten (10) acres of contiguous land, a recognized neighborhood association which includes the property involved and/or the Economic Development Director in consultation with the property owners affected.

4.16.1 Study Required

Prior to recommending a Comprehensive Rezoning, The Economic Development Director shall conduct a study that demonstrates:

A. The existing zoning in the subject area is not in accordance with the Comprehensive Plan, **and**

B. The need for additional land in the City having the same zoning classification as the one proposed; **and**

C. A substantial change in the land use character of the surrounding area that justifies the change in zoning; **or**

D. The probability of a mapping error in the Comprehensive Plan or the Unified Development has occurred.

4.16.2 Public Notification

In addition to the required public notices in a newspaper of regular and general circulation in the city at least fifteen (15) days prior to the public hearing, the following additional types of notifications shall be placed for the benefit of the public prior to a public hearing for a comprehensive rezoning:

A. Notice at City Hall: A notice shall be posted at City Hall

B. Affidavit: Prior to the effective date of any comprehensive rezoning, the City shall cause an affidavit to be filed with the City Clerk certifying that the City has complied with this section. The filing of the affidavit shall be prima facie proof of compliance with this section. A failure to give notice shall not affect the validity of rezoning, except as to the property of the complaining owner

SECTION 4.17: Conditional Uses Both Minor and Major

The development and execution of this Ordinance is based upon the division of the community into districts, within which districts the use of land and building and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which are generally compatible with the land uses permitted in a zoning district, but due to their unique characteristics, require individual review to ensure the appropriateness and compatibility of the use on any particular site. Certain uses may be allowed as enumerated in each of the zoning districts established in *Article V* in accordance with the standards and procedures of this Article and the standards enumerated for each Conditional Use in the district regulations.

A hearing for a Conditional Use-Major may be conducted under two separate circumstances: (a) in conjunction with the rezoning of the property, or (b) if the property is already zoned correctly, but the use is not permitted by right. In the case of a rezoning, the Conditional Use must meet the legal threshold required for any rezoning action.

4.17.1 Who may initiate

A request for a conditional use may be initiated by the property owner of agent of the owner provided:

A. The proposed use is listed as a Conditional Use in the specific district requirements of the existing or proposed zoning district of the property, **and**

B. Said property has not been denied a previous request for the same property or portion of the property within the past twelve (12) months; **and**

C. All procedures and provisions for a public hearing have been met.

4.17.2 Application for Conditional Use-Minor

A Conditional Use-Minor requires a Finding of Compatibility by the Economic Development Director. Upon application review and after consideration of the surrounding properties and nature of the proposed use, the Director may approve, approve with conditions, elect to hold a public hearing under the procedures of 4.7.3, or deny the application. These uses do not "run with the land" and may not be transferred from one owner to the next without application for a FOC by the Director.

4.17.3 Criteria for Approval of a Conditional Use-Minor

A Minor Conditional Use Permit is required when projects possess location, use, building or traffic characteristics of such unique and special form as to make impractical or undesirable, their automatic inclusion as permitted uses. Minor Conditional Use Permits may be granted, in whole or in part, from the facts available in the application and determined by investigation, all of the following written findings can be made:

A. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics, and environmental impacts.

B. The proposed use will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.

C. The proposed use will be consistent with the Comprehensive Plan.

D. The proposed use is in conformance with specific site location, development, and operation standards as required by this Ordinance.

4.17.4 Application for Conditional Use

Applications for a Conditional Use-Minor and Major may be filed on applications available from the Economic Development Department and shall contain or have attached to it the following information:

A. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits

B. Legal descriptions and street address

C. Copy of Protective covenants or deed restrictions, if any

D. Copies of approval, or requests for approval, from other agencies such as, but not limited to, the Mississippi State Department of Health, U. S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources

E. A Detailed Project Narrative

F. Any other information requested by the Economic Development Director and/or members of the Technical Review Committee

4.17.5 Criteria for Approval of a Conditional Use-Major

A Conditional Use-Major is not allowed “by right” but requires a recommendation by the Planning Commission and the approval of the City Council. Additionally, if the conditional use is transferred to a new owner, the new owner must submit a letter to the Economic Development Director agreeing to the current terms and conditions before a business license may be issued.

