

CHAPTER 18

PLANNING

Art. I	In General
Art. II	Planning and Zoning Commission
Art. III	Zoning Administrator
Art. IV	Implementation
Art. V	Appeals
Art. VI	Violations
Art. VII	Penalties
Art. VIII	Administration

State Law Reference - Zoning and planning, generally, Mississippi Code Ann. 1972, Sec. 17-1-1, et seq.

ARTICLE I IN GENERAL

SECTION 101 – It is the intent of this ordinance that the duties of the Mayor and Board of Aldermen (the governing authorities), in connection with this ordinance shall not initially include hearing and deciding questions of interpretation and enforcement, but such questions shall first be presented to the Zoning Administrator. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance the Mayor and Board of Aldermen shall have the duties of:

- (A) Conducting public hearings in accordance with the provisions established in this ordinance or any such hearing as the Mayor and Board of Aldermen determine is in the public interest; and
- (B) Considering the recommendations from the Zoning Administrator or Planning and Zoning Commission relative to zoning ordinances and make decisions to adopt or reject said recommendations. Mayor and/or Board of Aldermen may at their discretion request any recommendation from the Zoning Administrator be referred to the Planning and Zoning Commission prior to consideration; and
- (C) Hearing and deciding questions of interpretation and enforcement on appeal from recommendations of the Zoning Administrator and/or Planning and Zoning Commission; and
- (D) Considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law; and,
- (E) Establishing a schedule of fees and charges as stated in **Section 801**.

ARTICLE II PLANNING AND ZONING COMMISSION

SECTION 201 – Establishment – A Planning and Zoning Commission is hereby established which shall consist of seven (7) members to be appointed by the Mayor and Board of Aldermen, each for a term of three years, with a minimum of five (5) members being registered voters of the City. Each member of the Planning and Zoning Commission serves at the will and pleasure of the Mayor and Board of Aldermen. A member of the Planning and Zoning Commission may be removed from office at any time by the Mayor and Board of Aldermen. Vacancies shall be filled by action of the Mayor and Board of Aldermen for the unexpired term of the member affected.

SECTION 202 – Purpose – When so directed by the Mayor and Board of Aldermen, the Planning and Zoning Commission is to study and recommend changes to the Comprehensive Plan of the City and conduct meetings and hearings.

SECTION 203 – Officers –

- (A) The officers of the Planning and Zoning Commission shall consist of a Chairman, and a Vice-Chairman. The Chairman shall preside at all meetings and hearings of the Planning and Zoning Commission and shall have the duties normally conferred by parliamentary usage on such officers. The Chairman shall be one of the members of the Planning and Zoning Commission. He shall have the privilege of discussing all matters before the Planning and Zoning Commission and of voting hereon. The Vice-Chairman shall act for the Chairman in his absence. The City shall provide a Secretary who will keep minutes of the Planning and Zoning Commission Meetings, prepare agenda of special meetings with the Chairman, provide notice of meetings to Planning and Zoning Commission members, arrange proper and legal notice of hearings, attend to correspondence of the Planning and Zoning Commission and to such other duties as are normally carried out by a Secretary.
- (B) Nominations and elections of the Planning and Zoning Commission officers shall be made from the floor at the first called meeting held after a new Mayor and Board of Aldermen are sworn in. Until same occurs, officers then serving shall hold over. A candidate receiving a majority vote of the entire membership of the Planning and Zoning Commission shall be declared elected and shall serve for one year or until his/her successor shall take office. Vacancies in offices shall be filled by election at the first meeting following the vacancy.
- (C) Special committees may be appointed by the Chairman for purposes and terms which the Planning and Zoning Commission approves.

SECTION 204 – Meetings – All meetings shall be held only when authorized by the Mayor and Board of Aldermen. Meetings are to be held at City Hall at 6:30 p.m. on the date set and noticed. Meetings are to be open to the public. The Planning and Zoning Commission shall adopt rules

necessary to the conduct of its affairs and in keeping with the provisions of this ordinance.

