

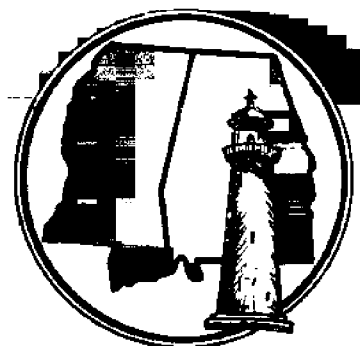
# LAWS RELATING TO GENERAL ADMINISTRATION AND MANAGEMENT

University of Mississippi Law Center

MISSISSIPPI-ALABAMA  
SEA GRANT DEPOSITORY

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**LAWS RELATING TO  
GENERAL ADMINISTRATION AND MANAGEMENT**

**Preliminary Draft**

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## FOREWORD

This volume is one of ten representing a compilation of Mississippi laws which most significantly affect the use and development of the state's marine and coastal zone. This project was conceived and substantially completed by Professor Frank L. Maraist of the University of Mississippi Law Center under the auspices of Mississippi-Alabama Sea Grant Consortium and the University of Mississippi.

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## INTRODUCTION

This category entitled "General Administration and Management" focuses upon those laws of Mississippi which grant to public officials, agencies and governmental subdivisions the power to regulate activities in the state's marine and coastal zone. The order of presentation is (1) those officials, agencies and subdivisions which exercise general jurisdiction throughout the state; (2) those which exercise general jurisdiction throughout a lesser geographical area of the state; (3) those which exercise jurisdiction over special matters throughout the state, and (4) those which exercise jurisdiction over special activities and in a limited geographical area, i. e. , the marine and coastal zone or some portion thereof.

## GENERAL ADMINISTRATION AND MANAGEMENT

### I. GENERAL JURISDICTION

#### A. STATEWIDE

##### 1. CONSTITUTION OF 1890.

The Mississippi Constitution of 1890 provides that the people of the state have the inherent right to regulate the government and police and to alter and abolish their constitution and form of government if not repugnant to the United States Constitution.<sup>1</sup>

The Mississippi Constitution has granted the legislature the power to annex additional territory to the state and settle any boundary disputes with coterminus states.<sup>2</sup>

The county's board of supervisors is composed of a resident freeholder from each of its five (5) districts. A minimum of three (3) supervisors are needed to transact the business of the board. The board has full jurisdiction over roads, ferries, and bridges, exercisable under regulations prescribed by the legislature. The legislature may designate "state highways" and place them under state highway commission control for construction and maintenance. The clerk of the chancery court is the clerk of the board of supervisors.<sup>3</sup>

As long as the State of Mississippi, a county, or a city holds title to real property, adverse possession cannot be perfected.<sup>4</sup> However, in civil cases the statute of limitations does not bar suits against the state, or any subdivision thereof.<sup>5</sup>

The legislature may provide for removal of existing permanent obstructions from the state's navigable waters whenever the public welfare

demands that it be done. Conversely, in the interest of navigation, the legislature can never authorize permanent obstruction of any of the state's navigable waters. However, this does not prevent the construction of railroad draw-bridges, roads, booms, and chutes for logs under proper authority and in such a manner that the safe passage of vessels or logs is not impeded.<sup>6</sup>

When the relief sought can be provided by general law or state courts, no special or local law may be enacted to benefit individuals, private corporations or associations.<sup>7</sup> The legislature has the power to limit or prevent nonresident aliens from holding land in Mississippi and may restrict corporations in their land holdings.<sup>8</sup> Only general (not local) laws can grant ferry, bridge, road or fish trap rights; exempt or levy taxes on property; lay out, open, work or alter highways; vacate a highway, town plat, street, alley or public ground; relate to stock or animal laws, water courses, and fences; empower use of eminent domain rights or grant the right to lay down railroad tracks; or grant state controlled lands to any person or corporation.<sup>9</sup>

Private property of the residents of Mississippi cannot be taken or damaged for public use unless the owner is duly compensated. Any attempt to take private property for a public purpose creates a judicial question of whether the contemplated use is for a public purpose. The judiciary resolves the issue without regard to legislation asserting that the property to be acquired is for a public purpose.<sup>10</sup>

Except in incorporated cities and towns, rights of way for private roads

may be condemned when necessary for ingress or egress after the property owner is duly compensated.<sup>11</sup> State controlled lands may not be donated to private corporations, individuals, railroad companies or sold to corporations or associations for any price below that which an individual would pay for the land. However, the legislature may grant railroads a right of way up to one hundred feet in width across state lands as an easement, and that land cannot be disposed of while the easement is still in effect.<sup>12</sup>

The Mississippi Legislature cannot be prevented from taking the property or franchises of corporations for a public use by limiting the right of eminent domain. Corporations are not permitted to conduct a business that infringes upon the rights of individuals or is against the well-being of the state.<sup>13</sup> Generally, no corporate tax preference may be granted by any state agency. However, the Mississippi Constitution provides that the legislature may encourage public utilities by exempting them from taxation for up to ten (10) years from the date of charter for corporations or from the commencement of work for individuals. Exemptions are granted by general laws which distinctly enumerate the classes of enterprises entitled to exemptions and prescribe how the right to exemptions is determined.<sup>14</sup>

## FOOTNOTES

1. Miss. Const. art. 3, § 6.
2. Id. art. 2, § 4.
3. Id. art. 6, § 170.
4. Id. art. 4, § 104.
5. Id.
6. Id. art. 4, § 81.
7. Id. art. 4, § 87.
8. Id. art. 4, § 84.
9. Id. art. 4, § 90.
10. Id. art. 3, § 17.
11. Id. art. 4, § 110.
12. Id. art. 4, § 95.
13. Id. art. 7, § 190.
14. Id. art. 7, § 182.

## 2. GOVERNOR

The governor of the State of Mississippi is the chief executive and is vested with the powers appropriate to the office.<sup>1</sup> He holds his office for four years until a successor is elected and qualified.<sup>2</sup> Presently the constitution provides that the governor may not succeed himself in office.<sup>3</sup> Generally, it is the duty of the governor to see that the laws of the state are faithfully executed.<sup>4</sup>

The duties of the governor are defined by the constitution and legislature. Many duties are related to membership on state committees and appointive powers for that committee.

The governor is a member of and ex officio chairman of the Mississippi State Building Commission. He appoints eight (8) other members from the qualified electors of the state, and such members serve at the will and pleasure of the governor. Any vacancies on the commission are filled by the governor.<sup>5</sup>

The governor is chairman of the state mineral lease commission, which is designed to conserve and protect, exploit and explore, the natural resources in or under Mississippi public land.<sup>6</sup> The governor also is the chairman of the Research and Development Council and appoints sixteen other members of the council.<sup>7</sup>

The governor is a member of and ex officio chairman of the Mississippi Advisory Committee on Nuclear Energy and appoints up to twenty-five (25)

other members of the committee whose terms of office are coextensive with the appointing governor unless he terminates their appointment.<sup>8</sup>

The governor appoints to the Pearl River Industrial Commission one member each from the counties of Hinds, Leake, Madison, Neshoba, and Rankin, and such other counties through which the Pearl River flows or a county whose boundaries border the Pearl River. The board of supervisors of a county through which or by which the Pearl River flows may associate with the Pearl River Industrial Commission by petitioning the governor.<sup>9</sup>

The governor appoints the members of the governing board of the Tombigbee Valley Authority and designates the chairman and vice-chairman of the Authority.<sup>10</sup> He also appoints the members of the governing board of the Pat Harrison Waterway Commission.<sup>11</sup> Likewise, the governor appoints the members of the board of directors governing the Yellow Creek Watershed Authority.<sup>12</sup>

With the advice and consent of the Mississippi Senate, the governor appoints seven members to the Board of Water Commissioners. The members serve terms of four years each and one (1) is chosen from each congressional district as of 1956 and one (1) from the state at large.<sup>13</sup> This law has remained unchanged despite the fact that Mississippi now has but five (5) congressional districts.

The governor appoints as members of the Tennessee River Basin Water Pollution Control Commission, two (2) officers or employees in the executive branch of the state government whose duties, experience and abilities qualify them for such a position. Additionally, members must be qualified voters of

the state.<sup>14</sup>

The governor appoints four (4) directors, residing within the district, to the Big Black River Basin District to serve for six (6) years or until successors are appointed by the governor.<sup>15</sup> In addition, he appoints four (4) directors, who reside within the district and serve for a term of six (6) years or until their successors are appointed by the governor to the Pearl River Basin Development District.<sup>16</sup> Finally, the governor appoints one (1) director, who resides within the district and serves for a term of six (6) years or until a successor is appointed by the governor, to the Lower Yazoo River Basin District.<sup>17</sup>

The governor may take action to withdraw the State of Mississippi from the compact for the development of a navigable waterway connecting the Tennessee and Tombigbee Rivers. Such action takes effect six (6) months later, and notice of such action is given to the other party states by the secretary of state.<sup>18</sup>

The governor may convey any state lands acquired by tax sale or gift to the United States or its agencies.<sup>19</sup> Should the Mississippi State Highway Commission desire to make a conveyance to the United States, the governor must approve the conveyance.<sup>20</sup>

The governor may authorize the payment of necessary and incidental expenses of any member of the Nuclear Energy Advisory Commission out of

authorized appropriations. Further, he may enter into agreements and act as required to accept responsibilities of the appropriate federal nuclear energy agencies.<sup>21</sup>

Upon the advice of the Mississippi State Livestock Sanitary Board that an emergency exists due to foot-and-mouth disease, or other contagious animal or poultry diseases, the governor may declare a state of emergency and order all diseased animals or poultry quarantined or slaughtered. The governor cooperates with federal agencies in the control of such diseases. In the furtherance of this act the governor may employ necessary personnel to enforce the quarantine and prevent the spreading of diseases. Such personnel are compensated as the governor determines.<sup>22</sup>

The governor may direct the attorney general to protect the state's interest whenever any suit is pending which affects the state's title to property or which may result in a claim against the state. On his own behalf, the governor may bring any proper suit affecting the general interest of the people of Mississippi if the proper officer has refused or neglected to bring the suit upon request.<sup>23</sup>

Any leases of surface or submerged lands of the State of Mississippi by the Mississippi Land Commissioner must be approved by the governor.<sup>24</sup>

Additionally, any easement under or across state lands for the construction and maintenance of pipe lines may be conveyed by the state land commissioner to refiners of oil, gas, and petroleum. However, the conveyances are subject to the approval of the governor and attorney general.<sup>25</sup> The land commissioner may not prosecute suits on behalf of the public lands of the state without consent

of the governor.<sup>26</sup> In connection with the conveyance of land it should be noted that any county board of supervisors within Mississippi acts by and through the governor when it executes any conveyance or deed. In the event that the governor executes the deed, it is attested by the secretary of state.<sup>27</sup>

The governor may order into active service the organized militia, to function under the control of the United States Army, Navy, or Air Force commander in charge of defending any area within the state which is threatened with: invasion or attack, disaster, insurrection, riot, breach of the peace, or opposition to the enforcement of law by force or violence. Such an order is confirmed in writing by the governor and states the area into which the militia was ordered. When the organized militia is ordered into active service, the governor declares a state of emergency in the locality and confirms his declaration in writing.<sup>28</sup>

In the event of a state of emergency, the governor may call the un-organized militia into the service of the state. A state of emergency exists in case of war, rebellion, invasion, tumult, riot, breach of the peace, public calamity or other state or national emergency. Before the organized militia are called out, the governor first calls out for service the National Guard and the Mississippi State Guard.<sup>29</sup>

The governor may proclaim martial law, if he deems it necessary to

preserve law and order, by specifying the forces to be used and the degree of martial law in writing.<sup>30</sup>

Because of the possibility of natural disasters or enemy attacks, it is necessary that a Mississippi Civil Defense Council and local civil defense councils be formed to provide for mutual aid throughout the state, with other states, and the federal government. All civil defense functions of the Mississippi Civil Defense Council are coordinated with the comparable functions of the federal government.<sup>31</sup>

The director of the state civil defense council is appointed by the governor who is responsible for the state civil defense program. He coordinates all civil defense activities within the state and maintains liaison and cooperation with other states and the federal government.<sup>32</sup>

If an emergency should arise the governor is able to procure supplies, medicines, materials and equipment. Further, he may employ any of the property, services, and resources within the state.<sup>33</sup> During the emergency the governor has the power to order the screening of all lighting devices, to shut off water mains, gas mains, electric power connections, and to suspend all other utility services.<sup>34</sup>

In the event of an actual enemy attack on Mississippi, the governor, with the advice and consent of the civil defense council, may declare a state of emergency and thereafter exercise emergency powers, including enforcement of civil defense regulations, control of all civil defense forces in the state, purchase of supplies and services for civil defense purposes and calling

upon persons and firms to furnish their services and supplies needed for protection of the public. The governor may also commandeer, for the protection of the public, private property including all means of transportation and communication. He may sell, lend, or distribute such personalty utilized among the state's inhabitants, but must account for any funds received for the property utilized and pledged by the full faith and credit of the state. If the governor and property owner cannot agree on the amount of compensation, the state eminent domain statutes control.<sup>35</sup>

Local civil defense councils may enter into mutual aid agreements for reciprocal civil defense aid with other local councils. Such agreements are to be consistent with the State Civil Defense Plans and Programs. With the approval of the governor and the state civil defense plan, the director of each local organization may enter into mutual aid arrangements with civil defense agencies or organizations in other states.<sup>36</sup>

The equipment for the state civil defense program is acquired through express funds for that purpose or through funds provided by the Mississippi State Building Commission.<sup>37</sup> The governor utilizes existing services and facilities to the maximum extent practicable, and agencies are to cooperate in extending them upon request.<sup>38</sup>

Except in cases of willful misconduct, neither the state nor its representatives is liable for death or injury to any person or damage to property while

attempting to comply with the civil defense laws. Nor is the person whose premises are utilized under the civil defense laws civilly liable.<sup>39</sup>

## GOVERNOR

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. Miss. Const. art. 5, § 116.

2. § 23-5-93.

3. Miss. Const. art. 5, § 116.

4. Id. art. 5, § 123.

5. § 31-11-1.

6. § 29-7-1.

7. § 57-13-17.

8. § 57-25-3.

9. § 51-9-1.

10. § 51-13-1.

11. § 51-15-1.

12. § 51-25-1.

13. § 51-3-15.

14. § 49-17-75.

15. § 51-17-5.

16. § 51-11-5.

17. § 51-23-5.

18. § 51-21-1.

19. § 55-5-9.

20. § 55-5-7.

21. § 57-25-7.

22. § 69-15-109.
23. § 7-1-5.
24. § 29-1-107.
25. § 29-1-101.
26. § 29-1-7
27. § 55-5-11.
28. § 33-7-301.
29. § 33-5-9.
30. § 33-7-303.
31. § 33-15-3.
32. § 33-15-5.
33. § 33-15-11.
34. § 33-15-11.
35. § 33-15-13.
36. § 33-15-19.
37. § 33-15-25.
38. § 33-15-29.
39. § 35-15-21.