When considering application for a Conditional Use-Major, the Planning Commission and the City Council shall consider the extent to which:

A. The proposed use is compatible with the character of development in the vicinity relative to density, bulk and intensity of structures, parking, and other uses;

B. Any possible detrimental effects might occur as a result of the Conditional Use to the continued use, value, or development of properties in the vicinity;

C. Whether or not the proposed use will adversely affect vehicular or pedestrian traffic in the vicinity;

D. If the proposed use can be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools;

E. If the proposed use is in harmony with the Comprehensive Plan;

F. If the proposed use is listed in the list of possible Conditional Uses in that particular Zoning District;

G. Whether the proposed use will not be hazardous, detrimental, or disturbing to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances; and

H. Whether the use conforms to all district regulations for the applicable district in which it is located unless other provisions are specifically set forth in the application.

4.17.6 Authority for Conditions

A Conditional Use-Major may be issued subject to such conditions as are necessary to carry out the purpose of this Ordinance and to prevent or minimize adverse effects upon other property in the neighborhood, including, but not limited to:

A. Adequate ingress and egress to property and proposed structures with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access in case of fire or other disaster

B. Off-street parking and loading areas with particular attention to item (1) above and the economy of the city, and to noise or glare effects of the conditional use on adjoining properties generally in the district

C. Refuse and service areas, with particular reference to item (1) and (2) above

D. Utilities with reference to location availability and compatibility

E. Screening and buffering with reference to type, dimensions, and character

F. Control of any proposed exterior lighting with reference to glare, traffic safety economic effect and compatibility and harmony with properties in the district

G. Required yards and open spaces

SECTION 4.18: Variance

In certain circumstances, a Variance from the dimensional requirements (i.e. height, setbacks, square footage) of this ordinance may be granted if the applicant can prove that because of physical constraints of the property involved, he is not able to build the same type of structure that other persons with the same zoning classification can build. Variances for uses permitted will not be considered in as much as "use Variances" are not legal in the State of Mississippi.

Most Variances must be granted by the Planning Commission; however, certain minor Variances may be granted by the Economic Development Director in accordance with *Section 4.18.3* below.

4.18.1 Who May Initiate

A request for a Variance may be initiated by the property owner of agent of the owner provided that said property has not been denied a previous request for a Variance for the same property or portion a property within the past twelve (12) months.

4.18.2 Application for Variance

Applications for a Variance (from dimensional requirements) may be filed on the *"Public Hearing Application"* available from the Planning and Economic Development Department and shall contain:

A. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.

B. Legal descriptions and street address

C. Copy of Protective covenants or deed restrictions, if any

D. Copies of approval, or requests for approval from other agencies such as, but not limited to the MS State Department of Health, Mississippi DEQ, Corp of Engineers, and Department of Marine Resources

E. A Detailed Project Narrative

F. Any other information requested by the Economic Development Director and/or members of the Technical Review Committee

4.18.3 Administrative Variances

Within the COR, Corridor Overlay District, applicants shall be required to mitigate a requested dimensional variance in accordance with the Tier Land Use Provisions in Section 8.6. The following dimensional variances may be granted by the ED Director at his/her discretion:

A. 30% of required off-street parking spaces and/or

B. 30% of required setbacks from property lines

4.18.4 Criteria for Approval

The Variance application shall demonstrate the following:

A. That special conditions and circumstances exist which are peculiar to this particular site (lot or parcel), structure or building involved and which are not applicable to other sites (lots or parcels) or structures or buildings in the same district;

B. 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 provisions of this Ordinance;

C. That the special conditions and circumstances do not result from actions of the applicant; and

D. That granting the Variance requested will not confer upon the applicant any special privilege that is denied by this Ordinance to other similar sites (lots or parcels) structures or buildings in the same district.

4.19 Administrative Waivers for Infill Development

Purpose: Administrative waivers for infill development provide a process for city consideration of requests to waive or modify certain standards of this UDO when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property provides a challenge that may deter redevelopment privileges enjoyed by other property owners in the vicinity and in the same zoning district.

A. **Applicability:** An administrative waiver may be granted to waive or modify any requirement of this UDO except: permitted land uses; residential density; specific prohibitions for example, prohibited signs, or procedural requirements except as established within the Corridor Overlay District, Article V.

B. **Review authority:** An application for an administrative waiver shall be completed, filed, and processed in compliance with this section. It is the responsibility of the applicant to provide evidence in support of the findings required by subsection E. below.

