

**CITY OF GAUTIER
MEMORANDUM**

To: Samantha Abell, City Manager

From: Babs Logan, Planning Technician

Thru: Eric Meyer, Planning and Economic Development Director

Date: March 11, 2013

Subject: Consideration of an Ordinance Establishing the Maximum Number of Domesticated Animals That Can be Kept at a Residence. GPC Case #13-04-UDO

REQUEST:

Council directed Staff to draft an amendment to the Unified Development Ordinance (UDO) and the City of Gautier Code of Ordinances establishing the maximum number of dogs that can be kept at a residence. After reviewing Staff's report the Planning Commission has recommended that no more than four (4) domesticated animals, over the age of six (6) months, shall be allowed at a residence and that the boarding of more than four (4) domesticated animals shall only be allowed as a Conditional Use-Major in certain zoning districts.

BACKGROUND:

Amendment Process

Amendments to the Unified Development Ordinance may be initiated by the City Council, the Gautier Planning Commission (GPC), the City Staff, or by a citizen. The process requires that the GPC review and forward a recommendation to the City Council on the proposed amending ordinance(s).

After due public notice the City Council shall hold a public hearing after the first reading of the ordinance amending the UDO. The City Council may consider approval after a public hearing based on the application and the relevant support materials, testimony at the public hearing, the GPC recommendation, and the Staff Report.

DISCUSSION:

Planning Commission finds that neither the UDO nor the Code of Ordinances establishes a maximum for the number of dogs or cats allowed at a residence. With the proposed change to the UDO and the Code of Ordinances, only four (4) domesticated animals shall be allowed at a residence and a request for more than four (4) domesticated animals must be approved by the City Council as a Conditional Use-Major to ensure the conditional use is consistent with the character of the immediate vicinity of the land.

If approved, Chapter 4, Article II, Section 4.28 of the City of Gautier Code of Ordinances shall read as follows: (add underlined):

Section 4.28 Maximum Number of Dogs Allowed

It shall be unlawful for any person to have more than four (4) domesticated animals, over the age of six (6) months, on any residential premises at any one time. A request for more than four (4) domesticated animals, over the age of six (6) months, must be approved by the City Council through the Conditional Use-Major process.

If approved, Article V, Section 5.2.2, Table 3 of the Unified Development Ordinance shall be amended to allow “Boarding of more than four (4) dogs” as a Conditional Use-Major in AG Agricultural, RE Residential Estate, R-1 Low Density Single-Family Residential, R-1A Medium Density Residential and R-3 Mobile/Manufactured Home Residential districts.

RECOMMENDATION:

The City Council may:

1. Approve the Planning Commission’s unanimous recommendation of the proposed ordinance amendment;
2. Approve with changes; or
3. Deny the proposed ordinance amendment.

ATTACHMENTS:

Ordinance

Staff Report with Back-up

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF GAUTIER, MISSISSIPPI, PROVIDING AUTHORITY & INTENT; AMENDING ARTICLE V, ZONING DISTRICTS AND SPECIFIC REGULATIONS, OF THE UNIFIED DEVELOPMENT ORDINANCE, AND CHAPTER 4, ANIMALS AND FOWL, OF THE CITY OF GAUTIER CODE OF ORDINANCES, BY ALLOWING A MAXIMUM OF FOUR DOMESTICATED ANIMALS AT A RESIDENCE BY RIGHT AND MORE THAN FOUR WITH APPROVAL OF A CONDITIONAL USE-MAJOR IN AG AGRICULTURAL, RE RESIDENTIAL ESTATE, R-1 LOW DENSITY SINGLE-FAMILY RESIDENTIAL, R-1A MEDIUM DENSITY RESIDENTIAL AND R-3 MOBILE/MANUFACTURED HOME RESIDENTIAL DISTRICTS; AND SETTING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI, THAT THE CODE OF ORDINANCES OF THE CITY OF GAUTIER IS AMENDED AS FOLLOWS:

Section 1. Authority & Intent

- A. The Gautier Planning Commission held a public hearing after due public notice and considered this ordinance on Thursday, March 7, 2013. The City Council conducted a public hearing on March 19, 2013.
- B. The City Council finds that special consideration must be given to ensure that an excessive number of domesticated animals are not kept at any one residence. A maximum of four domesticated animals shall be allowed by right and more than four shall be allowed only with approval of a major conditional use.