## B. REGIONAL

### I. DISTRICT ATTORNEY

The district attorney represents the elective law enforcement officer between the county attorney and the attorney general of Mississippi. The district attorney possesses all the qualifications of county officers, and in addition is a licensed and practicing attorney who has been admitted to practice before the Supreme Court of Mississippi for a period of two (2) years.<sup>1</sup> Mississippi law provides that at the election of 1971, and every four (4) years thereafter, there shall be elected district attorneys for the several districts.<sup>2</sup> All district attorneys hold their offices for a term of four (4) years until successors are elected and qualified. The district attorneys are elected in the manner prescribed in Section 140 of the Mississippi Constitution of 1890.<sup>3</sup>

As the intermediary between county attorneys and the attorney general's office, there is a standing duty of every district attorney to assist the attorney general's office whenever that office requests his services.<sup>4</sup> The district attorney appears to prosecute all criminal and civil cases in which his district or the State of Mississippi may be interested.<sup>5</sup> He attends the deliberations of the grand jury and provides them with the necessary legal information in each case.<sup>6</sup>

The district attorney on behalf of the state or county prosecutes all suits to set aside fraudulent conveyances designed to hinder or defraud a public agency creditor.<sup>7</sup> It is the duty of the district attorney to prosecute those who unlawfully enter upon land belonging to the State of Mississippi or those persons who unlawfully take possession of any personal property belonging to the State

of Mississippi.<sup>8</sup>

The district attorney in cooperation with the sheriff, constable, game warden, and county prosecuting attorney inquires as to any violation of the act creating the state forestry commission (Miss. Code Ann. § 6046-01 et seq.).<sup>9</sup>

The district attorney is bound to prosecute or defend the state in his district in all causes, civil or criminal, arising under the State Game and Fish Act (Miss. Code Ann. § 5841 et seq.) or any law or regulation protecting wild animals in which the State of Mississippi may be interested.<sup>10</sup> It is also the duty of the district attorney to prosecute violations of the Economic Poisons Act (Miss. Code Ann. §§ 5000-01 to 5000-30) when any violations are reported to him.<sup>11</sup>

It is the duty of the district attorney, upon receipt of information from the tax assessor, to present to the grand jury the cases of persons who willfully neglect or refuse to give in taxable property as required by law.<sup>12</sup>

At the request of the Mississippi Board of Agricultural Aviation, the district attorney is to assist in carrying out the penalties of the Agricultural Aviation Licensing Act (Miss. Code Ann. §§ 5011-01 to 5011-15).

When notified by the State Board of Health of the existence of anything calculated to produce, aggravate, or cause the spread of an epidemic or otherwise adversely affect the public health, the district attorney commences proceedings to abate such nuisance.<sup>14</sup> Whenever a nuisance exists, the district attorney brings an action in equity in the name of the State of Mississippi to abate such nuisance and to perpetually enjoin the person or persons from further maintenance

of the nuisance.<sup>15</sup> In case the nuisance is established in a criminal proceeding, it is the duty of the district attorney to proceed promptly in an action at law. A verdict of guilty is conclusive against the defendant as to the existence of the nuisance.<sup>16</sup>

It is the duty of the district attorney to prosecute and defend for the state all causes, criminal or civil, arising under the rules and regulations of the Mississippi Boating Act of 1960 in which the state may be interested.<sup>17</sup>

In addition to cooperating with the aforementioned state and county agencies, the district attorney cooperates with the state land commission in any suit brought on behalf of public lands of the state.<sup>18</sup> The Mississippi Attorney General cooperates with any district attorney whenever public service requires the assistance or whenever the Governor of Mississippi directs the attorney general to lend his assistance.<sup>19</sup> The attorney general may direct any district attorney to aid in suits on behalf of the Mississippi State Tax Commission in the district attorney's district, however, the attorney general prepares all bills, declarations, motions and pleadings to be filed in the suit.<sup>20</sup>

The jurisdiction of the district attorney is set by the Mississippi Legislature and is normally the same as the circuit court jurisdiction. For instance, the circuit court has jurisdiction over prosecutions by the district attorney of violations of the Mississippi Economic Poisons Act.<sup>21</sup>

The district attorney has discretionary powers which may be exercised for the benefit of the state. For example, the district attorney represents the Commissioner of Agriculture and Commerce when so requested. However, the Commissioner of Agriculture and Commerce may also request the Mississippi

Attorney General's office or a county attorney to represent the Board.<sup>23</sup> The district attorney may be requested to institute proceedings against those who violate the Mississippi Weight and Measures Act.<sup>23</sup>

Generally the district attorney may be penalized in the same manner as other county and state officials. He may not reveal facts concerning an indictment returned against a defendant in a criminal proceeding and should the district attorney do so he is liable for a fine up to two hundred dollars (\$200.00).<sup>24</sup>

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)].

1. § 25-31-1.
2. § 23-5-93.
3. Id.
4. § 7-5-37.
5. § 25-31-11.
6. § 25-31-13.
7. § 25-31-25.
8. § 11-45-7.
9. § 49-19-73.
10. § 49-5-45.
11. § 69-23-11.
12. § 27-35-43.
13. § 69-21-125.
14. § 41-23-13.
15. § 95-3-5.
16. § 95-3-21.
17. § 59-21-151.
18. § 29-1-7.
19. § 7-5-53.
20. § 29-1-137.
21. § 69-23-11.
22. § 69-25-45.

23. § 75-27-221.

24. § 97-9-53.

## C. COUNTY

### 1. COUNTY ATTORNEY

Each county in the State of Mississippi is entitled to establish the office of county attorney, but the office is not required to be established. County attorneys hold office for four (4) years or until successors are elected and qualified. County attorneys are elected in the manner prescribed in Section 140 of the Mississippi Constitution of 1890.<sup>1</sup> There is, in counties where such an office (county attorney) now exists, a county prosecuting attorney who is elected in the county at each general election for state and county officers.<sup>2</sup>

The office of county attorney may be created in the following manner. Upon presentation of a petition containing the signatures of twenty (20) per cent of the qualified electors of a county, the board of supervisors of the county holds an election, at least sixty (60) days later, to determine if the county is to have a county attorney. However, there is no such election within two (2) years of the abolishment or establishment of the office.<sup>3</sup> In addition to the filing of a petition by the electorate, the board of supervisors may, by their own motion, re-establish the office of county attorney, provided: their intentions are made public; that no petition by twenty (20) per cent of the electors against the office is received; and that there has been no election for or against the office in the previous two (2) years.<sup>4</sup>

If the office of county attorney has been re-created, then the governor

appoints an attorney to fill the office until the next general election at which time the county attorney is elected as provided for by law.<sup>5</sup> The county attorney must be a regular licensed and practicing attorney.<sup>6</sup>

In the absence of a county attorney, the county board of supervisors or the governing authorities of a municipality may employ a firm of attorneys for representation rather than one regular attorney.<sup>7</sup> If a county has abolished or does abolish the county prosecuting attorney's office, the board of supervisors may hire a competent attorney to specially prosecute criminal cases in that county.<sup>8</sup> When two or more attorneys are associated for the practice of law, if one becomes the county or district attorney, no partner of his may appear to defend any person charged with a felony or misdemeanor.<sup>9</sup> Likewise, since the county attorney is charged with representing the State of Mississippi at the county level, he may not defend a person charged with a criminal offense, nor give advice against the interests of the county or state.<sup>10</sup>

The office of the county attorney becomes vacant if the county attorney moves out of the county, or if the county attorney resigns. The Mississippi Constitution of 1890 empowers the governor to remove the county attorney, or any elected county officer, if the official knowingly or willfully fails, neglects or refuses to perform any duty required by law.<sup>11</sup>

The county prosecuting attorney is the prosecuting attorney of the county court and he prosecutes all cases so required by law. Additionally, the county attorney assists the district attorney in the prosecution of all cases appealed from the county court to the circuit court, in which it is the duty of the county attorney or district attorney, under the law, to appear and prosecute.<sup>12</sup>

The county attorney represents the state in felony investigations before the justices of the peace in the county and represents the state in all criminal prosecutions in county court. The county attorney also assists other law enforcement officers of the county who have questions of law to be answered.<sup>13</sup> The justices of the peace should arrange their hearings so that the county attorney can attend as many as possible.<sup>14</sup>

In addition to his duties in the justice of the peace and county courts, the county prosecuting attorney assists the district attorney in all criminal cases in the circuit court and in all civil cases, where the services of the district attorney are required, in which the state, county or any municipality of the county is interested; and it is the duty of the county attorney to represent the state in all matters coming before the grand jury of the county, and to approve or disapprove all accounts against the county before the same are allowed by the circuit court, but approval or disapproval is subject to the ratification of the district attorney.<sup>15</sup>

If it appears that a person has died as a result of criminal means, the county attorney may order the county coroner upon a written motion to conduct an autopsy.<sup>16</sup> The county coroner is required upon receipt of the written motion to conduct the autopsy.<sup>17</sup> Should the next of kin object to the performance of the autopsy, the county attorney may petition the county judge for an autopsy order. The sworn petition contains allegations that the deceased died by criminal means or agency and that the cause of justice would be served by granting the autopsy.<sup>18</sup> When an autopsy is performed it is the duty of the person performing the autopsy to forward to the circuit clerk a report. The

circuit clerk makes such reports available to the county attorney.<sup>19</sup>

It is the duty of the county attorney to prosecute all cases relating to abandonment or failure to support children in which the complainant is a state or county public welfare official.<sup>20</sup> The county attorney also aids in the prosecution of parents who willfully neglect or desert children under the age of sixteen (16) years. Additionally, the county attorney has the duty to prosecute violation of the Mississippi Aid to Dependent Children Act<sup>21</sup> and upon request of the court, represent complainants in actions based on the Uniform Reciprocal Enforcement of Support Law.<sup>22</sup>

When a habeas corpus proceeding has been instituted in a county court, the county attorney represents the respondent.<sup>23</sup>

The county attorney also prosecutes persons who have in their possession dogs over the age of six (6) months which have not been inoculated against rabies.<sup>24</sup>

The county attorney enforces laws prohibiting the sale, use, or possession of certain drugs<sup>25</sup> and caustic poisons.<sup>26</sup>

The county attorney prosecutes those persons who reside in the county and have changed, mutilated, or defaced any number awarded a vessel by the Mississippi Board and Water Safety Commission.<sup>27</sup> It is the duty of each district attorney and each county attorney to prosecute and defend, for the state, in all courts of the county or counties in his district or county, all causes criminal or civil, arising under the provisions of the Mississippi Boating Act of 1960, sections 59-21-1 thru 59-21-163, Mississippi Code of 1972, Recompiled.<sup>28</sup>

The county attorney may prosecute any tax collector or tax assessor in the county who violates or fails to comply with the provisions of the Mississippi Motor Vehicle Act.<sup>29</sup>

The jurisdiction of the county attorney lies wholly within the boundaries of the county; however, his duties to prosecute are not confined to any particular court. Previously, misdemeanors and non-capital felonies which were instituted in circuit court could be transferred to the county court for prosecution by the county attorney.<sup>30</sup> Since there is now no reason for the distinction between capital and non-capital offenses, it may be assumed that the county attorney prosecutes any felony in the county court. Some of the county attorney's duties may require him to appear in more than one court of the state. For example, the county attorney, in the name of the State of Mississippi, may bring an action in chancery court to abate a nuisance.<sup>31</sup> And if the nuisance was of a criminal nature he may also prosecute the nuisance in a criminal action in the county court.<sup>32</sup> The county attorney's powers to prosecute extend to all parts of the county. For instance, he has the duty to prosecute those using gambling devices in a public place or a private club on land or on water.<sup>33</sup>

A number of the county attorney's duties require cooperation with other county and state officials and commissions other than those previously mentioned. Although the county board of supervisors is not required to, they may employ the county attorney for representation. In that case the county attorney receives an additional fee provided by law.<sup>34</sup> If the county is aggrieved by a

decision as to the assessment of taxes by the county board of supervisors or municipal authorities, the county attorney may appeal the decision to the circuit court of the county within twenty (20) days of the decision.<sup>35</sup> Should it appear that the county board of supervisors has paid fraudulent claims, the county attorney recovers the amount in a civil action at law.<sup>36</sup>

The county attorney's duties demand extensive cooperation with state officers and agencies. As indicated earlier, the county attorney assists the district attorney in criminal cases appealed from the county court to the circuit court.<sup>37</sup> In addition to these appeals, the county attorney lends his assistance to the district attorney or the attorney general when an action is brought to quiet title or confirm a state land patent in chancery court.<sup>38</sup> The attorney general of Mississippi may direct the county attorney to bring an action to compel forfeitures and fines owed to the state by those who have violated the Mississippi Meat Inspection Act.<sup>39</sup> Similarly, the attorney general may direct the county attorney to prosecute actions for past due taxes in the name of the State of Mississippi.<sup>40</sup>

Numerous statutes require the county attorney to cooperate with various state agencies in the enforcement of their rules and regulations. To assist the county attorney in rendering opinions and suggestions to the legislature, the provisions of the Mississippi Lobbying Act do not apply to a county attorney acting in his official capacity.<sup>41</sup>

Upon the request of the commissioner of agriculture the county attorney prosecutes those who have violated the Mississippi State Seed Act,<sup>42</sup>

and the Mississippi State Weights and Measures Act.<sup>43</sup> The county attorney also enforces the provisions and penalties of the Mississippi Agricultural Aviation Licensing Law.<sup>44</sup>

It is the duty of the county attorney to prosecute and defend for the State, in all courts of his county, all causes, criminal or civil arising under the laws or regulations of the Mississippi Game and Fish Commission.<sup>45</sup>

The Mississippi Highway Commission may request the county attorney to assist in any condemnation suit brought to acquire a right of way for the Natchez Trace Parkway.<sup>46</sup>

The county attorney cooperates with the Mississippi Forestry Commission and aids in the reporting and prosecution of those who violate the forestry laws of this state.<sup>47</sup>

The Mississippi State Board of Health, when informed by a county health officer of the existence of any matter or thing calculated to produce, aggravate, or cause the spread of any epidemic or contagious disease, or to affect injuriously the health of the public or community, may declare the same as a nuisance. When this is done the county attorney of the county where the nuisance exists may be notified and commence proceedings in the circuit court to abate the nuisance.<sup>48</sup>

The Mississippi State Polygraph Examiners Board may request the county attorney to represent the board whenever the board's rulings are subject to judicial review.<sup>49</sup>

The county attorney may be required to assist the Mississippi State Tax Commission in hearings on the state's sales tax laws.<sup>50</sup>

The county attorney assists the Mississippi Alcoholic Beverage Commission in injunctive actions when so requested by the commission chairman.<sup>51</sup> The county attorney may also institute proceedings against violators of the state liquor laws. After the filing of the charge the county attorney or the district attorney may prosecute.<sup>52</sup>

It should be noted that the state agencies in most instances may also request the aid of the attorney general and the district attorney instead of the county attorney.

COUNTY ATTORNEY  
FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)].

1. § 23-5-93.
2. § 19-23-1.
3. § 19-23-3.
4. § 19-23-5.
5. § 19-23-7.
6. § 19-23-9.
7. § 19-3-47.
8. § 19-3-49.
9. § 73-3-44.
10. § 19-23-13.
11. § 25-1-39.
12. § 39-9-31.
13. § 19-23-11.
14. § 19-23-17.
15. Id.
16. § 19-21-29.
17. § 19-21-65.
18. § 41-37-9.
19. § 41-37-13.
20. § 93-9-43.
21. § 43-17-27.

- 22. § 93-11-23.
- 23. § 11-43-9.
- 24. § 41-53-13.
- 25. § 19-23-11.
- 26. § 41-29-17.
- 27. § 59-21-33.
- 28. § 59-21-151.
- 29. § 27-19-165.
- 30. § 9-9-27.
- 31. § 95-3-5.
- 32. § 95-3-21.
- 33. § 95-3-25.
- 34. § 19-23-15.
- 35. § 11-51-77.
- 36. § 19-13-77.
- 37. § 19-23-11.
- 38. § 11-17-15.
- 39. § 75-35-317.
- 40. § 7-5-55.
- 41. § 5-7-11.
- 42. § 69-3-25.
- 43. § 75-27-221.
- 44. § 69-21-125.

45. § 49-5-45.

46. § 55-13-21.

47. § 49-19-73.

48. § 41-23-13.

49. § 73-29-39.

50. § 27-65-87.

51. § 67-1-89.

52. § 67-3-31.