C. **Project review, notice and hearing:** Each application shall be reviewed by the ED Director to ensure that the proposal complies with this section, and other applicable requirements of this UDO. The ED Director may approve or deny an administrative waiver without a public hearing. See subsection D. below.

D. **Findings and decision:** The ED Director may approve or deny an application for an administrative waiver. The ED Director shall record the decision and the findings on which the decision is based.

1. **General findings:** The ED Director may approve an administrative waiver only after first making all of the following findings.

a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of the provisions of this UDO deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;

b. The approval of the administrative waiver includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

c. The administrative waiver is consistent with the comprehensive plan, and any applicable specific plan.

2. **Reasonable accommodation:** The ED Director may also grant an administrative waiver to the site planning or development standards of this UDO in compliance with this section, based on the finding that the waiver is necessary to accomplish a reasonable accommodation of the needs of a disabled person, in compliance with the Americans with Disabilities Act, as amended.

E. **Conditions of approval:** In approving an administrative waiver, the ED Director:

1. Shall impose conditions to ensure that the approval does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and

2. May impose any reasonable conditions to ensure that the approval complies with the findings required by subsection F. above.

F. **Appeal of denial:** If an administrative waiver is denied, the ED Director shall provide written notice of the decision stating the reasons for denial. The applicant may appeal the decision to the Planning Commission by giving written notice of such appeal within 30 days of the date of the written denial.

SECTION 4.20: Unified Development Ordinance Text Changes

Whenever changes in the text of this Ordinance are needed to reflect updated practices or standards desired by the community, the Economic Development Director may prepare a draft of the proposed changes along with a detailed report. The proposed changes shall be placed on the agenda of the Planning Commission for the purpose of a public hearing and a legal advertisement shall be run twice with the first advertisement running a minimum of two weeks prior to the schedule hearing.

4.20.1 Public Hearing Held

A public hearing on the proposed text amendment shall be held before the Planning Commission and a recommendation shall be prepared for the City Council. At said hearing, any individual may appear in person or by agent to speak for or against such amendments.

4.20.2 City Council Approval

The recommendations of the Planning Commission shall be sent to the City Council along with the staff report and any other documentation. The City Council shall have the power to approve, disapprove or suggest modifications to the proposed changes to the Ordinance.

SECTION 4.21: Home Occupation Permit

Applications for Home Occupation Permits shall be filed on the appropriate form available from the Economic Development Department. Applications shall supply all information required and be accompanied by the appropriate fees. The following information is required to accompany the application:

A. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits

B. Street address

C. Copy of Protective covenants or deed restrictions, if any

D. Copies of approval, or requests for approval from other agencies such as, but not limited to the Mississippi State Department of Health, U. S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources

E. A Detailed Project Narrative

F. Any other information requested by the ED Director and/or members of the Technical Review Committee

4.21.1 In-House Hearings

The ED Director will conduct an in-house hearing on Applications for Home Occupations no sooner than ten (10) days following notices and letters to adjoining property owners. If there are no objections received in writing, the Director may grant a permit for the Home Occupation provided the applicant has met all of the requirements as given in this Ordinance.

Should there be objections to any Home Occupation request, the application will then be brought before the Planning Commission at a duly announced time and place.

SECTION 4.22: Wireless Telecommunication Facilities

All Wireless Telecommunication Facilities require Site Plan Committee approval, a public hearing before the Planning Commission and approval by City Council. If the antenna is to be incorporated into an architectural element of a building, or placed within a C-3 district, the application must also be approved by the Architecture Review Commission.

4.22.1 Applications for Wireless Telecommunication Facilities

Applications shall be filed on the *"Public Hearing Application"* form available from the Planning and Economic Development Department. Applications shall supply all information required and be accompanied by the appropriate fees. In addition the following information shall be required either on or accompanying the application:

A. The name, address and telephone number of the person requesting the permit. The person named shall be a primary contact who has authority to act on behalf of the person or entity requesting the permit.

B. A site plan shall contain a scaled site plan and a scaled elevation view and other supporting drawings and design data showing the proposed location of the tower, antenna or both, as well as the location of all other towers within two miles of the proposed site.