- (A) A request for a special meeting may be made by the Chairman, or by a majority of the members of the Planning and Zoning Commission, or by the Zoning Administrator, such request being made in writing to the Mayor and Board of Aldermen. If authorized by the Mayor and Board of Aldermen, the notice of such meeting shall specify the purpose of the meeting and the secretary shall notify all of the members of Planning and Zoning Commission in writing not less than five (5) days in advance of the meeting.
- (B) The secretary shall keep minutes of the proceedings of the Planning and Zoning Commission showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep a record of its examinations and other official actions, all of which shall be public records and filed in the office of the Zoning Administrator. If the normally designated secretary is not in attendance, the person presiding at the meeting is responsible to do or delegate the task of seeing that minutes are kept.
- (C) A majority of the membership of the Planning and Zoning Commission shall constitute a quorum, and the number of votes necessary to transact business shall be by a majority of the quorum of the Planning and Zoning Commission. Voting may be by roll call. A record of the vote shall be kept as a part of the minutes.
- (D) Order of business at regular meetings shall generally be:
 - (1) Roll Call
 - (2) Conduct any hearings as have been noticed to occur at meeting time
 - (3) Reading of minutes of previous meetings
 - (4) Communication and bills
 - (5) Report of officers and committees
 - (6) Old Business
 - (7) New Business
 - (8) Adjournment

ARTICLE III – ZONING ADMINISTRATOR

SECTION 301- Establishment – The office of Zoning Administrator is established to increase the efficiency and the responsiveness of the City in the administration of the zoning regulations and ordinances. The Zoning Administrator shall act as the coordinator of applications for variances, special exceptions, re-zoning, subdivision development, site plan review, and like applications. Where permission for conditional uses in any district, special exceptions, variances, amendments to zoning districts, mobile home parks, or other factors requires action by the Mayor and Board of Aldermen, any required application and/or plans for same shall first be submitted to the Zoning Administrator who shall review and determine the appropriate action, based on the foregoing sections and subsections.

SECTION 302 – Authority - The Zoning Administrator is hereby granted the authority to interpret the Zoning Ordinances of the City, which interpretation is subject to appeal to Mayor and Board of

Aldermen. The Zoning Administrator may, at his/her discretion, make recommendations to the Mayor and Board of Aldermen or the Planning and Zoning Commission on all matters relative to the Zoning Ordinances of the City.

SECTION 303 – Duties – The duties of the Zoning Administrator are as follows, including any other as directed by the Mayor and Board of Aldermen.

- (A) Provide applicants with any necessary forms, instruction, and public information related to the zoning ordinances of the City of Florence;
- (B) Receive all applications, plans, or petitions, and review same for compliance to the applicable zoning and/or ordinances of the City of Florence;
- (C) Initiate a review by the Architectural Review Committee for any structure and/or building within the designated Architectural Control District;
- (D) Notify applicant within fourteen (14) days of any deficiencies in the application. If the applicant disagrees with any interpretation of the Zoning Administrator, applicant may request that their application be submitted, at the next regularly scheduled meeting of the Mayor and Board of Aldermen, such that same can be considered as and when the Mayor and Board of Aldermen may see fit;
- (E) Enforce all zoning regulations;
- (F) Require applicants to obtain clearance with other local, county, state or federal agencies where such clearance is necessary;
- (G) Maintain records of non-conforming uses;
- (H) Confirm zoning compliance to zoning regulations before issuing a certificate of compliance;
- (I) Conduct investigations of complaints;
- (J) Identify violations of the zoning ordinances and other city ordinances;
- (K) Attend meetings of the Planning and Zoning Commission and Mayor and Board of Aldermen, to provide information helpful to them in their decision process;
- (L) Assist in amendments and re-writes of zoning and other City ordinances; and
- (M) Make recommendations to the Mayor and Board of Aldermen regarding applications for variance, special exception, and re-zone, with the final decision and authority resting with the Mayor and Board of Aldermen.

ARTICLE IV IMPLEMENTATION

SECTION 401 – Introduction

Since a special exception, variance and re-zoning conveys permanent property rights which are not necessarily in accord with existing zoning regulations, same are to be carefully considered. Such exceptions should be approved only after due consideration of the facts of each situation. The overriding issues are whether: the special exception or variance is in the best interest of the public; does not adversely affect the citizens or property values within that zone; the hardship placed upon the applicant is significant and justifies an exception to the zoning ordinance; and the exception is in keeping with the comprehensive plan of the City. A hardship or inconvenience on the part of the applicant is not in and of itself adequate justification for an exception to the

zoning ordinances. No special exception, variance or re-zone should be approved by the Mayor and Board of Alderman without detailed written facts and findings after properly noticed Public Hearing in accordance with **Section 406** justifying the special exception, variance or rezone. Written facts and findings of the required public hearing shall be incorporated by attachment into the minutes of the meeting of the Mayor and Board of Aldermen.