## 2. COUNTY BOARD OF SUPERVISORS

Each county in the State of Mississippi is divided into five (5) districts, with due regard to equality of population and convenience of situation for the election of members of the board of supervisors. The qualified electors of each district elect, in the general elections held every four years, one member of the board of supervisors.<sup>1</sup> The person elected must be a resident freeholder of the district in which chosen, and the owner of real estate of the value of one thousand five hundred dollars (\$1500).<sup>2</sup> Each member of the board of supervisors, before entering upon the duties of office, executes a bond with sufficient sureties, payable, conditioned and approved as bonds of county officers are required to be, in a penalty equal to five (5) per cent of the sum of all the state and county taxes collected in the county for the year immediately preceding the commencement of the term of office.<sup>3</sup> This bond is security for any illegal act of such member and recovery may be had by the county for any injury by the illegal act of the member, or any taxpayer of the county may sue on the bond for the benefit of the county.<sup>4</sup>

Three members of the board of supervisors constitute a quorum, and in case that number does not attend on the first day of any regular, adjourned, or special meeting, the sheriff may adjourn the meeting until the following day but no longer.<sup>5</sup>

Meetings of the board of supervisors vary with the number of court

districts in the county. In counties having only one court district, the board of supervisors hold regular meetings at the courthouse or in the chancery clerk's office on the first Monday of each month. When the meeting date falls on a legal holiday, then the meeting is held on the succeeding day.<sup>6</sup> In counties having two (2) court districts, the board of supervisors may have one or two regular meetings each month. When only one meeting a month is held, the board holds its meeting in the courthouse or chancery clerk's office in the first district on the first Monday of January. The board's second meeting is held the first Monday of February, and alternates thereafter. If the board decides to have two meetings a month, the first meeting is held on the first Monday of each month in the courthouse or chancery clerk's office of the first district. The second meeting of the month is held on the second Monday of the month in the courthouse or chancery clerk's office of the second district. Again, if the meeting falls on a legal holiday the meeting is held on the succeeding day.<sup>7</sup>

The board of supervisors may at a regular meeting, by an order upon its minutes, adjourn to meet at any time it may agree upon. The president, or the vice-president of the board in the absence or disability of the president, or any three members of the board, may call special meetings when deemed necessary. If possible, five (5) days public notice is given of any special meetings. Emergencies require a twenty four (24) hour notice to each board member.<sup>8</sup>

It is the duty of the clerk of the board of supervisors (this is an

additional duty of the clerk of the chancery court) to keep and preserve a complete and correct record of all proceedings and orders of the board. The clerk enters on the minutes the names of the members who attend each meeting, and the names of those who fail to attend. Additionally, the clerk safely keeps and preserves all records, books, and papers pertaining to the office, and delivers them to a successor when required. The minutes of each day are read and signed by the president on or before the first Monday of the month following the day of adjournment of any term of the board.<sup>9</sup>

Each member of the board of supervisors is exempt from working on the roads, from serving in the militia, and from jury service during term of office.<sup>10</sup>

No member of the board of supervisors may have an interest in or receive money from any contract made by the board for any purpose.<sup>11</sup> Nor may any member of the board of supervisors knowingly vote to let a contract to any relative, of any member of the board of supervisors, by blood or marriage within the third degree as computed by the civil law.<sup>12</sup> It is unlawful for a member of the board of supervisors or any relative within the third degree as computed by civil law to furnish teams, wagons, or road machinery for the maintenance or construction of public highways or bridges.<sup>13</sup> A member of the board of supervisors who violates the restrictions of this paragraph is guilty of a misdemeanor and upon conviction is fined not less than twenty five (\$25) dollars nor more than five hundred (\$500) dollars, or not more than six (6) months in the county jail or both. Upon conviction the board member is removed from office.<sup>14</sup>

The county board of supervisors administers the business of each county in Mississippi. The supervisors have the duty to provide certain facilities and services for the use of the county and may contract for work and supplies for the benefit of the county. Additionally, the board properly furnishes the courthouse, supplies county offices with necessary supplies, and provides for the safe keeping of records. These services are paid for out of the county treasury upon order of the circuit or chancery court.<sup>15</sup>

At least once every three months the board of supervisors examines the condition of the county jail in regard to safety, sufficiency, and accommodation of prisoners. The board may take legal measures to secure the prisoners against escape, sickness, and infection. If the sheriff has neglected the duty of keeping the jail or prisoners, the board may impose a fine of a sum not exceeding one hundred (\$100) dollars.<sup>16</sup>

The boards of supervisors of the respective counties temporarily provide care and maintenance of any person alleged to be insane when the person has no means of paying such expense.<sup>17</sup>

The board of supervisors may enter into contracts on behalf of the

county. Where the contract price is greater than one hundred (\$100) dollars there is three weeks public notice for the submitting of bids.<sup>18</sup> Before the board makes payment for any contract from two hundred (\$200) dollars to one thousand (\$1000) dollars, the work performed is inspected by two members of the board from districts other than the one in which the work was done.<sup>19</sup> The board may not enter into a contract for public works in vacation, except for emergency road work. All other contracts are made and approved by the board in open session. The board accepts the lowest possible bid which conforms to the requirements of the work to be done.<sup>20</sup>

The board of supervisors has within the respective counties full jurisdiction over roads, ferries, and bridges, except as otherwise provided by section 170 of the Mississippi Constitution of 1890. The board also has jurisdiction over the subject of paupers, and the power to levy taxes as may be necessary to meet the demands of the respective counties within the limits set by law.<sup>21</sup> Upon the filing of a petition touching any manner affecting the entire county, signed by twenty five (25) per cent of the qualified electors, the board of supervisors may order a county election on the proposition of the petition.<sup>22</sup> The board by a three-fifths (3/5) vote of all members or when ordered by a petition of the electorate may at any time change or alter the boundaries of the five (5) districts. In the event that the boundaries of the districts are altered by the order of the board, the order is published in a newspaper having general circulation in the county once each week for three (3) consecutive weeks. If twenty (20) per cent of the qualified electors of the county, or fifteen hundred (1500) of the qualified electors of the county, which-

ever is less, present the board with a petition objecting to the change or alteration within sixty (60) days after the adoption and final publication of the order, then the board calls an election, after publishing notice of the election in a newspaper having general circulation in the county once each week for three (3) consecutive weeks.<sup>23</sup>

In addition to the duties and jurisdictional powers set out above, the board of supervisors is vested with special powers that may be exercised in the board's discretion. The individual members of the board are conservators of the peace within their respective counties and possess the powers which belong to the justices of the peace.<sup>24</sup> Collectively the board has the power to subpoena witnesses in all matters coming under its jurisdiction and to fine and imprison any person for contempt committed while the board is in session. The fine is not to exceed fifty (\$50) dollars, and the imprisonment not to exceed beyond the continuance of the term. The person fined or imprisoned may appeal to the circuit court, as in other cases, from the order or judgment of the board, and such appeal operates as a supersedeas.<sup>25</sup>

The board may prohibit or regulate the sale of fireworks in the county,<sup>26</sup> and a bounty of up to five (\$5) dollars for nutria and beaver or bobcats should these animals become a nuisance.<sup>27</sup>

The board of supervisors is authorized to purchase,<sup>28</sup> sell,<sup>29</sup> and lease<sup>30</sup> land and any mineral rights in the county.

The board of supervisors of any county in the State of Mississippi may establish economic development districts for the county and do everything

within its power to secure and further industrial development of the county, to advertise the natural resources of the county, and the county's ability to maintain the same.<sup>31</sup> The board may levy a tax of not more than one (1) mill against all of the assessed valuation of the property in the economic district for the purpose of securing funds with which to finance the advertising program.<sup>32</sup>

The board of supervisors of any county which finds that the public interest of the county will be served, may purchase, operate, and maintain any fire-fighting equipment.<sup>33</sup> In the interest of crime prevention the board may purchase hounds of the best breeding and training. The hounds are entrusted to the sheriff for safe keeping and handling.<sup>34</sup> The board may also purchase radio sets for the sheriff's office and mobile units for cars and boats.<sup>35</sup>

The county as a political unit of the state may sue and be sued.<sup>36</sup> The board may employ the county attorney, or any other attorney to represent the board in legal matters.<sup>37</sup> To finance virtually all improvements in the county, the board is authorized to issue bonds in accordance with the Uniform System for Issuance of County Bonds. The maximum amount of bonded indebtedness for a county in the state is ten (10) per cent of the assessed value of the taxable property of the county.<sup>39</sup> The board of supervisors directs the appropriation of money that comes into the county treasury, but may not appropriate the same to an object not authorized by law.<sup>40</sup>

Any board of supervisors may pay damages sustained to stock and other property injured or destroyed by virtue of a defect in a bridge, causeway, or culvert on a highway maintained by the county.<sup>41</sup>

The coastal counties and those counties with common boundaries with the coastal counties have received special consideration by the Mississippi Legislature. Recognizing the peculiar needs of these counties, certain statutes apply only to these counties. Some of these statutes either expand or restrict the authority of the county board of supervisors.

The board of supervisors for each county participating in the Pearl River Industrial Commission submits a list of three names, from which one member of the Commission is appointed by the Governor.<sup>42</sup>

Counties bordering on the Gulf of Mexico with an assessed valuation of less than five million (\$5,000,000) dollars may levy no more than two (2) mills on the dollar each year upon all the taxable property of the county for the purpose of defraying the expenses of the courts of the county.<sup>43</sup>

The sheriff of Harrison county has jurisdiction over both judicial districts of the county.<sup>44</sup> The board of supervisors for Harrison county meets alternately in Gulfport or Biloxi.<sup>45</sup>

Cities in counties bordering on the Gulf of Mexico may appropriate money to provide and maintain charity wards in hospitals.<sup>56</sup> All counties, including the coastal counties, have the power to exempt new industries in the county from the ad valorem taxes of the county for ten (10) years.<sup>47</sup>

The members of the board of supervisors may be penalized on their bonds,<sup>48</sup> fined for absence at meetings,<sup>49</sup> penalized for nepotism in contracts,<sup>50</sup> or for having a monetary interest in a contract.<sup>51</sup>

## COUNTY BOARD OF SUPERVISORS

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)].

1. § 19-3-1.
2. § 19-3-3.
3. § 19-3-5.
4. Id.
5. § 19-3-23.
6. § 19-3-11.
7. § 19-3-13.
8. § 19-3-19.
9. § 19-3-27.
10. § 19-3-37.
11. § 19-13-1.
12. § 19-13-3.
13. § 19-13-5.
14. § 19-13-17.
15. § 19-7-23.
16. § 19-5-1.
17. § 19-5-43.
18. § 19-13-9.
19. § 19-13-15.
20. § 19-13-11.
21. § 19-3-41.

22. § 19-3-55.
23. § 19-3-1.
24. § 19-3-39.
25. § 19-3-51.
26. § 19-3-41.
27. § 19-5-51.
28. § 19-7-1.
29. § 19-7-3.
30. Id.
31. § 19-5-94.
32. § 19-9-111.
33. § 19-9-104.
34. § 19-5-3.
35. § 14-5-5.
36. § 11-45-17.
37. Employment of Attorney § 19-3-47; Employment of County Attorney § 19-23-13.
38. § 19-9-1.
39. § 19-9-5.
40. § 19-3-59.
41. § 19-13-53.
42. § 51-9-1.
43. § 19-9-95.
44. § 19-25-85.

- 45. § 19-3-15.
- 46. § 21-19-7.
- 47. § 27-31-101.
- 48. § 19-3-5.
- 49. § 19-3-23.
- 50. § 19-13-3.
- 51. § 19-13-1.

### 3. CORONER

Article five, section 135 of the Mississippi Constitution of 1890 provides for a coroner in each county of the state. The coroner holds office for four years<sup>1</sup> and is immediately eligible to succeed himself in office.<sup>2</sup> The coroner is elected in the manner prescribed in section 140 of the Mississippi Constitution.<sup>3</sup> Prior to serving in the office, the coroner takes the oath of office and enters into bond, with two or more sufficient sureties, in the sum of two thousand dollars (\$2000), conditioned according to law; and if, by death, resignation or other disability of the sheriff, the coroner acts as sheriff, he gives bond in the amount required of the sheriff of the county, with the same conditions and provisions.<sup>4</sup> If there is a vacancy in the office of sheriff, and no deputy to act as authorized by law, e.g., in case of the death of the sheriff, or the sheriff is a party or interested in any suit, or for other cause is incapable or unfit to execute the office, or has outstanding against him a warrant for arrest, duly executed by any justice of the peace, mayor or police justice of the county in which he is sheriff, the coroner of the county during the vacancy, performs any and all duties of the sheriff's office. In case of neglect or breach of the duties of sheriff the coroner is subject to the same penalties, damages, and proceedings as sheriffs are in like cases.<sup>5</sup>

A vacancy in the coroner's office may be filled by the judge of the court before which the coroner must appear. Any person appointed to fill the office continues to perform the duties of the office until the proper incumbent is duly

qualified or the sheriff returns to office.<sup>6</sup>

The duties and powers of the coroner vary from county to county throughout Mississippi. This condition is the result of having non-physicians hold the office in most counties. When the coroner is not a physician, the duties are similar to those of a law officer. When the coroner is a physician, different statutes apply and duties are more closely related to the primary function of the office -- determining the cause of deaths occurring in the county. Accordingly, the duties of the coroner are divided into non-physician and physician categories.

Duties of the non-physician coroner. The coroner may be required to serve the courts in the county in a variety of ways. In actions of unlawful entry and detainer the coroner may be required to execute and return warrants.<sup>7</sup> He may also be required to attend special court actions in unlawful entry and detainer and execute any of the court's orders.<sup>8</sup> The coroner, if so ordered by the court, serves copies of interrogatories, notices of issuing commissions, notice of taking depositions, and executes all writs of subpoena and attachment.<sup>9</sup> If the coroner serves a writ of attachment, a return is made and the property delivered to the sheriff. However, in the event that the sheriff is a party to the action the coroner retains the property until ordered to do otherwise by the court.<sup>10</sup> While the law in Mississippi provides for the coroner to carry out the above judicial functions, as a practical matter the sheriff's office or a constable of the county normally performs these duties for the court.

The main function of the coroner is to hold investigations of all sudden, violent, or unusual deaths in the county. When confronted with such a death the coroner directs a precept to the sheriff requesting a summons for six (6)

good and lawful men to assist the coroner in determining the cause of the death.<sup>11</sup> Once the sheriff has summoned the six (6) man coroner's jury and delivered them to the coroner, the coroner swears or affirms the jury in the presence of the body.<sup>12</sup> The function of the coroner's jury is to look into the totality of circumstances surrounding the death and to determine if any persons should be held for criminal prosecution.<sup>13</sup> To expedite and solemnize the coroner's inquest, the coroner has the power to subpoena witnesses, administer oaths, and question witnesses about the cause of death.<sup>14</sup> For an intelligent inquest to take place the coroner must have the full cooperation of other law officers, the jurors, and the witnesses. To insure this cooperation the legislature has provided that any person, including sheriff, constable, juror, or witness, who fails to comply with the coroner's directions may be fined up to one hundred dollars (\$100). Defaulting witnesses may be attached by the coroner, and any witness who refuses to testify without a legal excuse may be committed to jail by the coroner.<sup>15</sup>

If during the course of the inquest a majority of the jury requests a surgeon or physician to appear as a witness, the coroner may summon one to testify. Upon motion of the county prosecutor the coroner may order an autopsy performed upon the body.<sup>16</sup> When the coroner's jury has concluded the investigation, the coroner delivers a record of all proceedings to the clerk of the circuit court, who preserves the record in his office.<sup>17</sup> If the jury finds one or more persons criminally responsible for the death, the coroner issues a warrant and the person named is arrested and taken before a judge of the county where the offense was committed.<sup>18</sup> If the coroner's jury finds

the death due to murder or manslaughter, the jury's material evidence is reduced to writing. The coroner then requires bond of the witnesses and turns over the bonds and evidence to the circuit court.<sup>19</sup>

When the coroner is not available to perform the inquest a justice of the peace may perform the coroner's duties.<sup>20</sup>

Duties of a coroner who is a licensed doctor of medicine. Effective in 1968, the Mississippi Legislature passed separate laws to apply to counties where the office of county coroner is occupied by a licensed doctor of medicine. These laws, found in Sections 19-21-51 thru 19-21-71 of the 1972 Mississippi Code Annotated, apply only while the office is held by a physician. If the coroner-physician does not seek re-election or is defeated, then a subsequently elected non-physician coroner is not subject to the 1968 amendments, but is governed by the provisions in the preceding section.<sup>21</sup>

The physician posts bond in the amount of two thousand dollars (\$2000) with the same sureties and conditions required of the non-physician coroner.<sup>22</sup> Upon taking office the duties of county ranger, normally exercised by the coroner, are transferred to the sheriff.<sup>23</sup> A licensed physician who is elected coroner may request the assistance of any law enforcement officer in the county. When so requested the law enforcement officer assists the coroner to the best of his ability.<sup>24</sup>

The principal advantage of a county having a physician as the coroner is that the need for an inquest and coroner's jury is obviated. The coroner -

physician may determine the cause, nature, and circumstances of the death without a jury.<sup>25</sup> The coroner-physician may autopsy a body when he believes it necessary unless the next of kin objects. If this situation occurs, the coroner is required to obtain permission by an order of the court under section 41-37-9, 1972 Mississippi Code Annotated.<sup>26</sup>

The coroner-physician files a report on the cause of death with the clerk of the circuit court. This report is kept confidential by the clerk. In a criminal prosecution the coroner is required to testify if called as a witness by the state.<sup>27</sup>

The coroner-physician has the power to move bodies of the dead to the place of examination in the county.<sup>28</sup> If the physician deems it necessary, deputies may be appointed who are also licensed physicians, however the coroner is responsible for their payment. Each deputy so appointed posts a one thousand dollar (\$1000) bond.<sup>29</sup>

In addition to the special statutes for the coroner-physician, the Mississippi Legislature has provided that certain statutes originally designed for the non-physician coroner also remain in effect for the physician.