C. Proof that the proposed tower complies with regulations administered by the FAA and FCC.

D. A report from a qualified and Mississippi licensed professional engineer which describes or demonstrates:

1. The tower height and design, including cross sections, elevations and wind load characteristics in accordance with International Code Council;

2. The height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

3. Describes the tower's capacity, including the number and type of antennas that it can accommodate;

4. Documented steps that applicant will take to avoid interference with established public safety telecommunications;

5. A report which demonstrates the tower's compliance with structural and electrical requirements;

6. Includes an engineer's stamp and registration number;

E. Owners of all commercial wireless telecommunications service towers shall file a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower in accordance with *Article XIV* of this Ordinance provided an additional user agrees in writing to meet reasonable terms and conditions for shared use.

F. **Proof of non-interference.**

Each application for construction of a wireless telecommunication facility shall include either a preliminary or a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television and public safety communications devices or other services enjoyed by adjacent residential and nonresidential properties. In the event only a

preliminary statement is submitted with the application a final certified statement of noninterference will be provided and approved prior to issuance of a building permit. The certificate shall be certified by a licensed engineer.

G. **Radio frequency emissions.**

Each application must show that any antennae placed on the tower meets state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new or more restrictive standards are adopted, then the antennae shall be made to comply or continued operation may be restricted.

4.22.2 Indemnity: claim resolution.

The owner of the tower and all communications service providers must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Planning and Economic Development Department a written indemnification of the City of Gautier and proof of liability insurance or financial ability to respond to claims up to $1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the city, in the form approved by the City Attorney.

4.22.3 Public Hearing Held

A public hearing on the proposed WTF shall be held before the Planning Commission and a recommendation shall be prepared for the City Council. At said hearing, any individual may appear in person or by agent to speak for or against.

4.22.4 City Council Approval

The recommendations of the Planning Commission shall be sent to the City Council along with the staff report and any other documentation. The City Council shall have the power to approve or disapprove the proposed WTF.

If the request for a permit is denied, then the denial shall be in writing setting forth each specific reason for such denial. The reasons for the denial shall be entered in the written records of the city. A denial shall be supported by substantial evidence.

SECTION 4.23: Actions Requiring Approval by Economic Development Staff

Certain permits may be issued by Planning and Economic Development Staff upon review and approval of the appropriate application and fees:

A. Land Alteration and/or Disturbance Permit

B. Tree Removal Permit

C. Temporary Use Permit

D. Conditional Use Permit-Minor

E. Permit for Moving of Buildings

F. Mobile Home/MEMA Cottage Placement Permit

G. Minor Development Orders

4.23.1 Land Alterations and Disturbance Permit

The purpose of this section is to set forth regulations governing the excavation, clearing and draining of properties within the City of Gautier. Because the alteration of land, particularly large areas, impacts hydrologic characteristics of most land areas, it is imperative that the activity takes into account the immediate and long-term impact of such work on adjoining and downstream properties. Specifically, the intent of these regulations is to assure that any land alteration results in a zero increase in sedimentation and storm water volumes and rates beyond that which existed prior to alteration or disturbance.

A. Clearing and grubbing, haul roads, waste areas, plant sites or other areas occupied by the contractor.

Clearing and grubbing on erodible areas, including the construction site, or other areas occupied by the contractor in connection with the work shall include adequate protection for preventing excessive erodible material from entering water or waterways on land not occupied by the contractor and preventing dust created by hauling equipment. Temporary measures as required by DEQ and the City shall be employed by the contractor from the beginning of the work. These measures may consist of the expeditious use of brush, vegetation or other residue from clearing and grubbing, temporary or permanent terraces, berms, dikes, dams, sediment basins or other effective means of containing sediment. All temporary or permanent erosion control features shall be maintained in an effective manner so long as essential to the abatement of siltation.

A. Loading, hauling and removal of tree limbs and debris

1. All persons, firms or corporations hereafter performing tree removal or trimming services for compensation within the city shall remove and dispose of all debris created by the performance of such services.

2. The debris shall be properly disposed of by the person, firm or corporation performing the services of their agent. Said debris shall be removed within forty-eight (48) hours of completion of construction activities.

B. Excavation

Excavations shall be made in an acceptable manner to the City Consulting Engineer and shall be left in an aesthetically pleasing condition when completed:

1. A plot plan, drawn to scale, showing dimension of excavation, depth, slopes, distances from other property and entrances and exits shall be submitted.