Section 2. Amendment of Chapter 4, Article II

Chapter 4, Article II Dogs, City of Gautier Code of Ordinances, is hereby amended to wit (add underlined):

Add:

Section 4.28 Maximum Number of Dogs Allowed

It shall be unlawful for any person to have more than four (4) domesticated animals, over the age of six (6) months, on any residential premises at any one time. A request for more than four (4) domesticated animals, over the age of six (6) months, must be approved by the City Council through the Conditional Use-Major process.

Section 3. Amendment of Table 3

Article V, Section 5.2.2 Uses Permitted by Right and Conditional Uses, Unified Development Ordinance, is hereby amended to permit Boarding of More Than Four (4) Domesticated Animals as a Conditional Use – Major in AG Agricultural, RE Residential Estate, R-1 Low Density Single-Family Residential, R-1A Medium Density Residential and R-3 Mobile/Manufactured Home Residential Districts, as listed in Table 3.

Section 4. Conflicts

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

Section 5. Severability

If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

Section 6. Effective Date

This Ordinance shall take effect immediately upon approval by the City Council and signature of the Mayor.

Adopted: _____

Tommy Fortenberry, Mayor

Attest:

Approved as to form and legal sufficiency.

Cindy Russell, City Clerk

New language is underlined.
Deleted language is ~~stricken~~.

Gautier Planning Commission

Regular Meeting Agenda

March 7, 2013

VII. NEW BUSINESS

A. LEGISLATIVE

1. CONSIDER AN AMENDMENT TO ARTICLE V OF THE UNIFIED DEVELOPMENT ORDINANCE AND CHAPTER 4 OF THE CITY OF GAUTIER CODE OF ORDINANCES REGARDING NUMBER OF DOGS ALLOWED AT A RESIDENCE (STAFF) (GPC 13-04-UDO)

**CITY OF GAUTIER
STAFF REPORT**

To: Chairman and Members, Planning Commission

From: Babs Logan, Planning Technician

Through: Eric Meyer, Planning and Economic Development Director

Date: February 26, 2013

Subject: Consideration of an Ordinance Amending Chapter 4 Animals and Fowl, of the City of Gautier Code of Ordinances to Allow a Maximum of Five (5) Dogs at a Residence and to Amend Section 5.2.2 of the UDO to Allow Boarding of More Than Five Dogs as a Conditional Use-Major in AG, RE, R-1, R-1A and R-3 Zoning Districts. GPC Case #13-04-UDO

REQUEST:

Council directed Staff to draft an amendment to the Unified Development Ordinance (UDO) and the City of Gautier Code of Ordinances regarding the maximum number of dogs that can be kept at one residence. Chapter 4, Animals & Fowl of the Code of Ordinances is to be amended to allow no more than five (5) dogs, over the age of six (6) months, at a residence and allow the boarding of more than five (5) dogs as a Conditional Use-Major. Article V, Zoning Districts and Specific Regulations, of the UDO is to be amended to allow boarding of more than five (5) dogs as a Conditional Use-Major in AG Agricultural, RE Residential Estate, R-1 Low Density Single-Family Residential, R-1A Medium Density Residential, and R-3 Mobile/Manufactured Home Residential districts.

BACKGROUND:

Staff is frequently asked by citizens, either those who have dogs or those who have complaints about neighbor's dogs, how many dogs are allowed at a residence. Staff finds that neither the UDO nor the Code of Ordinances establishes a maximum for the number of dogs allowed at a residence.

The Amendment Process

Section 4.20 of the City's Unified Development Ordinance (UDO) establishes the procedure to amend the City's Unified Development Ordinance. The Gautier Planning Commission (GPC) shall review a proposal for an amendment and shall make an advisory recommendation to the City Council as to the need and justification for the change.

After due public notice and a recommendation by the Planning Commission, the City Council shall hold a public hearing to consider the adoption of this ordinance amendment. The City

Council may consider approval after a public hearing based on the relevant support materials, testimony at the public hearing, the GPC recommendation, and the Staff Report.

Following an advertised public hearing by the GPC on March 7th, the Ordinance to amend the City's UDO will be considered for approval by the City Council on March 19th.