The coroner-physician may subpoena witnesses, administer oaths, and question witnesses about the cause of death<sup>30</sup> as well as attach defaulting witnesses.<sup>31</sup> Arrest warrants may be issued for persons found criminally responsible for a death. Evidence relating to criminal responsibility is filed with the circuit court.<sup>32</sup> The coroner also fills the sheriff's office under circumstances required by law.<sup>33</sup> Special provisions for the coroner-physician have no effect when the office passes to a person who is not a licensed doctor of medicine.<sup>34</sup>

The jurisdictional power of the coroner is limited to the county in which elected. The coroner is authorized and expected to cooperate with the county prosecuting attorney,<sup>35</sup> the circuit court of the county,<sup>36</sup> and the justice of the peace of the county.<sup>37</sup> Whenever the coroner has in possession a dead body which has not been claimed for burial or cremation within forty-eight (48) hours, a written notice is filed with the board of supervisors of the county to attempt to find the next of kin. The coroner holds the body until the board of supervisors directs its disposition.<sup>38</sup> The coroner's duties with respect to state agencies are limited to reporting on or before the tenth (10th) day of each month to the Mississippi Department of Motor Vehicles any death in the county during the preceding month due to motor vehicle accidents.<sup>39</sup>

The county coroner, while in the capacity of sheriff, is subject to penalties in the same manner as other county officials. If the coroner fails to collect or deliver money as directed, or fails to execute process, he is liable to the injured party for the amount, with twenty five (25) per cent damages and six (6) per cent interest, plus court costs.<sup>40</sup>

CORONER  
FOOTNOTES

1. Miss. Code Ann. § 23-5-93 (1972).
2. Miss. Const. art. 5, § 135 (Supp. 1972).
3. Miss. Code Ann. § 23-5-93 (1972).
4. Id. § 19-21-1.
5. Id. §§ 19-21-3, 19-21-9, 19-21-11.
6. Id. § 9-1-27.
7. Id. § 11-25-11.
8. Id. § 11-25-17.
9. Id. § 13-1-39.
10. Id. § 11-33-27.
11. Id. § 19-21-11.
12. Id. § 19-21-17.
13. Id. § 19-21-21.
14. Id. § 19-21-15.
15. Id. § 19-21-19.
16. Id. § 19-21-29.
17. Id. § 19-21-27.
18. Id. § 19-21-23.
19. Id. § 19-21-25.
20. Id. § 19-21-31.

21. Id. § 19-21-51.
22. Id. § 19-21-53.
23. Id. §§ 19-21-55, 19-21-57.
24. Id.
25. Id. § 19-21-57.
26. Id. § 19-21-67.
27. Id. § 19-21-69.
28. Id. § 19-21-63.
29. Id. § 19-21-59.
30. Id. § 19-21-15.
31. Id. § 19-21-19.
32. Id. §§ 19-21-23, 19-21-25.
33. Id. §§ 19-21-3, 19-25-9, 19-25-11.
34. Id. § 19-21-51.
35. Id. § 19-21-29.
36. Id. § 41-37-13.
37. Id. § 19-21-31.
38. Id. § 41-39-15.
39. Id. § 63-3-419.
40. Id. § 19-25-45.

#### 4. CONSTABLE

Constables in the counties of Mississippi are elected in the same manner as other state and county officials. Constables hold their offices for four (4) years, and until their successors are qualified and elected.<sup>1</sup> Constables take the oath of office as provided by the Mississippi Consitution of 1890 and enter into bond of not less than five thousand dollars (\$5000). The board of supervisors may require at any time such additional sum for bond as they deem necessary.<sup>2</sup>

Generally, one justice of the peace and one constable is elected for each district in a county. In any supervisor's district which is in two (2) judicial districts and which has located in the district two (2) county sites, the area lying in each district is considered as a separate supervisor's district.<sup>3</sup> Constables are normally elected at large in a justice of the peace district, but when the justices of the peace are elected by posts, the board of supervisors of the county may order the constables to be elected by posts.<sup>4</sup> In addition to this number, the marshal or chief of the police as the head law enforcement officer of a municipality is an ex officio constable within the boundaries of the municipality.<sup>5</sup>

It is the function of the constable to keep and preserve the peace in the community and to assist in executing all criminal laws. The constable gives information to the proper officers about any violation of the criminal laws and

assists the courts in the execution and return of the various processes of the courts. Constables also collect money and return it to courts or officers as directed. Constables may be required to attend court sessions and board of supervisors' meetings. Constables receive neither pay nor compensation for arrests made.<sup>6</sup> It is the duty of the constable to serve subpoenas, notices of interrogatories, writs of attachment, and other legal papers as the courts may order.<sup>7</sup> In effect, this is the same duty that exists for every officer charged with law enforcement.

Constables may be required to attend special court for unlawful entry and detainer and to execute any orders of the court.<sup>8</sup> They may also be required to execute and return warrants in actions of unlawful entry and detainer.<sup>9</sup>

Arrests for crimes and offenses may be made by any constable or conservator of the peace within the county, or by any marshal or policeman of a city, town, or village within the same.<sup>10</sup>

Among the other specialized functions of the constable are appeals taken from the registrar of the board of election commissioners. Such appeals are accomplished by the appealing party giving notice to the constable who serves it as with other processes to be served in this state.<sup>11</sup> Appeals from the election registrar are heard de novo by the board of election commissioners. The board may require the constable to attend the appeal.<sup>12</sup>

The coroner may direct a constable to serve a precept upon six (6) men in the county to serve as the coroner's jury.<sup>13</sup> The constable executes the coroner's precept and returns it to the place designated by the coroner.<sup>14</sup>

When charges against any person in the Mississippi military service are made to the governor, he may issue a warrant authorizing the constable to arrest that person if found in the constable's district. Upon arrest, the constable holds the arrestee in jail or delivers him to the proper authority.<sup>15</sup>

The constable cooperates with various state agencies in the enforcement of their regulations. The constable has the power to inspect the register of livestock drugs dispensed during the business hours of the dispenser or vendor to check for violations of the Mississippi livestock drug control laws.<sup>16</sup> The constable also enforces the Mississippi Game and Fish regulations.<sup>17</sup>

The jurisdiction of the constable is limited to the district of the county in which elected. The constable is the chief law enforcement officer for the district in the same respect as the sheriff is the chief law enforcement officer for the entire county.

As the duties indicate, the constable cooperates with a number of county and state offices. First, the constable cooperates with the sheriff's office of the county. In many instances, the laws of Mississippi are phrased so that either the sheriff or the constable may perform a certain function. Secondly, the constable cooperates with the different courts of the county. These courts are the justice of the peace courts,<sup>18</sup> the special courts for unlawful entry and detainer, municipal courts, the county court, and the circuit and chancery courts. Thirdly, the constable cooperates with the county coroner if so requested. Finally, the constable may be required to assist the county board of election commissioners and the county board of supervisors.

The state agencies and officials that the constable may be required to assist are the governor's office, the Mississippi Animal Livestock Sanitary Board, and the Mississippi Game and Fish Commission.

Any constable who fails to perform his duties may be fined up to fifty (50) dollars, as in contempt, by the justice of the peace if no other penalty exists. <sup>19</sup>

CONSTABLE  
FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. § 23-5-93.
2. § 19-19-3.
3. § 19-19-1.
4. Id.
5. § 21-21-1.
6. § 19-19-5.
7. § 13-1-39.
8. § 11-25-17.
9. § 11-25-11.
10. § 99-3-1.
11. § 23-5-57.
12. § 23-5-63.
13. § 19-21-11.
14. § 19-21-13.
15. § 33-13-625.
16. § 69-17-105.
17. § 49-5-43.
18. § 19-19-7.
19. § 19-19-15.

## D. MUNICIPAL

### 1. GENERALLY

The legislature has the power to pass laws for chartering and amending charters of cities and towns and for organizing corporations and amending acts of incorporation.<sup>1</sup>

Legislative jurisdiction for passing general laws is limited to: changing the names of places or corporations; granting ferry, bridge, road or fish-trap rights; planning, opening, altering or working on roads and highways; vacating roads, highways, towns, plats, streets, alleys, or public ground; creating, increasing or decreasing the fees, salary or emoluments of public officers; conferring the power of eminent domain or the right to lay track; and granting state lands to persons or corporations.<sup>2</sup> A special or local law cannot be passed if a general law can be applied. Nor can the operation of a general law be suspended for the benefit of any individual or private association.<sup>3</sup>

Every municipality in the state exists as a corporation capable of suing and being sued. A municipality may purchase and hold real and personal property for proper municipal purposes,<sup>4</sup> or may sell or convey the property when conducive to the municipality's best interests. Contracts and other acts in relation to the property may be entered into by the municipality when necessary to exercise its governmental, corporate, and administrative powers. A municipality holding title to property, which was not purchased with public funds but is used by a manufacturing industry, may sell the property or lease it for a period not exceeding seventy-five years.<sup>5</sup>

The first step required to create a municipality is the filing, by any inhabitant of an unincorporated territory, of a petition in the chancery court where

the territory is located. This petition must state: the desired boundaries and name; the number of inhabitants and the assessed valuation of the realty; the reason why the public convenience and necessity would be served by the municipality's creation; what public services would be rendered; the names of the persons whom the petitioners desire to appoint as officers; and must be signed by at least two-thirds of the qualified electors and sworn to.<sup>6</sup>

A hearing by the chancellor must then be held on the proposed incorporation, and notice of the hearing must be published for three consecutive weeks in a newspaper of general circulation in the territory and posted in at least three public places in the territory. Any existing municipality within three miles of the territory must be made a defendant and served with process.<sup>7</sup>

If the chancellor finds that incorporation is reasonable and required by public necessity and convenience, he may grant the incorporation or modify the territory to be included within the municipality. A map of the municipal corporation must then be filed with, and recorded in, the platbook of the chancery court of the county embracing the territory.<sup>8</sup> Further, a certified copy of the chancellor's decree of incorporation must be filed with the secretary of state, who then issues commissions to the appointed municipal officers.<sup>9</sup>

Any aggrieved party to the chancery court hearing may appeal within ten days of the decree of incorporation to the Mississippi Supreme Court on payment of a five hundred dollar bond.<sup>10</sup>

Unless objection to incorporation is made, the petitioners for incorporation are taxed with all court costs of the hearing.<sup>11</sup>

Any incorporated municipality wishing to extend or contract its boundaries

must pass an ordinance delimiting the unincorporated territory to be annexed and the boundaries to be set, as well as the improvements to be made and services to be rendered in the annexed territory. Reasons for contracting boundaries must also be stated in the ordinance.<sup>12</sup>

After passing an ordinance to extend or contract its boundaries, the municipality must file a petition in the chancery court of the county in which the territory in question is located. The chancellor then sets a date for hearing and parties are joined in the same manner as done in incorporation.<sup>13</sup> As with the hearing on incorporation, the chancellor may ratify the petition if he finds that the annexation or contraction is reasonable and required by public convenience and necessity, or he may modify the plan by decreasing the subject territory.<sup>14</sup> Appeals<sup>15</sup> from and a record<sup>16</sup> of the chancellor's decree are made in the same manner as with decrees of incorporation.

The petitioning municipality is taxed with the costs of the proceeding of annexation or contraction, but if objection is made the chancellor determines an equitable allocation of costs.<sup>17</sup>

Combination of two or more adjacent or nearby cities or towns into one municipality follows the same statutory format as annexation of unincorporated territory except that each municipality must adopt an ordinance.<sup>18</sup>

However, in no case may a municipality incorporate a state institution without the consent of the governing body of the institution.<sup>19</sup>

Annexation or secession may also be initiated by the electorate when two-thirds of the qualified voters of the territory in question file a petition which describes the territory to be excluded or included, states the reasons that public

convenience and necessity would be served, and is sworn to by a petitioner.<sup>20</sup>  
Proceedings for the hearing on the petition and any appeal from the chancellor's  
decree are the same as for incorporation.<sup>21</sup>

Cities are defined as those municipal corporations having two thousand or more inhabitants; towns as those non-cities having three hundred or more inhabitants; and villages as those municipalities having between one hundred and three hundred inhabitants. Only cities and towns qualify as municipal corporations unless an area of one square mile or more has a public utilities system and at least one mile of improved streets consisting of at least six streets.<sup>22</sup> A city, town or village may shift to another class if its population increases or decreases according to the federal census, but this change must be noted in the municipality's minutes and reported to the secretary of state.<sup>23</sup> Courts must take judicial notice of the class to which the state municipality belongs and its powers within that class.<sup>24</sup>

If the population of a municipality decreases to less than ninety-five inhabitants according to the federal census, the municipality is automatically abolished and its powers as a municipal corporation terminated immediately. However, those municipalities abolished for lack of sufficient population under the 1960 federal census are restored to all of their municipal rights and privileges whenever they regain the necessary number of inhabitants to meet the quota of ninety-five.<sup>25</sup>

Automatic abolition is also provided for when a municipality fails to hold municipal elections on two occasions or when its governing authorities fail to hold an official meeting for twelve consecutive months, as evidenced by the

municipality's official minute book.<sup>26</sup>

A municipal corporation may be voluntarily abolished, if it has a population of less than one thousand inhabitants according to the latest federal census, by means of a chancery court proceeding initiated by a petition and an ordinance passed by the municipality's governing authorities.<sup>27</sup> A certified copy of the chancery court decree granting a voluntary abolition must be lodged for record with the secretary of state.<sup>28</sup>

The records of an abolished municipality, along with a statement of its assets and indebtednesses, must be delivered to the chancery court and kept as public record. Abolition of a municipality does not relieve its property of indebtedness.<sup>29</sup>

Amendments to municipal charters may be initiated by either the governing authorities or electorate of the municipality. If the governing authorities of a municipality, operating under any form of government except the commission and code charter forms,<sup>30</sup> propose an amendment to the municipal charter, the governing authorities must publish the proposed amendment in a local newspaper for three consecutive weeks and submit it in writing to the governor who in turn submits it to the attorney general for approval. The proposed amendment may be put to an election if not more than ten percent of the qualified electors protest the amendment and must be approved by a majority of the qualified voters in the election.<sup>31</sup> An amendment proposed by twenty percent of the qualified municipal electors must meet similar publication and election requirements.<sup>32</sup>

The governing authorities of a municipality may also change its name unless ten percent of the qualified electors object after receiving notice, in which case a

majority of the qualified electors must ratify the change.<sup>33</sup>

To be effective, every ordinance passed by the governing authorities of a municipality must be certified by the clerk, signed by the mayor or a majority of the board or commission members, recorded in the ordinance book, and published in a local newspaper.<sup>34</sup> Only emergency ordinances can go into force until one month after passage.<sup>35</sup> All ordinances must be entered in full on the ordinance book by the municipal clerk with the date of passage and a cross-reference to the appropriate page of the minute book.<sup>36</sup> A copy of the ordinance certified by the municipal clerk is prima facie evidence of the ordinance's existence, adoption, and publication.<sup>37</sup>