2. Excavations shall be dug on a 3 to 1 slope.

3. Topsoil from pits shall be dressed down on slopes and grassed to prevent erosion.

4. Bottom of pits shall be graded in a generally level contour.

5. Edge of slope at ground level shall be no closer than thirty-five (35) feet from any property line, nor closer than three hundred (300) feet from a public road.

6. The maximum depth of the excavation shall be determined by the City Consulting Engineer.

7. Upon approval, a permit for an excavation shall be issued for a one (1) year period and shall be reviewed and considered for additional periods of time by the planning commission.

C. Land clearing and drainage

1. Parcels of land greater than one acre

No parcel of property in excess of one acre or series of contiguous lots the combined area of which exceeds one acre shall be cleared prior to submitting to the Economic Development Director a site clearing plan and a Stormwater Pollution Prevention Plan (SWPPP). Such plans shall include but are not limited to access routes, proposed culvert locations, existing drainage systems on the property, plans for future drainage, and measures to address erosion control. Plans of this nature may be included with and made a part of the building permit application.

2. Best Management Practices

Erosion and sedimentation controls shall be generally accepted best management practices and may include vegetative fences, silt screens, retention ponds, or other practices deemed appropriate by the Economic Development Director. The Economic Development Director may, upon determining that a previously approved erosion control plan is inadequate, issue a stop work notice to the contractor and order corrective measures sufficient to deter siltation of adjoining ditches, properties, or bayous and streams.

3. Parcels of land greater than three (3) acres

Proposed new developments in excess of three (3) acres shall not be cleared until an overall project plan and a Stormwater Pollution Prevention Plan (SWPPP) has been submitted to the Economic Development Director. Such plans shall include detailed storm water run off control measures including retention and/or detention ponds capable of retaining both "during construction" and "post-construction" sediments and of holding a volume of storm water equal to a five-year storm based on south Mississippi average rainfalls for urbanized areas wherein the rainfall duration is one (1) hour at a rainfall intensity of three (3) inches per hour. Run off shall be drained onsite to retention ponds and allowed

to discharge at a rate no greater than the average discharge prior to development.

4. Compliance with City, State and Federal Regulations

All clearing of land, excavations and grading shall be conducted in strict compliance with all City regulations including Stormwater Management Policies and State and Federal regulations.

E. Land to be Platted

Provisions for maintenance of storm water control facilities shall be in accordance with the provisions in *Article X.* Spillways and discharge systems shall be constructed in accordance with accepted engineering practices and shall be maintained in good working order at all times.

4.23.2 Tree Removal Permit

A Tree Removal Permit shall be issued by the Economic Development Director prior to issuance of a building permit, if the site proposed for development contains trees. All tree removal procedures shall comply with the standards in *Article XI*.

A. Submittal Requirements

All plans shall be fully dimensioned, drawn to scale and shall include, at the minimum, the following:

1. The species, size, quantity and location of existing trees to be retained;

2. The species, size, quantity and location of existing trees four (4) inches or more in diameter measured at four (4) feet above the natural ground to be removed; and

3. A detailed landscaping Plan, if required.

The Economic Development Director or his/her designee shall review the tree preservation and replacement plan and if found to be in accordance with this Ordinance, approve such plans.

B. Factors to be considered for Removal of Trees.

The following factors shall be used in determining which trees must be preserved:

1. Native trees on the side including but not limited to oaks, magnolia, cedar, elms and pecan shall take priority in determination of trees to be preserved.

2. The species, size, quantity and location of existing trees to be retained

3. The species, size, quantity and location of existing trees four (4) inches or more in diameter measured at four (4) feet above the natural ground to be removed and the nature and quality of the landscaping to be installed for replacement

4. Topographical constraints on design

5. Drainage, access and egress, and utilities

6. Any factors reasonably related to the health, safety and welfare of the public which necessitated disturbance of the existing natural landscape character

7. The economic usefulness of the property without disturbance of its natural character

8. Any other factors as may be relevant and proper

4.23.3 Temporary Use Permit

Temporary Uses which are allowed in accordance with *Article VI* require a Temporary Use Permit from the Economic Development Director before the proposed use or activity may begin. The ED Director may at his discretion elect to take a request for temporary permits to the Planning Commission for review and action should he desire. Applications for a Temporary Use Permit shall be filed with any additional information requested.