SECTION 402 - Special Exception -

- (A) For clarification purposes, a special exception is defined in Definitions -Section 519(34) of the Zoning Ordinances as: “A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in this zoning ordinance.”
- (B) An Application for Special Exception request shall be submitted to the Zoning Administrator. The Zoning Administrator at his/her discretion may recommend to the Mayor and Board of Aldermen that a public hearing be authorized. A request for a public hearing for a special exception shall not be recommended by the Zoning Administrator unless and until:
- (1) A written application for a special exception is submitted indicating the section of the ordinance under which the special exception is sought and stating the grounds on which it is requested; and,
 - (2) Satisfactory provision and arrangement has been made and indicated concerning the following, where applicable:
 - (a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - (b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
 - (c) Refuse and service areas, with particular reference to the items in (a) and (b);
 - (d) Utilities, with reference to type, dimensions and character;
 - (e) Screening and buffering with reference to type, dimensions and character;
 - (f) Signs, if any, conform to Sign Ordinance of the City of Florence;
 - (g) Required yards and other open space;
 - (h) General compatibility with adjacent properties and other property in the district; and
 - (i) The granting of the special exception will not adversely affect the

adjoining property owners or the public interest.

- (C) The Mayor and Board of Aldermen shall consider the written recommendation of the Zoning Administrator and authorize or deny a public hearing. The Mayor and Board of Aldermen may at their discretion, conduct the public hearing themselves or refer the matter to the Planning and Zoning Commission to hold the public hearing prior to their consideration.
- (D) Upon authorization of a public hearing by the Mayor and Board of Aldermen, notice shall be given in accordance with **Section 406**.
- (E) The Mayor and Board of Aldermen shall consider all information including facts and Written findings and recommendations and then thereafter grant relief sought, all or partially, or deny such relief sought, within its sole discretion, as the Mayor and Board of Aldermen are in no wise obligated to heed such findings, facts and/or recommendations.

SECTION 403 - Variance -

- (A) For clarification purposes, a variance is defined in Definitions - Section 519(29) of the zoning ordinances as: “A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in adjoining zoning district.”
- (B) An application for Variance request shall submitted to the Zoning Administrator. The Zoning Administrator at his/her discretion may recommend to the Mayor and Board of Aldermen that a public hearing be authorized. A request for a public hearing for a variance shall not be recommended by the Zoning Administrator unless and until:
 - (1) A written application for a variance is submitted indicating the section of the ordinance under which the variance is sought and stating the grounds on which it is requested; and
 - (2) Satisfactory provision and arrangement has been made and indicated concerning the following, where applicable:
 - (a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - (b) Off-street parking and loading areas where required, with particular attention to the items in (a) above along with any noise, glare, or odor effects of the variance on adjoining properties and properties generally in the district;

- (c) Refuse and service areas, with particular reference to the items in (a) and (b);
 - (d) Utilities, with reference to type, dimensions and character;
 - (e) Screening and buffering with reference to type, dimensions and character;
 - (f) Signs, if any, conform to Sign Ordinance of the City of Florence;
 - (g) Required yards and other open space;
 - (h) Requested variance will not be contrary to the public interest;
 - (i) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - (j) Literal interpretation of the provisions of this ordinance would result in unnecessary hardship depriving the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and such hardship overrides the interests and property rights of other citizens within that district;
 - (k) Special conditions and circumstances do not result from the applicant; and
 - (l) Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- (C) No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- (D) The Mayor and Board of Aldermen shall consider the written recommendation of the Zoning Administrator and authorize or deny a public hearing. The Mayor and Board of Aldermen may at their discretion, conduct the public hearing themselves or refer the matter to the Planning and Zoning Commission to hold the public hearing prior to their consideration.
- (E) Upon authorization of a public hearing by the Mayor and Board of Aldermen, notice shall be given in accordance with **Section 406**.
- (F) The Mayor and Board of Aldermen shall consider all information including facts and recommendations and acknowledge that:
- (a) The requirements of **Section 403(B)** have been met by the applicant for the variance;
 - (b) The reason set forth in the application justifies the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, or structure; and
 - (c) The granting of the variance with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- (G) The Mayor and Board of Aldermen shall thereafter grant relief sought, all or partially, or deny such relief sought, within its sole discretion, as the Mayor and Board of Aldermen

are in no wise obligated to heed such findings and/or recommendations of the Zoning Administrator or Planning and Zoning Commission.