Ordinances must be read and voted on, section by section, by "yeas" and "nays" entered on the minutes by the clerk. No ordinance may be voted on unless it is in writing,<sup>38</sup> in the style prescribed by statute.<sup>39</sup> An ordinance may contain only one subject and this must be expressed in its title. A new ordinance amending or revising an old one must contain the entire ordinance as revised or the section(s) as amended.<sup>40</sup> Any ordinance granting the use or occupation of streets, highways, bridges or public places, except in emergencies, must be filed in the municipal clerk's office for two weeks before final adoption, after being read at a meeting for consideration. A majority of the qualified municipal electors must approve every franchise or grant to use or occupy a public street, railway, or public utility operating in the municipality.<sup>41</sup> Voting is denied to those who have defaulted on payment of municipal taxes for two years preceding the election or have been convicted of violating a city or state law regulating sale of spirits. A person's voting ward may be changed if he moves, but he must

request the change at least five days before the election.<sup>42</sup>

The governing authorities of a municipality having more than fifty thousand persons may divide the municipality into a sufficient number of voting precincts, in such size and location as necessary. However, the polling places are located, without regard to precinct lines, in order to accomodate the electorate and better facilitate the holding of the election.<sup>43</sup> Any municipality having up to fifteen thousand persons and lying in a levee district may designate the municipal corporate limits as one voting district.<sup>44</sup>

General municipal elections are held on the first Tuesday after the first Monday of June, every four years, and officials who are elected begin their four year terms on the following first Monday of July.<sup>45</sup> All candidates are nominated at the party primary election on the second Tuesday in May preceding the general election and in the event a second primary shall be necessary, it shall be held on the third Tuesday in May.<sup>46</sup>

Any vacancies in an elective municipal office must be filled by special election if the unexpired term exceeds six months, or by appointment by the remaining governing authorities if shorter. If any municipality fails to hold the required election, the governor appoints a suitable person to fill the office.<sup>47</sup>

An election commission of three persons appointed by the municipal governing authorities performs the same duties as those prescribed by law for the county election commissioners. They print and distribute official ballots, act as election managers in municipalities with one precinct, canvass precinct returns, report the election results, and certify the winner. Election managers count the votes after the polls close and report to the election commissioners.<sup>48</sup>

A municipality may choose one of several forms of government. Any municipality operating under a form of government adopted under chapter 108 of the laws of 1908 may continue to do so and retain all rights, powers, privileges and immunities. Mayors and commissioners of such towns hold office for four year terms and until succeeded.<sup>49</sup>

A municipality may choose, by a majority vote of its qualified electors, to operate under the "code charter" form of government. If an election to adopt the code charter form of government fails, the proposal may not be submitted again for four years.<sup>50</sup> Elective officers in the code charter municipality consist of the mayor, aldermen, police justice, marshal or chief of police, tax collector and/or the tax assessor. All offices except the mayor's and aldermen's may be appointed by the mayor and board of aldermen. All municipal actions are by ordinance.<sup>51</sup>

Every municipality can also elect to operate under the commission, council-manager or council form of government.

In code charter municipalities having less than ten thousand persons, the five aldermen are elected at large, or four are elected from wards and one at large. Aldermen elected from wards must be residents of that ward.<sup>52</sup> In such municipalities the mayor and board of aldermen appoint the street commissioner<sup>53</sup> and other necessary officials and employees. The aldermen are eligible for the office of street commissioner and, in municipalities having no depository, the clerk may serve as ex officio treasurer.<sup>54</sup> However, in code charter municipalities having ten thousand or more persons, the seven aldermen are elected at large or six are elected from wards and one at large.<sup>55</sup>

If an alderman elected from a ward moves his residence or a mayor moves from the municipality, the office is automatically vacated, and filled as prescribed by law.<sup>56</sup> In the temporary absence or disability of the mayor, the board of aldermen elect a mayor pro tempore from their members.<sup>57</sup> Additionally, the mayor and aldermen must be qualified electors of the municipality.<sup>58</sup>

The mayor and aldermen meet regularly on the first Tuesday of each month and two to three weeks later. A majority of aldermen constitutes a quorum.<sup>59</sup> The mayor presides at meetings of the board of aldermen and, in case of ties, casts the deciding vote. The mayor has the power to veto any measure passed by the board of aldermen, but the veto may be overridden by a two-thirds vote of the aldermen.<sup>60</sup> Special meetings may also be called by the mayor and two aldermen three hours after aldermen, who did not call the meeting, are notified of the time and business to be acted on.<sup>61</sup>

A municipality may further adopt a "commission" form of government by general or special election, but if that government is not adopted in the election, then another election can not be held for four years.<sup>62</sup> Any city operating under the commission form of government is governed by a Council consisting of a mayor and two commissioners, elected at large, who vote on all matters coming before the council. To be eligible for either office, a person must be an eligible voter and a resident for at least one year preceding the commencement of his term. When commissioners' posts are designated, each post is voted on separately.<sup>63</sup>

Salaries of council members are set at the first meeting and are effective

upon approval by a majority of the qualified electors voting in an election on that issue. The council sets compensation for the city officials.<sup>64</sup> Council members must dedicate all time necessary to efficiently administer city government.<sup>65</sup>

Regular public meetings of the council must be held on the first Monday in July after election and at least twice a month thereafter. Special meetings may be called by the mayor or two councilmen. A majority of council members constitutes a quorum and all ordinances, motions, and resolutions must be approved by a majority of all members of the council. All votes must be recorded.<sup>66</sup>

The mayor presides at council meetings but has no veto power. Further, he supervises affairs and departments of the city government and may be temporarily replaced in his absence or disability by the vice-president, who is elected by the council.<sup>67</sup>

The council has the power to create, fill or discontinue all offices or employments, to make necessary rules and regulations for city government, to issue bonds, to enact and enforce ordinances, and to make and perform contracts for the city.<sup>68</sup> Recently, these city governments have become departmentalized with one member of the council serving as superintendent of each department.<sup>69</sup> All other laws, ordinances, and resolutions not inconsistent with the 1956 provisions for the commission form of government remain in effect until repealed.<sup>70</sup>

In addition, a city or town may adopt the "council-manager" plan of government.<sup>71</sup> After a petition signed by twenty percent of the qualified electors of a municipality requesting adoption of the council-manager plan of government is submitted to the municipal clerk, the proposal must also be ratified by a

majority of the qualified electors in a municipal election.<sup>72</sup> When three years have elapsed since the adoption of the council-manager plan of government, the plan may be discontinued upon a majority vote of the qualified electors voting, initiated by a petition signed by twenty percent of the qualified electors.<sup>73</sup>

The council appoints the city attorney, the auditor, the clerk and the treasurer.<sup>74</sup>

Under the council-manager plan, only the mayor and members of the council, who must be qualified electors of the city or town and serve for four year terms,<sup>75</sup> are elected. These elected officials are thereafter precluded from serving on any commission or board appointed by them or under their jurisdiction.<sup>76</sup> The mayor serves as titular head of the municipality for ceremonial and legal purposes but has no administrative powers. As president of the council, the mayor has a voice and vote in its proceedings but has no veto. A majority vote of the council is required to decide matters before it.<sup>77</sup>

Selected by a majority vote of the council from outside its membership, the city manager acts as chief administrative officer of the city. He must be experienced and possess administrative qualifications and may engage in no other business or profession while he is city manager.<sup>78</sup> He is responsible for the administration of government, the enforcement of laws and city ordinances, the acts of heads of city departments, negotiation of contracts for city purchases, performance of contract terms and conditions in the city's favor and the preparation of an annual budget. He must report and make recommendations to the

council on city matters including finances.<sup>79</sup>

Under the council-manager plan, the council has the executive, legislative, and judicial powers vested in the councilmen before adoption of the plan. Upon recommendation by the city manager, the council may create new departments and offices.<sup>80</sup>

A municipality having between eight thousand and ninety-six hundred inhabitants may adopt the "council" form of government, placing complete executive and legislative power over all municipal affairs in the council.<sup>81</sup> To adopt the council form of government, twenty percent of the qualified electors must petition that the issue be put to an election. If a majority of those voting in the election on the second Tuesday of December choose the council form of government, then the change of government takes place on the following first Monday in January.<sup>82</sup>

The laws for code charter municipalities, vesting rights, privileges and powers in a mayor and board of aldermen, are also applicable to vest such rights in the council form of government.<sup>83</sup>

Under the council form of government, the municipal governing body is a council composed of seven members serving for four year terms, one of whom is the mayor who is nominated and elected at large. One councilman is elected from each ward and the remainder are elected at large.<sup>84</sup>

The mayor presides at council meetings and possesses a veto power which a two-thirds vote of the council may override. He executes documents on behalf of the municipality and represents the council at social or economic

functions but cannot bind the council without its approval.<sup>85</sup>

The council elects by a majority vote a vice-mayor who acts in the mayor's absence, a clerk and deputy clerks, marshal, street commissioner, tax collector, tax assessor, treasurer, police justice pro tempore and a city attorney, none of whom may be council members. All of these offices except that of marshal, police justice pro tempore and city attorney may be consolidated. The police justice is nominated and elected at large.<sup>86</sup> The council may also appoint and define the duties of department heads and require a bond for their faithful performance.<sup>87</sup>

The statutory provisions for voter qualifications apply to all municipalities, regardless of their form of government.<sup>88</sup>

The duties of certain municipal officers are also common to all forms of government. The mayor acts as superintendent of all officers and affairs of the municipality and executes all of its laws and ordinances.<sup>89</sup> In his enforcement of laws and ordinances, the mayor must also deal promptly with those who neglect their duty of enforcement. The mayor further recommends municipal improvements to the municipal governing authorities.<sup>90</sup>

The mayor additionally serves as chief administrative officer during civil emergencies unless some other official has been so named by ordinance.<sup>91</sup> The chief administrative officer must proclaim in writing when a civil emergency exists<sup>92</sup> and may then declare a curfew during specified hours which continues until rescinded, but not exceeding five days.<sup>93</sup> In case of civil emergencies all proper governing bodies and officers have the power to receive and disburse funds under the Disaster Relief Act of 1970.<sup>94</sup>

The duties of the municipal clerk are to serve as registrar of voters,<sup>95</sup> to enter the subjects to be acted on at the next meeting in the Municipal Docket after each meeting,<sup>96</sup> to keep the municipal seal adopted by the municipality, and to keep a permanent record of the minutes of the proceedings of the municipal authorities in the Municipal Minute Book.<sup>97</sup> The minutes of a meeting of municipal authorities must be signed by the mayor or a majority of the members within ten days of the meeting. The minutes then are valid from the date of signing.<sup>98</sup>

The chief law enforcement officer of the municipality is the chief of police or the marshal. He controls and supervises the police officers of the municipality, acts as ex-officio constable, and performs other duties required by ordinance.<sup>99</sup>

All municipalities have a police court in which the marshall or police chief acts as executive officer of the court. Such an officer attends all sittings of the court unless a deputy takes his place. The marshal executes all process and performs other duties required by the court. The municipal clerk serves as clerk of the police court unless another official is provided and keeps a permanent docket of cases containing the style of the case, the charge against the accused, and the names of the prosecuting witnesses. Additionally, the clerk maintains a minute book containing all orders and judgments and issues all process from the court, administers oaths, and takes acknowledgments and affidavits.<sup>100</sup>

Municipalities having more than ten thousand persons must also appoint a prosecuting attorney and a police justice who is both a municipal elector and an

attorney at law. The police justice holds court every day except Sunday, if necessary, in the municipal building. His jurisdiction covers violations of city ordinances and criminal offenses committed in the city which are to be bound over to another court. The police justice also acts as ex officio justice of the peace for the municipality. The mayor or mayor pro tempore performs the duties of the police justice in municipalities having no permanent police justice.<sup>101</sup>

The municipality's governing authorities have the option of appointing a city attorney annually and/or employing counsel when the occasion arises. The city attorney drafts all orders and resolutions and handles bond issues and re-funds.<sup>102</sup> A firm of attorneys may be employed to represent the municipality on the same terms and for the same compensation as provided for employment of a regular attorney, but a single regular attorney and a firm cannot be employed at the same time.<sup>103</sup> While an attorney is representing the municipality, he is not allowed to represent any other litigant in a suit in which the municipality is a party.<sup>104</sup>

Municipal funds are appropriated by the municipality's governing authorities to cover current expenses.<sup>105</sup> The municipal depository or, where there is none, the clerk as ex officio treasurer, receives, holds and pays out the monies of the municipality upon the due recording of an order or ordinance in the minutes of the municipality. He also keeps an account of the funds and makes a written report to the governing authorities at each meeting.<sup>106</sup>

Expenditures from the municipal treasury are only made in pursuance of a docketed claim or an order of appropriations.<sup>107</sup> Claim dockets must be kept by municipalities having more than two thousand inhabitants but may be kept

by other municipalities at their election. These dockets include the claimant's name, the number of the claim, the amount, and the reason for the indebtedness. Compensation claims of municipal officers and employees do not have to be docketed before being paid.<sup>108</sup> At each meeting of the municipality's governing authorities, the docket is called and all claims on file not previously satisfied are paid in the order of the docket.<sup>109</sup>

Claims against the municipality also extend to territory excluded because of contraction of municipal boundaries where the outstanding indebtedness was incurred by the municipality while the territory was part of it.<sup>110</sup>

A municipality is further liable for claims arising out of its corporate status as an entity capable of suing and being sued. Such suits may be brought in the judicial district of the county where the municipal corporation has its principal offices.<sup>111</sup>

The municipality's governing authorities have the power to levy and collect annual taxes on all taxable property within the municipal limits, in addition to other taxes, in a sufficient amount to pay off the municipal bonds and the interest coupons on them.<sup>112</sup> However, in order to encourage the establishment of manufacturers, gas works, water works, and cooperative rural electric associations within the municipal corporate limits, the municipality's governing authorities may exempt the tangible property necessary to the operation of these businesses from taxation for a period not exceeding ten years.<sup>113</sup>

The municipal tax collector collects, accounts for and pays over all taxes levied by the municipality into the municipal treasury.<sup>114</sup> All taxes are payable in cash or in matured bonds or coupons.<sup>115</sup>

In determining the liability of property within newly incorporated municipalities for municipal ad valorem taxation, such property becomes liable for taxation upon the tax lien date next succeeding the effective date of the decree of incorporation or enlargement.<sup>116</sup>

A variety of penalties are prescribed by statute to discourage cases of malfeasance among public officials. Members of the governing body of a municipality are prohibited from knowingly voting for a claim not authorized by law.<sup>117</sup> Conflicts of interest which prevent a public official from exercising impartial judgment are further forbidden by the prohibition against municipal officers and employees being directly or indirectly interested in any contract or subcontract of the municipality.<sup>118</sup> An officer or employee's receipt of a free or less expensive service or ticket because of his position in the municipal government is classed as a misdemeanor and punished by a fine and removal from office.<sup>119</sup> However, these conflicts of interest provisions do not prohibit an officer or stockholder in the depository bank of a municipality from being a municipal officer or employee.<sup>120</sup> Use of municipal office to promote the interests of relatives within the third degree is similarly prohibited since no municipal official may appoint or employ such blood relatives, to be paid out of public funds.<sup>121</sup>

Any municipal officer or employee, other than the mayor or commissioners, who solicits or attempts to influence any person to vote for a particular candidate in a city election, is guilty of a misdemeanor punishable by a fine of up to one hundred dollars and/or thirty days imprisonment in jail.<sup>122</sup>

## 2. BILOXI

The municipal boundaries of the city of Biloxi extend into the Biloxi Channel to its center line.<sup>123</sup> Within the municipal boundaries the city itself is divided into nine (9) wards for the purposes of conducting municipal elections.<sup>124</sup>

The administrative powers and duties of the mayor and commissioners of Biloxi are divided into three (3) groups, one of which the mayor supervises, one of which one commissioner supervises, and one of which the other commissioner supervises.<sup>125</sup> The mayor supervises the administrative department, the city court, the fire department, the city legal counsel, parking meters, the police department, and the park, recreation and playground department.<sup>126</sup> He also supervises all public buildings not exclusively controlled by the housing department.<sup>127</sup> There are two (2) commissioners each of whom is elected to one of two commissioners' posts.<sup>128</sup> The commissioner who is elected to Post Number 1 supervises revenues and tax collection, education, public health, cemeteries, the waterworks and sewage system, the plumbing and electrical inspections, and zoning.<sup>129</sup> He also acts as city clerk, tax assessor and tax collector.<sup>130</sup> The commissioner of Post Number 2 supervises streets and drainage, the collection of garbage, and the housing authority.<sup>131</sup> All departments not specifically assigned to the mayor or either of the commissioners is under the supervision of the city council composed of these three (3) officers.<sup>132</sup> The superintendent of any department whether supervised by the council as a whole or one of its individual members is chosen by a majority vote of the council.<sup>133</sup>