A. Approval Criteria

The temporary use may be approved, conditioned or denied by the ED Director based on the following criteria:

1. Permission of the owner of the land has been obtained as evidenced by a notarized copy of the owner's consent;
2. The site is physically suitable for the type and intensity of the temporary land use;
3. The proposed use is compatible with land uses presently on the site;
4. Adequate provisions have been made for sanitary and medical facilities;
5. Adequate provisions have been made for vehicular access and off-street parking as well as emergency access; and
6. Any negative impacts for the proposed temporary use are mitigated.

B. Revocation

A temporary use permit may be revoked or modified effective immediately upon written notice of violation by the ED Director if any of the following findings are made:

1. The temporary use permit was obtained by misrepresentation or fraud.
2. One or more of the conditions of the temporary use permit have not been met, or
3. The use is a violation of any statute, ordinance, law or regulations.

4.23.4 Permit for Moving of Buildings

No person, firm or corporation shall move any buildings or structures into or within the city or shall remove any building or structure from the city without first obtaining a permit from the Building and Zoning Administrator for each such building or structure to be moved or removed. Only a licensed moving company or individual may move a structure.

A. Exceptions.

Utility buildings and accessory structures proposed for relocation do not require a moving permit provided the structure width does not exceed eight and one-half (8.5) feet. All structures wider than eight and one-half (8.5) feet and proposed for moving over state, Federal or city roads must be permitted by both the city and the state.

All structures in excess of twelve (12) feet in width must also be properly escorted when being moved. Applicants for moving permits in the city must present a copy of an approved state permit, if required by city officials, prior to city approval.

Building permits must be obtained for any structure proposed for relocation into or within the City of Gautier.

B. Application for Permit

To obtain a permit the applicant shall first file an application in writing on a form furnished by the Building and Zoning Administrator which shall include the following information:

1. The location and legal description of the land to which or from which the building or structure is to be moved to or from

2. Type and description of building to be moved

3. The dimensions of the building—length, width and height

4. The estimated value of such building

5. The alternations or additions, if any, to be made to the building structure to be moved or removed

6. The name and address of the person who will move the building or structure

7. The intended use of the building

8. The approximate time such building is to be moved and the route that will be taken from the present location to the new location

9. Any other information required by the Building and Zoning Administrator

C. Fees

Certain fees are required prior to relocation of any structure:

1. **Site cleaning fee**. A refundable one hundred dollar ($100) deposit is required to guarantee site clean-up following removal of a structure from within the city.

It shall be the responsibility of the permit holder to remove all debris, building materials or other objects from the site and to generally clean, and/or mow said property so that no unsightly evidence of the structure remains. Should said property not be cleared within thirty (30) days of structure removal, the city will retain the deposit and may use it to offset any cost incurred by the city to have the property cleared properly. The permit holder is required to notify the Economic Development department when properties are cleared and call for an inspection. Upon approval by the inspector, a refund will be returned to the applicant.

2. **Moving fee**. A non-refundable moving fee of one hundred twenty-five dollars ($125.00) shall be paid to the City of Gautier for each structure proposed for moving into or within the city. If the building being moved to Gautier is located outside Jackson County, additional fees will be charged depending on mileage.

3. **Building permits fee.** A non-refundable building permit fee must be paid upon issuance of a building permit.

D. Insurance

The mover shall be licensed and bonded and shall file with the City of Gautier a statement of insurance coverage in accordance with state regulations.

4.23.5 Building permits.

If in the judgment of the Building and Zoning Administrator, a structure sufficiently meets the requirements as set forth in *Article XV* he may approve the structure to be moved by presenting his/her evaluation report along with his/her recommendation to issue a moving permit to the Economic Development Director. Said reports shall be presented to the ED Director no later than three (3) working days following inspection.

Upon receipt of the Building and Zoning Administrator's evaluation report, the ED Director may approve the issuance of a Building Permit in accordance with standard accepted procedures and fees. Said permit must be applied for prior to actual moving of the structure. Should a structure be moved and relocated within the city prior to issuance of the moving permit and the building permit the fees for said permits will be doubled.

4.23.6 Mobile Home/MEMA Cottage Placement Permit

No person, firm or corporation shall move any mobile home or MEMA cottage into or within the city without first obtaining a permit from the Building and Zoning Administrator.