DISCUSSION:

Staff finds that neither the UDO nor the Code of Ordinances establishes a maximum for the number of dogs allowed at a residence. Establishing a maximum number of dogs allowed and only allowing more than the maximum by approval of a Conditional Use-Major by the City Council will deter an excessive number of dogs at any one residence therefore, eliminating some nuisance problems.

Staff researched codes for neighboring cities and found the following:

Pascagoula – allows no more than five (5) dogs or five (5) cats or an aggregate of five (5) dogs and cats at a single location within the city, with the exception that kittens or puppies born to a cat or dog kept at any such location may be kept for not more than five (5) months from birth.

D'Iberville – allows four (4) domesticated animals, over the age of six (6) months, in any one yard or open premises of a residence of the owner of such animals.

Biloxi – allows six (6) domesticated animals, over the age of six (6) months, in any one yard.

Ocean Springs – allow no more than three (3) dogs per residence.

Moss Point – no maximum number of dogs allowed as long as there are sanitary conditions.

If approved, Chapter 4, Article II, Section 4.28 of the City of Gautier Code of Ordinances shall be amended to read (add underlined):

Section 4.28 Maximum Number of Dogs Allowed

It shall be unlawful for any person to have more than five (5) dogs, over the age of six (6) months, on any residential premises at any one time. A request for more than five (5) dogs, over the age of six (6) months, must be approved by the City Council through the Conditional Use-Major process.

If approved, Article V, Section 5.2.2, Table 3 of the Unified Development Ordinance shall be amended to allow "Boarding of more than five (5) dogs" as a Conditional Use-Major in AG

Agricultural, RE Residential Estate, R-1 Low Density Single-Family Residential, R-1A Medium Density Residential and R-3 Mobile/Manufactured Home Residential districts.

RECOMMENDATION:

Staff recommends approval of the ordinance to amend Chapter 4, Article II, of the City of Gautier Code of Ordinances and Article V, Section 5.2.2, Table 3 of the City's Unified Development Ordinance. The Commission may:

1. Recommend that City Council Approve the Ordinance Amendments; or
2. Recommend that City Council Disapprove the Ordinance Amendments.

ATTACHMENTS:

Ordinance

ORDINANCE

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NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GAUTIER, MISSISSIPPI, THAT THE CODE OF ORDINANCES OF THE CITY OF GAUTIER IS AMENDED AS FOLLOWS:

Section 1. Authority & Intent

- A. The Gautier Planning Commission held a public hearing after due public notice and considered this ordinance on Thursday, March 7, 2013. The City Council conducted a public hearing on March 19, 2013.
- B. The City Council finds that special consideration must be given to ensure that an excessive number of dogs are not kept at one residence within residential districts. A maximum of five dogs will be allowed by right and more than five dogs will be allowed as a major conditional use to ensure the major conditional use is appropriate for the residential area proposed for the boarding of more than five dogs.

Section 2. Amendment of Chapter 4, Article II

Chapter 4, Article II Dogs, City of Gautier Code of Ordinances, is hereby amended to wit (add underlined):

Add:

Section 4.28 Maximum Number of Dogs Allowed

It shall be unlawful for any person to have more than five (5) dogs, over the age of six (6) months, on any residential premises at any one time. A request for more than five (5) dogs, over the age of six (6) months, must be approved by the City Council through the Conditional Use-Major process.

Section 3. Amendment of Table 3

Article V, Section 5.2.2 Uses Permitted by Right and Conditional Uses, Unified Development Ordinance, is hereby amended to permit Boarding of More Than Five Dogs as a Conditional Use – Major in AG Agricultural, RE Residential Estate, R-1 Low Density Single-Family Residential, R-1A Medium Density Residential and R-3 Mobile/Manufactured Home Residential Districts, as listed in Table 3.

Section 4. Conflicts

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

Section 5. Severability

If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

Section 6. Effective Date

This Ordinance shall take effect immediately upon approval by the City Council and signature of the Mayor.

Adopted: _____

Tommy Fortenberry, Mayor

Attest:

Approved as to form and legal sufficiency.

Cindy Russell, City Clerk

New language is underlined.
Deleted language is ~~stricken~~.