The city of Biloxi has several ordinances regulating water and the disposal of waste matter and violation thereof is punishable by fine or imprisonment. No one occupying any property may allow stagnant, putrid or foul water to remain on that property.<sup>134</sup> No water in which mosquitoes breed or are liable to breed may be allowed to remain on anyone's property unless specially treated to prevent such breeding.<sup>135</sup> Additionally, it is unlawful to deposit any matter into any ditch, stream, or other waterway which may interfere with the flow of water.<sup>136</sup>

In relation to waste matter, Biloxi has made it unlawful to place or throw oyster shells on the beach south of Front Street, in the water in that area or on any structure or substance there and to allow the shells to remain for more than twenty-four (24) hours.<sup>137</sup> No shrimp hulls, remains of dead fish, crabs or any refuse from them or any like matter may be thrown into the Back Bay of Biloxi or the Gulf of Mexico. The city garbage department will not collect refuse from fish handling and vending establishments or from fish hatcheries.<sup>138</sup> The dumping or depositing of any garbage or the body of a dead animal in any public park is forbidden.<sup>139</sup> It is also unlawful to discharge human waste matter into the Back Bay of Biloxi, the Gulf of Mexico or any ditch, bay, or other water leading to them.<sup>140</sup>

Biloxi has several ordinances dealing with U. S. Highway Number 90 running along the beach front through Biloxi. It is unlawful to construct any building or other structure along U. S. Highway 90 without the permission of the city or to construct any pipeline, power, or communication line without the permission of the city council and the state highway department.<sup>141</sup> Highway 90

may not be used for any purpose other than that for which it was designed and intended and no rubbish or garbage may be thrown or deposited on it.<sup>142</sup> No private or public road or driveway may intersect Highway 90 without the permission of the city council and the state highway department.<sup>144</sup> It is unlawful to park a vehicle in the travelled lanes of the highway or the neutral ground between the travelled lanes.<sup>145</sup> The speed limits on Highway 90 are between thirty (30) and forty (40) miles per hour depending on the location within the city.<sup>146</sup> It is also unlawful to operate a vehicle on any street of the city so as to allow any object or refuse including shells and gravel to drop on the streets.<sup>147</sup>

Regarding animals within the city, Biloxi has made it unlawful to shoot at, wound, maim, or kill any wild bird.<sup>148</sup> In the parks of the city it is unlawful to kill, injure, chase, capture, trap, or throw missiles at any bird or game without the written permission of the mayor.<sup>149</sup>

In relation to the waters and parks in and around the city of Biloxi, several activities have been forbidden by law. No structure, wharf or other hinderance may be placed in the Mississippi Sound or Back Bay of Biloxi on any land covered by water at high tide which may impede the free passage of water or cause the water bottom to shoal.<sup>150</sup> Between the hours of 6 p. m. and 6 a. m., no water-craft may sound its horn or whistle for longer than thirty (30) seconds and such soundings must be thirty (30) minutes apart.<sup>151</sup> Biloxi has also made it unlawful to remove for sale or sell or possess for sale any oysters which have come from contaminated waters.<sup>152</sup> In public parks or city playgrounds, profanity or indecent language, boisterous conduct, and public displays of affection or familiarity are forbidden.<sup>153</sup> It is also unlawful to cut, injure, scar or deface any tree,

tree limb, building, equipment or other thing which is on a part of a city  
park. 154

### 3. GULFPORT

The municipal boundaries of the city of Gulfport extend 5000 feet beyond the city's seawall into the Gulf of Mexico.<sup>155</sup> The governing authorities of the city of Gulfport are the commissioners of whom there are three (3) and one of whom is voted on and elected as mayor.<sup>156</sup> The mayor and board of commissioners have full power and authority to appoint all subordinate officers and employees necessary as well as fix the salaries, duties and terms of such officers and employees.<sup>157</sup> The mayor exercises authority and discharges duties which are not vested in the board of commissioners.<sup>158</sup> The commissioners, other than the mayor, are elected by posts, designated Post Number 1 and Post Number 2.<sup>159</sup> The Commissioner for Post Number 1 is the mayor pro tempore, city clerk, clerk of parks and cemeteries, custodian of public building, tax collector, tax assessor, and registrar of voters and has the duties necessary to perform such offices.<sup>160</sup> The Commissioner for Post Number 2 is the commissioner of public works, sanitation, city streets, waterworks and sewerage, and supervises the engineering department, city electrician, and the city plumbing inspector and is vested with the duties pertaining to such offices.<sup>161</sup> The commissioners run for and are elected to one of the two posts by the city at large.<sup>162</sup>

The city of Gulfport has created certain prohibitions and regulations relating to boats, docks, waterways, and beaches.<sup>163</sup> It is unlawful to ride a bicycle on any pier or plank walk adjoining any pier.<sup>164</sup> On any city pier or

pavilion on the West Beach of Gulfport it is unlawful to throw sand or mud at any person on such pier or on the pier itself, to fish or throw nets from piers, to come on such pier or pavilion when suffering from a contagious disease, to allow a dog into the water from such pier, to wear any indecent bathing suit thereon, to engage in loud or boisterous conduct on such pier or in the waters adjacent thereto, to bring a boat or vessel in the waters alongside such a pier or to swim or bathe from the West Side Pier.<sup>165</sup> Entering the waters of the Mississippi Sound or the Gulf of Mexico from any public street which abuts these waters is prohibited.<sup>166</sup> It is also unlawful to use a trammel or gill net or to fish commercially within 1500 feet of a jetty, pier, wharf, beach or similar place in the city.<sup>167</sup>

Regarding the sale of goods for human consumption, Gulfport has made it unlawful to knowingly offer or display for sale or sell any unwholesome fish, shrimp, crabs or oysters as wholesome.<sup>168</sup> As well it is unlawful to sell ice manufactured from surface or impure water.<sup>169</sup>

To regulate the disposal of trash, garbage, waste, and similar materials, the city has prohibited several activities. It is unlawful to deposit or throw any material or substance on any property within the city including streets, beaches, parks, and vacant lots.<sup>170</sup> No one may accumulate any garbage, refuse, or rubbish in any building or lot unless it is contained in corrugated metal containers.<sup>171</sup> Placing garbage, refuse, or trash on any property, public or private, without the owner's consent is prohibited.<sup>172</sup> It is also unlawful to discharge any filthy liquid or other substance into any street, alley, ditch, drain or similar place so as to become noisome or offensive to the sight or smell of persons living

or passing nearby.<sup>173</sup> A sanitary disposal device approved by the state board of health must be used in disposing of human waste materials.<sup>174</sup>

In an effort to prevent mosquitoes from annoying the city, Gulfport has made it unlawful to keep or cause to be kept any water including flowing water in which mosquitoes breed or are likely to breed unless such water has been effectively treated.<sup>175</sup> The throwing or depositing of any rubbish into any ditch, drain, or stream so as to interfere with or obstruct the flow therein is prohibited.<sup>176</sup>

#### 4. PASCAGOULA.

The municipal boundaries of the city of Pascagoula extend 1250 feet into the Mississippi Sound (or Bay of Pascagoula) which is an inlet to the Gulf of Mexico.<sup>177</sup> The municipal boundaries also intersect and run concurrent with the boundaries of the city of Moss Point for 3,117 feet.<sup>178</sup>

The governing and legislative body of the city is a board consisting of a mayor and five (5) councilmen.<sup>179</sup> This body is called the city council. These officers serve terms of four (4) years and only qualified municipal electors are eligible for the offices.<sup>180</sup> The elections of these officials and any other municipal elections must conform to the state law.<sup>181</sup> Only the offices of mayor and councilman are elected. All other city officials and employees are appointed.<sup>182</sup> Neither the mayor nor any councilman may serve on any committee or board appointed by or subject to the city council.<sup>183</sup>

The mayor is the head of the city for all ceremonial and legal purposes. He serves as president of the council and has a voice and a vote in all of its proceedings but no power of veto. However, the mayor has no administrative power.<sup>184</sup> The administrative officer of the city is the city manager who is appointed by a majority vote of the city council.<sup>185</sup> He must be a qualified and experienced administrator and may not engage in any other business or profession while city manager.<sup>186</sup> (No member of the city council is eligible for the post of city manager during his term.) The city manager is responsible to the city council for the entire administration of city government.<sup>187</sup> He must prepare

an annual budget, administer and secure enforcement of the city's code and law, appoint and remove city employees (excluding the city attorney, auditor, city clerk, and treasurer), supervise and control all city department heads and other employees, negotiate contracts and make purchases for the city, make recommendations and, at least once a year, report to the council on his work and the city's financial condition, and such other duties as the city council may require.<sup>188</sup> The city clerk is appointed by the city manager and serves until a successor is appointed and qualified.<sup>189</sup> The duties of the clerk include keeping the city's records, recording the proceedings of the city council, and keeping account of and auditing the funds of the city and the city tax collector.<sup>190</sup> To assist the clerk, a chief deputy clerk is appointed by the city manager on the recommendation of the city clerk.<sup>191</sup> The city attorney is appointed by the city council and, also, serves until a successor is appointed and qualified.<sup>192</sup> His duties include the preparation of the city's legal papers, including ordinances, and acting as chief legal counsel to the city.<sup>193</sup> The city may appoint a special counsel to represent the interest of the city when necessary.<sup>194</sup>

The city prosecuting attorney is appointed by the city council on the recommendation of the city attorney.<sup>195</sup> The city prosecuting attorney prosecutes all cases before the police court in the name of the city and appeals from that court to the county or circuit court of Jackson County.<sup>196</sup> He also prepares any necessary affidavits and search warrants and reports monthly the cases handled by his office, the sentences given, and their disposition.<sup>197</sup>

For the health, safety, and convenience of the people of the city of Pascagoula a city planning commission consisting of nine (9) members appointed

by the city council, has been created.<sup>198</sup> The purpose of the planning commission is the development and implementation of a comprehensive development plan for the city of Pascagoula.<sup>199</sup> As part of this comprehensive plan, a plan for the development of the major streets of the city is to be prepared.<sup>200</sup>

The city of Pascagoula has declared certain activities in the city's coastal area unlawful. In regard to the city piers, it is unlawful to ride a bicycle on city piers or planks adjacent thereto,<sup>201</sup> to swim near or dive into the water from a city pier,<sup>202</sup> to smoke or light a fire near or on a city pier,<sup>203</sup> to throw mud or sand on any person or on a city pier itself,<sup>204</sup> to come upon or bathe in water near a city pier while suffering contagious disease,<sup>205</sup> to take a dog into the water from a city pier,<sup>206</sup> to wear an indecent bathing suit on such pier or any municipal beach,<sup>207</sup> or to be guilty of loud or boisterous conduct on beaches or piers.<sup>208</sup> Also, no one may use or set a trammel or gill net or fish commercially within 1500 feet of any jetty, pier, wharf, beach or similar structure of the city.<sup>209</sup>

In order to regulate the conduct of businesses in the city, Pascagoula has prohibited or restricted certain commercial activities. It is unlawful to operate a wholesale or retail liquor store within four hundred (400) feet of any church, school, or park unless within a commercially zoned area in which case it is one hundred (100) feet.<sup>210</sup> The city also prohibits the construction, establishment, or maintenance of any vending machine display of merchandise or other obstruction or any advertisement on any public sidewalks in the city.<sup>211</sup> No vegetables, fish, meat or produce of any kind may be exhibited or offered for sale or sold in any unenclosed structure.<sup>212</sup> Unfit or unwholesome fish, shrimp, crabs, or oysters may not be offered for sale or sold as being fit or wholesome.<sup>213</sup>

The sale of fish, shrimp, or crab taken from the Inner Harbor or any area within two (2) miles of a sewerage outlet is prohibited.<sup>214</sup> It is also unlawful to plant oysters in any water which flows into the Pascagoula River or the Mississippi Sound.<sup>215</sup>

As regards waste and trash disposal, the city has made it unlawful to throw or deposit any trash or filth of any kind on any public or private premises.<sup>216</sup> No leaves or other trash may be disposed of by burning without written approval of the fire marshal.<sup>217</sup> The disposal of human waste by any method other than those approved by the state board of health is prohibited.<sup>218</sup> It is also unlawful to discharge into any street, ditch, alley, or the like any substance which might be offensive to the sight or smell of anyone living or passing nearby.<sup>219</sup> No one may throw or deposit any material into any ditch, drain, or stream so as to interfere with the flow in such ditch, drain, or stream.<sup>220</sup> It is also unlawful to discharge any sewage or polluted water into a natural outlet in the city or to use anything other than a publicly provided sewage facility if located within access to such facility.<sup>221</sup> No carcass of a dead animal may be placed in or on any public or private property in the city<sup>222</sup> but must be removed at least three-fourths (3/4ths) of a mile from the corporate limits or to the city dump.<sup>223</sup>

The city has also declared it unlawful to kill or injure any bird or wild fowl unless such bird or fowl constitutes a nuisance.<sup>224</sup> As well, it is unlawful to injure, deface, cut or harm any tree or vegetation or any public property in any municipal park.<sup>225</sup>

## MUNICIPALITIES

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. Miss. Const. art. 4, § 88. Laws passed under this authorization may be repealed or amended.
2. Id., § 90.
3. Id., § 87.
4. The purposes for which a municipality may purchase and hold real estate include parks, cemeteries, hospitals, school houses, houses of correction, waterworks, electric lights and sewers. § 27-17-1.
5. § 21-37-53.
6. § 21-1-13.
7. § 21-1-15.
8. § 21-1-17.
9. § 21-1-25.
10. § 21-1-21.
11. § 21-1-19.
12. § 21-1-27.
13. § 21-1-29.
14. § 21-1-33.
15. § 21-1-37.
16. § 21-1-39.
17. § 21-1-35.

18. § 21-1-43.
19. § 21-1-59.
20. § 21-1-45.
21. Id. See notes 7-10, *supra*.
22. § 21-1-1.
23. § 21-1-3.
24. § 21-1-11.
25. § 21-1-49.
26. § 21-1-51.
27. § 21-1-53.
28. Id.
29. Id.
30. See notes 50, 62, infra.
31. § 21-17-9.
32. § 21-17-11.
33. § 21-1-7.
34. If no local newspaper is available, the ordinance must be posted in three public places.
35. § 21-13-11.
36. § 21-13-13.
37. § 21-13-17.
38. § 21-13-5.
39. § 21-13-7. The style of municipal ordinances is: "Be it ordained by the mayor and board of aldermen [or other governing body] of the \_\_\_\_\_

[city, town or village] of \_\_\_\_\_ [name of municipality]. "

40. § 21-13-9.

41. § 21-13-3.

42. § 21-11-1.

43. § 21-11-21.

44. § 21-11-7. To exercise this authority, the municipality must publish an ordinance in a local newspaper more than thirty days prior to the election.

45. Id.

46. § 21-11-5.

47. § 21-11-9.

48. § 21-11-13.

49. § 21-5-23.

50. § 21-5-1.

51. § 21-3-3. The mayor signs and the clerk attests all commissions and appointments of officers elected or appointed by the mayor and board of aldermen. However, failure of signature or attestation does not affect the validity of the acts of such officers when the minutes show a regular election or appointment by the board. § 21-3-17.

52. § 21-3-7.

53. The street commissioner's duty is to see that all streets, alleys, avenues, and sidewalks are in proper repair and condition. § 21-3-23.

54. § 21-3-5.

- 55. § 21-3-7.
- 56. § 21-3-11.
- 57. § 21-3-13.
- 58. § 21-3-9.
- 59. § 21-3-19.
- 60. § 21-3-15.
- 61. § 21-3-21.
- 62. § 21-5-1. The term "all members" denotes inclusion of absent council members in computing what constitutes a "majority".
- 63. § 21-5-5. Formerly, the two commissioners were termed "councilmen."  
See note 64, infra.
- 64. §§ 21-5-3, 21-5-15.
- 65. § 21-5-17.
- 66. § 21-5-13.
- 67. § 21-5-7. Cf. notes 57, 60 (the corresponding status of a mayor in the corporate charter form of government).
- 68. § 21-5-9.
- 69. § 21-5-11.
- 70. § 21-5-19. This specifically includes territorial boundaries, city property, and rights and liabilities for or against the city.
- 71. § 21-9-1.
- 72. §§ 21-9-3, 21-9-5.
- 73. § 21-9-9.
- 74. § 21-9-29.
- 75. § 21-9-13.