SECTION 404 - Rezoning -

- (A) An application for a Rezoning Request shall be submitted to the Zoning Administrator. The Zoning Administrator at his/her discretion may recommend to the Mayor and Board of Aldermen that a public hearing be authorized. However, the burden of proof is different and more strict for rezoning than it is for special exception or variance. The applicant must convince the Zoning Administrator, and/or the Planning and Zoning Commission and the Mayor and Board of Aldermen by showing clear and convincing evidence as follows:
 - (1) That there was a mistake in the original zoning; or
 - (2) That the character of the neighborhood has so changed to justify a reclassification of the zone to a more appropriate zone; and,
 - (3) In the event of either (1) or (2) above, clear and convincing evidence must be shown that there is a public need for this rezoning.
- (B) The Mayor and Board of Aldermen may consider the written recommendation of the Zoning Administrator and may authorize or deny a public hearing. The Mayor and/or Board of Aldermen may also, independent of the Zoning Administrator, elect to call a public hearing on a rezoning issue.
- (C) Upon authorization of a public hearing by the Mayor and Board of Aldermen, notice shall be given in accordance with Section 406.
- (D) The Mayor and Board of Aldermen shall thereafter consider all information including facts, written findings and recommendations and then thereafter grant relief sought, all or partially, or deny such relief sought, within its sole discretion, as the Mayor and Board of Aldermen are in no wise obligated to heed such findings, facts and/or recommendations.

SECTION 405 – Initial Zoning of Annexed Areas –

- (A) The Mayor and Board of Aldermen shall authorize and conduct a public hearing or authorize the Planning and Zoning Commission to conduct a public hearing to consider the zoning of all territory which may hereafter be annexed into the City.
- (B) Upon authorization of a public hearing by the Mayor and Board of Aldermen, notice shall be given in accordance with Section 406.
- (C) The Mayor and Board of Aldermen shall thereafter consider all information including facts, written findings and recommendations and then thereafter determine Zoning of said property within its sole discretion, as the Mayor and Board of Aldermen are in no wise obligated to heed such findings, facts and/or recommendations

SECTION 406 - Public Hearings -

- (A) In addition to those required by law the Mayor and Board of Aldermen shall hold public hearings when determined that such public hearings will be in the public interest. At the discretion of the Mayor and Board of Aldermen, such public hearings

may be held by the Planning and Zoning Commission. The public hearing shall be held at a regularly scheduled meeting of the Mayor and Board of Aldermen or at a special called meeting of the Planning and Zoning Commission, the date of which shall be set by the Mayor and Board of Aldermen..

- (B) Public Hearings held by the Mayor and Board of Aldermen or authorized by the Mayor and Board of Aldermen to be held before the Planning and Zoning Commission shall be heard and decided only as specifically authorized by the terms of this ordinance; matters with such conditions and safeguards as set forth as appropriate under this ordinance; or to deny matters when not in harmony with the purpose and intent of this ordinance. After public hearing held by the Planning and Zoning Commission, said Commission shall then make a detailed written finding of facts justifying its recommendation under the rules of this ordinance for the matter under consideration and present said recommendations at the next regularly scheduled meeting of the Mayor and Board of Aldermen.
- (C) The Zoning Administrator shall notify the applicant in writing of the time and place of the public hearing. The applicant or his representative must be present at the public hearing.
- (D) Notice of all such public hearings shall be published in the official newspaper of the municipality or in a newspaper of general circulation at least fifteen (15) days before the time of the public hearing.
- (E) The case before the Mayor and Board of Aldermen, or at their discretion the Planning and Zoning Commission, shall be presented in summary by the Zoning Administrator or his/her designee and all parties in interest shall have the privileges of the floor, subject to the prerogative of the presiding officer.
- (F) A record is to be kept of those speaking at public hearings.

ARTICLE V APPEALS

SECTION 501 – Hearing Appeals -- The Mayor and Board of Aldermen hear all appeals where it is alleged there is an error in any order, requirement, decision, or determination, as directly related to zoning or building compliance; and report their findings to both the aggrieved party/ies and also to the Zoning Administrator or other enforcement official.