A. General Policies & Procedures Required by the City of Gautier

1. All mobile homes and MEMA cottages must be inspected prior to the issuance of the permit.

2. To receive a pre-permit inspection, a mobile home must be brought to a location within ten (10) miles of the Gautier city limits.

3. Mobile homes must be at least 14' X 60' in size.

4. Mobile home movers are responsible for contacting the Economic Development Department 24 hours before ***bringing-in, moving-out or relocating*** a mobile home in Gautier. The mover must provide a route plan, and time of movement. If a mobile home is to be moved in or out of Gautier after City business hours or on weekends, the mover or owner is responsible for any City personnel costs incurred as a result of employees being called in to monitor the mobile home placement.

5. Mobile homes must adhere to all applicable state and federal building and fire code requirements and City of Gautier ordinances, or the unit will not be allowed to enter the Gautier City limits.

6. All mobile home residences require two (2) hard surface parking areas.

7. All new or relocated mobile homes are required to be skirted after a tie-down inspection. Skirting must be kept in good condition for the life of the mobile home placement. Skirting must be appropriate for mobile homes.

8. If any of the above procedures and requirements are not followed, or if damage to City property occurs during the moving of any mobile home, deposits may be forfeited and additional damages may be assessed through any legal means possible.

B. Application for Mobile Home Placement Permit

To obtain a permit the applicant shall first file an application in writing on a form furnished by the Building and Zoning Administrator which shall include the following information:

1. Completed Mobile Home Placement Application Form
2. Legal Description of the Property (Proof of ownership by way of a Warranty Deed or Deed of Trust)
3. Copy of home mover/dealership contact information
4. Certificate of Compliance (For Flood Zone "V")
5. Site Plan (Drawn to scale indicating property and setback lines, mobile home location with distances from property lines, water well location, driveway, culverts and other site features)
6. Mobile Home Registration Certificate (Obtain from County Tax Collector's Office)
7. Signed lease/purchase agreement or letter of permission if the applicant is not the property owner
8. Provide documents for Zone 2 or Zone 3 mobile home. This is the responsibility of the owner. City staff will not perform research.
9. Location of mobile home for pre-permit inspection (to be inspected by the City for structural soundness) before being relocated or moved into Gautier

C. Fees

The City shall adopt certain fees by resolution for Mobile/MEMA Homes.

D. Process for Inspection of Mobile Homes and Criteria

Applicants should call **228-497-1878** to arrange for an inspection. No specific time will be guaranteed for inspection of mobile homes. Inspections will be performed as soon as time and routing allows. The following items must be inspected and found satisfactory prior to the connection of electricity being approved.

1. Must be structurally sound
2. No damaged or missing panels or flashing
3. Paint or outer coating must be clean, undamaged and unstained
4. All windows and doors must be undamaged and operational
5. No insect, bug or rodent infestation

6. Mobile Home placement within approved setback lines
7. Tie-down installation
8. Power pole installation and service to mobile home electrical panel
9. Sewer system installation and connections
10. Health and safety issues inside and outside of mobile home
11. Mobile homes within a flood zone require permanent foundation (Dry stacked. Blocks do not meet this requirement)
12. Hard surface drive and parking
13. Skirting
14. Stairs and landings. Landing must be a minimum of 4' X 6' in size and shall apply to all mobile home entrances.
15. Building codes require house numbers to be attached to the structure.

D. General Notes

1. Commencement of any work, prior to obtaining the required permits will result in doubling of all applicable permit fees.

2. Mobile Home permits will be void ninety (90) days from issuance date.

3. Separate permits are required for both electric and plumbing.

4. The National Electric Code requires a four (4) wire hook-up. A separate neutral and ground wire must be run. A 100-amp service requires a four (4) wire hook-up in conduit with three (3) #4 and one (1) #6 wires. A 200-amp service requires two (2) 2/0 wires, one (1) 1/0 and one (1) #6 ground wire in conduit. These wires must be in PVC or rigid conduit.

5. Power poles must be a minimum of three (3) feet and a maximum of thirty (30) feet from the mobile home.

6. Placement of all mobile homes shall comply with the requirements of the 2003 International Residential Code, Mississippi State Regulation MH-5, and the Code of Federal Registry 24CFR and 44CFR and the ordinances of the City of Gautier.