- 76. § 21-9-43.
- 77. § 21-9-37.
- 78. § 21-9-25.
- 79. § 21-9-29.
- 80. § 21-9-35.
- 81. § 21-7-1. The council may delegate its administrative functions where  
necessary. § 21-7-11.
- 82. § 21-7-5.
- 83. § 21-7-3.
- 84. § 21-7-7.
- 85. § 21-7-13.
- 86. § 21-7-15. See also §§ 21-15-17 to 21-23-11.
- 87. § 21-7-11.
- 88. § 21-11-23.
- 89. § 21-3-15.
- 90. § 21-15-7.
- 91. § 33-15-29.
- 92. § 45-17-3. A copy of the proclamation must be filed with the city clerk.
- 93. § 45-17-5.
- 94. § 27-107-31.
- 95. § 21-11-3. The municipal clerk must provide suitable registration books  
for this purpose.
- 96. § 21-15-19.

- 97. § 21-15-17.
- 98. § 21-19-33.
- 99. § 21-21-1.
- 100. § 21-23-11.
- 101. § 21-23-3; § 21-23-5 provides when the mayor is to be considered to  
serve as police justice.
- 102. § 21-15-25.
- 103. § 21-15-27.
- 104. § 21-15-29.
- 105. § 21-17-7.
- 106. § 21-39-19.
- 107. § 21-39-13.
- 108. § 21-39-7.
- 109. § 21-39-9.
- 110. § 21-1-63.
- 111. § 11-45-25.
- 112. § 21-33-87.
- 113. § 21-19-43.
- 114. § 21-33-53. Neither the tax collector nor the building inspector may  
keep any amount collected by them.
- 115. § 21-33-87.
- 116. § 21-1-61.
- 117. § 21-39-15.

118. § 21-39-1.

119. § 21-39-1.

120. § 21-39-1.

121. § 25-1-53.

122. § 21-5-21.

## BILOXI

123. Biloxi, Miss. Code § 1-9 (1959).
124. Id. at § 7-2. The boundaries of these wards are set out specifically therein.
125. Id. at § 2-1.
126. Id.
127. Id.
128. Id. at § 7-4.
129. Id. at §§ 2-1, 7-5.
130. Id.
131. Id.
132. Id. at § 2-3.
133. Id. at § 2-2.
134. Id. at § 11-1.
135. Id. at § 11-40. The methods by which water may be treated to prevent mosquito breeding are listed at § 11-42.
136. Id. at § 11-43.
137. Id. at § 9-25.
138. Id. at § 9-11.
139. Id. at § 9-23.
140. Id. at § 11-4.
141. Id. at § 15-22.
142. Id.
143. Id.

- 144. Id.
- 145. Id. at § 15-28.
- 146. Id. at § 17-17.
- 147. Id. at § 17-8.
- 148. Id. at § 5-1.
- 149. Id. at § 13-8.
- 150. Id. at § 15-21.
- 151. Id. at § 11-7(17).
- 152. Id. at § 11-32.
- 153. Id. at § 13-7.
- 154. Id. at §§ 13-10, -11.

## GULFPORT

155. Gulfport, Miss. Code, §§ 1-13, -14 (1963).
156. Gulfport, Miss. Charter, § 2 (1912).
157. Id. at § 3.
158. Id. at § 6.
159. Gulfport, Miss. Code § 2-18 (1963).
160. Id. at § 2-19(a).
161. Id. at § 2-19(b).
162. Id. at § 2-20.
163. See generally id. at §§ 7-1 to 7-48.
164. Id. at § 7-1.
165. Id. at § 7-2.
166. Id. at § 7-3.
167. Id. at § 7-4.
168. Id. at § 12-43.
169. Id. at § 14-6.
170. Id. at § 13-3.
171. Id. at § 13-13.
172. Id. at § 13-17.
173. Id. at § 14-4.
174. Id. at § 14-21.
175. Id. at § 14-62. For the approved methods of treatment see § 14-63.
176. Id. at § 14-64.

## PASCAGOULA

177. Pascagoula, Miss. Code § 1-12 (1967).
178. Id.
179. Id. at § 2-22.
180. Id. at §§ 2-23, -24.
181. Id. at § 11-1. See also Miss. Code Ann. §§ 21-11-1 to 21-11-19,  
and 21-15-1, 21-15-5, 21-15-39 (1972).
182. Pascagoula, Miss., Code § 2-25 (1967).
183. Id.
184. Id. at § 2-32.
185. Id. at §§ 2-46, -47.
186. Id. at § 2-48.
187. Id. at § 2-50(a).
188. Id. at § 2-50.
189. Id. at § 2-64.
190. Id. at § 2-65.
191. Id. at § 2-66.
192. Id. at § 2-78.
193. Id. at § 2-79.
194. Id. at § 2-80.
195. Id. at § 2-87.
196. Id. at § 2-88.
197. Id.
198. Id. at §§ 2-99, -100.
199. Id. at §§ 2-112, -113.

200. Id. at § 2-117.
201. Id. at § 6-1.
202. Id. at § 6-4.
203. Id. at § 6-5.
204. Id. at § 6-2(a).
205. Id. at § 6-2 (b).
206. Id. at § 6-2(c).
207. Id. at § 6-2(d).
208. Id. at § 6-2(e).
209. Id. at § 6-3.
210. Id. at § 3-13. See also Crawford v. City of Pascagoula, 243 So. 2d 555 (Miss. 1971).
211. Pascagoula, Miss., Code § 26-23 (1967).
212. Id. at § 13-1. But see id. at § 13-2.
213. Id. at § 13-43.
214. Id. at § 13-47.
215. Id. at § 13-48.
216. Id. at § 14-3.
217. Id. at § 14-8.
218. Id. at § 15-3.
219. Id. at § 15-6.
220. Id. at § 15-32. The primary purpose of this ordinance is to prevent mosquito breeding. Along this line, it is also unlawful to allow any water to become such as might tend to breed mosquitoes.

221. Id. at § 29-44.

222. Id. at § 4-5.

223. Id.

224. Id. at § 20-11.

225. Id. at § 21-1.

## II. SPECIAL JURISDICTION

### A. STATE-WIDE

#### 1. STATE BUILDING COMMISSION

The State Building Commission is composed of the Governor as ex officio chairman and eight other members appointed by the Governor, who serve at his will and pleasure.<sup>1</sup>

The Commission may employ necessary personnel for making inspections, preparing specifications, supervising erection of buildings and making necessary repairs or additions. Also, the Commission is given broad discretion in its use of funds.<sup>2</sup>

The Commission may acquire realty in connection with any authorized building project by purchase or, if unable to agree with the property owner on compensation, by condemnation proceedings under eminent domain rights.<sup>3</sup>

The Commission must report to the Budget and Accounting Commission by September first each year on the building needs of state institutions and junior colleges. Such reports should include an inventory of the facilities and outstanding indebtednesses on them, cost of repair for the preceding two years, conditions, estimated costs, and building and facility needs of each institution, classified as immediate or long range.<sup>4</sup> Special funds are available to build projects for technical institutions.<sup>5</sup>

The Commission may contract with the chairman and secretary of any state institution's governing board on building projects, or it may lease certain facilities for up to fifty years, if the rent payable covers the principal and in-

terest on bonds issued in furtherance of the project.<sup>6</sup>

The Commission is authorized to act for the state in matters relating to the Federal Higher Education Facilities Act.<sup>7</sup>

The Commission also makes semi-annual inspections of buildings controlled by the Capitol Commission for structural defects and recommends repairs.<sup>8</sup>

Financing for Commission projects is provided on interim and permanent bases. Interim financing is provided by borrowing money from state lending institutions through certificates and notes bearing a maximum tax exempt interest rate of 4% per annum.<sup>9</sup> Permanent financing is furnished by issuing bonds in the amount needed to cover the estimated cost of facilities.<sup>10</sup> Bonds are issued only after the Commission has investigated the necessity for a facility proposed by the Board of Trustees of State Institutions of Higher Learning. Additionally, the Commission determines whether the facility can reasonably be expected to produce sufficient revenue to retire the bonds over twenty-five years.<sup>11</sup> The attorney general represents the Commission in issuing, selling, and validating bonds, and his office may be paid up to \$10,000 annually by the Commission for such services.<sup>12</sup>

The Commission performs certain other specific functions. It cooperates with municipalities in the acquisition of land for airports for the use of state supported four year institutions.<sup>13</sup> Appropriations out of the State General Fund to the Commission for specific building projects are enumerated by statute.<sup>14</sup> Additional funds may be expended to purchase civil defense equipment or supplies.<sup>15</sup>

The Commission is, in addition, authorized to build the Adjustment Center for Blind Persons with money appropriated for that purpose.<sup>16</sup>

In order to expand the state's recreational facilities, the Commission is also empowered to lease land belonging to the Mississippi State Prison for periods not to exceed one year (renewable) for hunting purposes.<sup>17</sup>

## STATE BUILDING COMMISSION

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. § 31-11-1.
2. § 31-11-3.
3. § 31-11-25.
4. § 31-11-27.
5. § 37-133-7.
6. § 33-11-55.
7. § 33-11-31.
8. § 33-11-27.
9. § 33-11-23.
10. § 33-11-117.
11. § 33-11-115.
12. § 33-11-87.
13. § 61-5-71.
14. See, Act of Apr. 5, 1971, ch. 163, [1971] Gen. Laws of Miss. 166.
15. § 33-15-25.
16. § 43-3-13.
17. § 49-7-137.

## 2. MARINE RESOURCES COUNCIL

The sixteen members of the Marine Resources Council are selected and appointed by the Governor on the following basis: two members from the House of Representatives, two from the State Senate, one representing the Board of Trustees of Institutions of Higher Learning, one from the Universities Marine Center, one from the Research and Development Center or its staff, the Director of the Mississippi Agricultural and Industrial Board, one from the Mississippi Marine Conservation Commission or its staff, one from the Gulf Coast Research Laboratory, and six (6) from the public at large. All appointments are with the advice and consent of the Senate for a term of office not exceeding four years, except for legislative members, and terminating upon the expiration of the appointing governor's term of office. Unlike the other members, the legislative appointees are not public officers in the executive branch of government. All members continue to serve until their successors are appointed and qualified. The governor serves as Council Chairman and also appoints the vice-chairman. Nine Council members constitute a quorum to do business.<sup>1</sup>

The objective of the Council is to provide for effective, efficient economic development of state marine resources and to obtain suitable personnel to harness those resources in order to maximize the economic growth potential. To accomplish these objectives, the Council provides continuing study of oceanography relating to Mississippi and develops a long-range state oceanographic program.<sup>2</sup>

The legislative intent is that the Council study and develop state plans for

the development of marine resources to insure that they are coordinated with comparable programs of federal agencies, other Mississippi agencies, agencies of other states, and private agencies.<sup>3</sup>

The Council is authorized to contract with any state or federal agency when necessary to carry out its functions.<sup>4</sup>

The Council is designed to function in cooperation with the Mississippi Marine Conservation Commission, the Mississippi Agricultural and Industrial Board, the Mississippi Research and Development Council, the Board of Trustees of Institutions of Higher Learning, the Gulf Coast Research Laboratory, the Universities Marine Center and colleges and universities conducting oceanographic research.<sup>5</sup>

The Council also serves an advisory function to the Governor and all related state agencies. The Council acts as a clearinghouse on all present and future joint federal-state programs, advising other state agencies and boards: the best programs available to Mississippi for developing marine resources, how to apply for and hold all necessary licenses and grants, on maximizing utilization of state marine research and development facilities, and on necessary in-depth studies.<sup>6</sup>

The Council is financed by a variety of sources. It is authorized to solicit, receive, and expend services, matching funds, gifts, contributions, property, and equipment from public and private sources in discharging its functions.<sup>7</sup> All funds received by the Council are deposited in the State Treasury in the "Mississippi Marine Resources Council Fund." Expenditures from this special fund to carry out the Council's functions may only be made with the approval of a majority of members at any meeting, and requisition to the state

auditor and payment by the state treasurer.<sup>8</sup>

A full accounting is kept of all funds received and expended by the council, and is audited annually by the State Auditor of Public Accounts.<sup>9</sup>

MARINE RESOURCES COUNCIL  
FOOTNOTES

1. Miss. Code Ann. § 57-15-11 (1972).
2. Id. § 57-15-7.
3. Id. § 57-15-5.
4. Id.
5. Id. § 57-15-3.
6. Id. § 57-15-9. This statute also provides that the Marine Research Council may not abrogate the authority of the Mississippi Marine Conservation Commission, the Board of Trustees of Institutions of Higher Learning, the Gulf Coast Research Laboratory, or the Universities Marine Center.
7. Id. §§ 57-15-5, 57-15-9.
8. Id. § 57-15-5.
9. Id.

### 3. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety serves an environmental control function by enforcing, in cooperation with other law enforcement officers, the law<sup>1</sup> against dumping trash<sup>2</sup> or any substance likely to ignite grass or underbrush on the rights-of-way of public roads, highways or private property.<sup>3</sup>

The Department also enforces the law prohibiting erection or maintenance of billboards at curves or intersections which obstruct a clear line of vision between pedestrians and drivers of wheeled vehicles not more than one hundred yards apart.<sup>4</sup>

The Department, in addition, has jurisdiction to remove, as nuisances, unauthorized signs, signals or markings displayed in view of the highway which imitate official traffic-control devices or railroad signals, attempt to direct the movement of traffic or which interfere with the effectiveness of such devices or signals.<sup>5</sup> Billboards or advertising signs within fifty feet of the center line of any state highway are also classed as nuisances.<sup>6</sup> Ten days notice is given to the owner of a prohibited nuisance before removal.<sup>7</sup>

The Commissioner of Public Safety is appointed by the governor for a four year term.<sup>8</sup>

The Commissioner is responsible for taking up and impounding livestock roaming at large on certain paved highways or rights-of-way<sup>9</sup> in the state. The services of county residents<sup>10</sup> may be secured to assist the highway safety patrol in taking up and impounding livestock and paid for out of assessments<sup>11</sup>

on the livestock.<sup>12</sup> Livestock may be impounded in either a private inclosure provided by a private individual who assists in impounding the livestock or an inclosure provided by the board of supervisors of the county.<sup>13</sup>

## DEPARTMENT OF PUBLIC SAFETY

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)].

1. See Act of May 28, 1964, ch. 349 [1964] Gen. Laws Miss. 482.
2. "Trash" specifically includes tin cans, bottles, jars, glassware or broken glass, paper, boxes, old iron, tools, machinery, vehicles, bricks and "any article classified as trash or debris." § 97-15-29.
3. Id. This act supercedes Miss. Code Ann. § 2214.5 (1942). This act does not prohibit the storage of ties by a railroad on its right-of-way where the highway right-of-way extends to within a few feet of the road bed.
4. § 49-23-33. Each billboard erected or maintained constitutes a separate misdemeanor offense, punishable by a fine of between twenty-five and one hundred dollars.
5. § 63-3-317.
6. § 49-23-31.
7. § 63-3-317, authorizes Department of Public Health to enforce sanitary regulations of Board of Health.
8. § 45-1-1. The Commissioner serves until his successor is appointed.
9. § 69-13-103. In counties not covered by the state-wide stock laws, the only highways designated as off-limits for stock are U. S. highways, Mississippi Highway 55 and other highways which traverse more than one county and connect with a paved highway in another state which is extensively traveled by citizens of other states.

10. This refers to any person residing in the county where the livestock are being taken up, other than elected county officers. A law enforcement officer must be present whenever such persons take up livestock.
11. Assessments include: (a) \$5.00 per head to pay the private individual for his services, (b) \$2.50 per head impoundment fee, and (c) \$1.00 per head per day to pay the cost of feeding and caring for the livestock.
12. § 69-13-103.
13. Id. If the inclosure is private, then the individual providing the inclosure receives the \$1.00 per day fee.