SECTION 502 – Time and Manner of Appeals -- Such appeals shall be taken within a reasonable time, not to exceed ten (10) days, by filing with the Zoning Administrator and or his/her designee a notice of appeal specifying the grounds thereof. The Mayor and Board of Aldermen shall fix a time certain for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by attorney. If neither the party or attorney of the party shall appear in person, the appeal is finally dismissed.

SECTION 503 – Appeal to Circuit Court -- Appeals from decisions made by the Mayor and

Board of Aldermen shall be taken within a reasonable time, not to exceed ten (10) days, by filing with the City Clerk a notice of appeal specifying the grounds thereof, said appeal to be heard by the Circuit Court of Rankin County, Mississippi, and otherwise comply with Mississippi law on such appeal.

SECTION 504 – Stay of Proceedings – An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator or other enforcement official certifies to the Mayor and Board of Aldermen, after the notice of appeal is filed, that for reason of facts stated in the certificate, a stay would, in his/their opinion cause imminent peril to life and property. Such stay shall only be overridden by a restraining order which may be granted by the Rankin County Chancery Court, in accordance with *Mississippi Rules of Civil Procedure*.

ARTICLE VI – VIOLATIONS

SECTION 601 – Purpose - The purpose of this section is to provide the method of enforcement of this ordinance and all related ordinances and zoning ordinances of the City of Florence.

SECTION 602 – Enforcement -- In the event the person, partnership, corporation or other entity refuses to abide by any of the requirements of this ordinance or any other ordinance; or in the event all administrative appeals, public hearings and court appeals have been exhausted by the person, partnership, corporation or other entity; then the City of Florence Police Chief, Fire Marshal/Chief, Zoning Administrator or their designee is directed to enforce all of the provisions of this ordinance or any other ordinance in the following manner:

- (A) Enforcement official or designee shall complete a “Violation Form” containing all information of the violation, including address, owner (if known), description of violation, city ordinance violated with copy attached, along with any photographs or other evidence of the violation attached.
- (B) Violation form shall be delivered to the City of Florence Chief of Police, or his designee, with a request for Citation to be issued against the violator.
- (C) Chief of Police or designee shall execute the Citation by personally serving said citation on the violator, requiring appearance of violator at a time and date certain before the City of Florence Municipal Court, which has jurisdiction over all violations of City Ordinances as found in Section 21-23-7(1), Mississippi Code of 1972, as annotated.
- (D) Appeals from decisions made by the Municipal Court shall be taken within reasonable time, not to exceed thirty (30) days, by filing with the City Clerk a notice of appeal specifying the grounds thereof, said appeal to be heard by the County Court of Rankin County, Mississippi.

ARTICLE VII -- PENALTIES

SECTION 701 - The penalties for violation shall be a fine of up to \$1,000.00 per violation and/or up to ninety (90) days in jail, in accordance with Section 21-13-1, *Mississippi Code of 1972*, as annotated. The exact amount of the penalty will be at the discretion of the Municipal Court.

SECTION 702 - The owner or tenant of any building, structure, premises, or part hereof, and any architect, builder, contractor, agent or other persons who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided herein in **Section 701** above.

SECTION 703 - Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation of the zoning ordinances or other ordinances of the City.

ARTICLE VIII ADMINISTRATION

SECTION 801 - The Mayor and Board of Aldermen shall establish a schedule of fees, charges and expenses and a collection procedure for permits, certificates of zoning compliance, appeals and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the City Clerk and the Zoning Administrator, and may be altered or amended only by Order or Resolution of the Mayor and Board of Aldermen. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. Fees shall include the costs of any necessary legal expenses, including publication of public hearings.

SECTION 802 – The regulations restrictions, and boundaries set forth in the Zoning Ordinance may from time to time be amended, supplemented, changed, or repealed, provided however that no such action may be taken until after a public hearing in relation thereto, at which all parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearings shall be published in the *Rankin County News*, or other newspaper of general circulation in the County, but published in Rankin County, Mississippi.

SECTION 803 – When a proposed amendment affects the zoning classification of property, and in case protest against such change is signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 160 feet from the street frontage of such opposite lots, then such amendments shall not become effective except by the favorable vote of three-fifths of the Mayor and Board of Aldermen who are not required by law or ethical considerations to recuse themselves.

SECTION 804 - In the interpretation and application of decisions of change to the zoning ordinances, the provision of the zoning ordinances shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare of the citizens of the City of

Florence. Wherever the requirements of the zoning ordinances are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

CH18PLANNING.02.10.10