#### 4. RESEARCH AND DEVELOPMENT COUNCIL

The Mississippi Research and Development Council is composed of twenty-five members whose terms are concurrent with the governor's. The governor serves as chairman of the council. Two members are appointed from the Senate by the lieutenant governor, and two are appointed from the House of Representatives by the Speaker of the House. Two members are elected by the Mississippi Agricultural and Industrial Board. Two members are elected by the board of trustees of state institutions of higher learning. The Director of the Mississippi Research and Development Center functions as the Council's executive officer.<sup>1</sup> The remaining sixteen members are appointed by the governor, who also fills vacancies in those appointments. The legislative intent is that educational institutions, government planning and development organizations, and major segments of the economy be represented among the appointed membership.<sup>2</sup>

The Chairman of the Council also serves as Chairman of the Council's Executive Committee and appoints six additional members from the Council to the Executive Committee, which includes at least one member elected by the Board of Trustees of Institutions of Higher Learning and one elected by the Mississippi Agricultural and Industrial Board. The function of the Executive Committee is to perform the duties and conduct the business of the Council during periods between official Council meetings, subject to the ratification or disapproval of the Council at its next meeting.<sup>3</sup>

Council meetings are called on ten days' notice by the Chairman, but the Council meets at least once every calendar quarter. Thirteen members of

the Council constitute a business quorum.<sup>4</sup>

The function of the Council is to advise the Governor and legislature on matters of research policy and utilization of public funds for research purposes, to advise the Board of Trustees of Institutions of Higher Learning on the role of such institutions in the total state research and development effort, and to provide operational guidance to the Mississippi Research and Development Center staff so that its research programs and projects provide the research support required by Mississippi economic development agencies, organizations and programs.<sup>5</sup>

## RESEARCH AND DEVELOPMENT COUNCIL

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. § 57-13-17(3).

2. § 57-13-17(4).

3. § 57-13-17(5).

4. § 57-13-17(6).

5. § 57-13-17(2).

## 5. PUBLIC SERVICE COMMISSION

The Public Service Commission was created in 1955 to exercise exclusive original jurisdiction over the intrastate business and property of public utilities.<sup>1</sup> However, the Commission's regulatory authority does not extend to: production and sale of natural gas; regulation of rates on the sale of water by municipalities; or the sale of gas and electricity by municipalities or co-operatives.<sup>2</sup> Further, the Commission may not control or regulate water management functions which are within the jurisdiction of the Water Supply<sup>3</sup> or the Water Management Districts.<sup>4</sup>

The Commission is composed of three commissioners, one elected from each of the three Supreme Court Districts to a four year term.<sup>6</sup>

Conflicts of interest among the commissioners are prohibited, and no commissioner may operate, be employed with, or own any stock in any railroad, motor vehicle carrier, gas or electric utility company or any public utility under the jurisdiction of the Commission.<sup>6</sup>

Receipt of other considerations which may prevent a commissioner from exercising impartial judgment is also prohibited. Any commissioner found guilty of accepting a benefit from a public utility (or its agent) regulated by the Commission will be stripped of his office and fine between fifty and one thousand dollars and/or imprisoned in the county jail for up to six months.<sup>7</sup> Any public utility subject to regulation by the Commission, or its agent, who is found guilty of seeking some special favor from a commissioner and offering him a benefit in return, is subject to a fine of up to five thousand dollars.<sup>8</sup>

Public Service Commissioners may also administer oaths and take affidavits.<sup>9</sup>

In the supervision of public utilities the Commission may require the extension of facilities. Upon a petition by the attorney general, the Commission may determine at a hearing if telephone or telegraph companies are rendering reasonably adequate service.<sup>10</sup> Other public utilities may be required upon cause to extend the operation of existing facilities, especially in the case of companies providing gas and water.<sup>11</sup> Either the utility or the state, through the attorney general, may appeal within ten days from the decision made in the hearing on whether the utility provides "reasonable service". The appeal is taken by certiorari to the Circuit Court of the First Judicial District of Hinds County, Mississippi.<sup>12</sup> Appeals from the order of the circuit court may be taken like any other appeal to the Mississippi Supreme Court.<sup>13</sup>

The Commission also controls the number of public utility companies that may operate within the state due to the requirement that a permit be obtained from the Public Service Commission before beginning operations.<sup>14</sup> In the case of public sewage disposal systems as well as other utilities, a showing of public necessity and convenience must be made by the company applying for the permit.<sup>15</sup> This certificate of public convenience and necessity which is obtained by the applicant may be sold or transferred upon additional application to the Commission. A public hearing on the application will then be held upon twenty days advance notice to the applicant and other interested parties.<sup>16</sup>

The Commission is further empowered to prescribe and regulate safety standards and inspection procedures for municipally owned or operated gas companies.<sup>17</sup> The Commission may inspect municipal gas systems, and any information needed by the Commission must be provided by the gas system.<sup>18</sup>

The Commission also reviews proposed changes in rates by public utilities. A public utility must give the Commission thirty days written notice before changing rates and must state why the rate change is necessary.<sup>19</sup> If the Commission, following proper notice, finds in hearing that rates are excessive or otherwise discriminatory, it may then fix the legal rate.<sup>20</sup> However, the Commission may rescind any order or decision made after proper notice has been given to interested parties.<sup>21</sup>

The Commission may apply to the Chancery Court of the First Judicial District of Hinds County for enforcement of its orders by mandamus, injunctions or other appropriate remedies.<sup>22</sup> Parties aggrieved by a final finding of the Commission may seek review through the aforementioned Chancery Court.<sup>23</sup> The Chancery Court's decision may then be appealed to the Mississippi Supreme Court.<sup>24</sup>

In carrying out these duties the Commission may employ and fix the salaries of six inspectors.<sup>25</sup> Any public utility failing to obey an order of the Commission is subject to a fine of up to two hundred dollars for each violation.<sup>26</sup>

In addition to the supervision of public utilities, the Public Service Commission replaces the Mississippi Railroad Commission in its railroad regulation function.<sup>27</sup> In assuming the duties of the Railroad Commission the Public Service Commission also acquires jurisdiction over telephone and telegraph

companies.<sup>28</sup>

The Commission serves an investigative function by seeking information to insure that the laws are being obeyed.<sup>29</sup> To implement these investigations the Commission may demand all information from railroads, telegraph, telephone, and steamboat companies necessary to enable its members to intelligently discharge their duties.<sup>30</sup>

In its investigative function the Commission may learn of an insecure trestle or roadbed. In such cases the Commission should inspect or procure an engineer to inspect the defect and require the railroad to repair it.<sup>31</sup> In addition, the Commission can prohibit the use of certain tracks for switching or standing cars within municipalities and may prohibit the use of excessive track across streets or highways and require the removal of excessive track.<sup>32</sup> And, if any railroad accident results in human death or serious bodily harm, a commissioner must promptly visit the scene of the accident.<sup>33</sup>

Public safety is also promoted by the Commission's requirement that telegraph lines cross highways only at right angles and be erected so as not to endanger the public.<sup>34</sup>

The Commission has the power to extend railroad services by requiring railroads of the same gauge to connect if they end within one mile of each other, cross or run parallel to each other, or their connection is otherwise convenient or in the public necessity.<sup>35</sup>

The Commission also controls the maintenance of telegraph and express company offices since it may require offices or night operators at every town on the company's route.<sup>36</sup>

Railroad passenger services also come within the jurisdiction of the Commission. The Commission may require union depots, regulate sites and dimensions, and determine the amount of contributions by each railroad company.<sup>37</sup> The Commission also formulates rules and regulations for maintaining passenger depots.<sup>38</sup> Any railroad which fails to provide reception rooms, or make required alterations within the prescribed time is subject to a fine of fifty dollars per day.<sup>39</sup> Other depot facilities which may be required by the Commission include bulletin boards announcing times of arrival and departure<sup>40</sup> and storage space.<sup>41</sup>

Railroad passenger rates are also reviewed by the Commission to prevent unfair practices. Each railroad's tariff of charges (passenger rates) must be approved by the Commission and posted within ten days after approval on the bulletin board at each depot.<sup>42</sup> Rebates from the approved tariff by changing passenger rates or issuing free passes,<sup>43</sup> as well as extortion by discriminating or otherwise unreasonably setting rates,<sup>44</sup> are prohibited by statute. Such infractions are punishable by a minimum fine of one hundred dollars unless the rate changes were approved by the Commission.<sup>45</sup>

The Commission may enforce its orders by application to the chancery or circuit courts.<sup>46</sup> Further, in enforcing the Mississippi Motor Carrier Regulatory Act, the Commission may use the highway patrol and agents of the motor vehicle comptroller,<sup>47</sup> employ a chief enforcement officer and twelve inspectors,<sup>48</sup> and purchase all necessary equipment.<sup>49</sup>

Another vehicle for enforcing the Commission's orders lies in the Com-

mission's discretion in subjecting the railroads and common carriers to statutory penalties. Failure of a railroad, express, telegraph or sleeping car company to make any annual or quarterly report in the time and manner prescribed by statute carries a fine of fifty dollars for each day's delay.<sup>50</sup>

If any railroad or steamboat company engages in the business of transporting passengers without first being chartered by the Commission as a common carrier, the company's representatives may be fined up to one thousand dollars and/or imprisoned up to three months.<sup>51</sup> Other penalties prescribed by statute for violation of Commission orders have already been dealt with.<sup>52</sup>

## PUBLIC SERVICE COMMISSION

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. § 77-3-5. "Public utility" was defined in § 77-3-3 to include companies which distribute electricity, gas or water or which transmit radio or television broadcasts, also sewage disposal or treatment.
2. § 77-3-5. See also § 77-3-17 (defining exceptions where the Commission has jurisdiction over certain non-profit cooperatives).
3. § 51-9-155.
4. § 51-15-153. This statute applies to all powers granted by the Water Management District Act.
5. § 77-1-1.
6. Id.
7. § 77-1-11.
8. § 77-1-11.
9. § 77-1-35.
10. § 77-3-401.
11. § 77-3-29. The statutes also provides that a "sufficient supply" of gas and water must be available. Although the statute does not define what constitutes a "sufficient supply" of gas, this authorization of the Commission to order extension of gas company facilities might have special relevance in determining solutions to the gas shortage problem

which has recently developed in this area of the country.

12. § 77-3-409; see also, § 77-3-413 (if appealing from an order forfeiting or refusing to forfeit the utility's charter).
13. § 77-3-415.
14. § 77-3-11.
15. § 77-3-13. It is significant that sewage disposal was only brought within the jurisdiction of the Commission by the 1968 amendment of the statutory definition of "public utility." See § 77-3-3, and note 1, supra.
16. § 77-3-23.
17. § 77-11-101.
18. § 77-11-107.
19. § 77-3-37.
20. § 77-3-41. The Commission is authorized to set up rules and regulations for the implementation of its decisions on legal utility rates.
21. § 77-3-61.
22. § 77-3-75.
23. § 77-3-67. This is in addition to other remedies available at law or in equity. See also § 77-1-45 (providing that any finding by the Commission may be appealed within six months to the Circuit Court of the First Judicial District of Hinds County).

24. § 77-3-71.
25. § 77-1-23.
26. § 77-3-81.
27. § 77-9-11.
28. Id. In enumerating the duties of the Railroad Commission it will be assumed that the statutes relating to those duties also apply to the Public Service Commission.
29. § 77-9-1.
30. § 77-9-9 and § 77-9-19.
31. § 77-9-254.
32. § 77-9-265.
33. § 77-9-433.
34. § 77-9-711.
35. § 77-9-317.
36. § 77-9-701. No office may be closed without the Commission's approval.
37. § 77-9-311.
38. § 77-9-301. Such rules must be posted inside the depot.
39. § 77-9-315.
40. § 77-9-305.
41. § 77-9-307.
42. § 77-9-381.
43. § 77-9-377.
44. § 77-9-375.
45. §§ 77-9-375, 77-9-377.

46. § 77-1-43.
47. § 77-7-341.
48. § 77-1-21.
49. § 77-7-337. Necessary equipment may also be purchased to enforce the railroad laws of Mississippi.
50. § 77-9-17.
51. § 77-9-603.
52. See supra, notes 7, 8, 39, 45.

## B. REGIONAL

### 1. REGIONAL PLANNING COMMISSION

The members of the Regional Planning Commission are appointed by county boards of supervisors and municipal legislatures desiring representation,<sup>1</sup> for terms of four and three years, respectively.<sup>2</sup> The chairmen of local planning commissions and city or county engineers may be designated as ex officio members by their respective governmental units.<sup>3</sup>

The Commission is funded by appropriations from the governing bodies which appoint its membership.<sup>4</sup>

The Commission is empowered to employ necessary personnel and consultants, make necessary contracts, hold public hearings, receive funds from any governmental agency, private or civic source, cooperate with federal and state agencies in planning functions, and exist as a corporate body which can sue or be sued. When the Commission is sued process is served on the chairman.<sup>5</sup>

The Commission advises local municipalities and counties in solving problems of land use, water resources, mosquito control, highways, recreational areas, public schools, sewage and garbage disposal, public libraries, urban development, and use of property and services in the public interest.<sup>6</sup>

## REGIONAL PLANNING COMMISSION

## FOOTNOTES

1. Miss. Code Ann. § 17-1-29 (1972).
2. Id. § 17-1-31.
3. Id. § 17-1-29.
4. Id.
5. Id. § 17-1-35.
6. Id. §§ 17-1-29, 17-1-33.

## 2. GULF COAST RESEARCH LABORATORY

The Gulf Coast Research Laboratory is supervised by the Board of Trustees of State Institutions of Higher Learning, which appoints the director of the laboratory, fixes the qualifications and number of instructors, employees and their compensation, and, in cooperation with the Mississippi Academy of Science, Inc. , prescribes the governing policies of the institution.<sup>1</sup>

The object of the Laboratory is to promote the study and knowledge of science, including state natural resources and to disseminate research findings and specimens from the Gulf Coast area.<sup>2</sup>

In its teaching and research functions, the Laboratory has developed a program by which it provides study facilities for students in Mississippi and affiliated colleges and universities. The standards for admission of students are set by the Board of Trustees of State Institutions of Higher Learning.<sup>3</sup>

The Gulf Coast Research Laboratory possesses the same general powers ordinarily accorded other state agencies.<sup>4</sup>

## GULF COAST RESEARCH LABORATORY

## FOOTNOTES

[Unless otherwise specified all footnotes refer to Miss. Code Ann. (1972)]

1. § 37-101-21.

2. Id.

3. Id.

4. Id. These powers include the right to contract and be contracted with, to receive and acquire property necessary for its operation, to hold, use and convey such property, to adopt and use a corporate seal, and to adopt rules and regulations.

### 3. GULF REGIONAL DISTRICT

The Gulf Regional District was established in the aftermath of the Hurricane Camille disaster of 1969.<sup>1</sup> Its purpose is to encourage voluntary regional association of local communities and state political entities and to solve areawide problems by cooperation through local government control.<sup>2</sup>

The district's "region" encompasses the area of counties, bordering on the Gulf of Mexico or contiguous to such bordering counties, which elect to associate with the district.<sup>3</sup>

Any county or city within this region can associate with the district if a majority of the qualified electors voted for association before February 1, 1972. Such elections may have been called, even if the local governing body adopted a resolution not to associate, if either fifteen hundred voters or ten percent of the county or city's qualified electors so petitioned.<sup>4</sup>

If six months have elapsed since the election to associate, any member county may withdraw from the district under the same procedure followed in associating.<sup>5</sup>

The district's administrative funds are apportioned annually at not more than fifty cents per capita population of each associated member. If an associated city lies within an associated county, the city residents are not assessed more than twenty-five cents each. The annual budget calling for such appropriations may be amended by the district's governing body.<sup>6</sup>

The district governing body is composed of the presidents of the board of supervisors and mayors of each county or city within the district, three

qualified electors appointed by the governor from a list submitted by each regional governing body at least thirty days prior to the vacancy, and four qualified electors elected by a two-thirds vote of the district's governing body, all to serve for four year terms. Ex officio and non-voting members may be appointed by public agencies within the region at the discretion of the district governing body.<sup>7</sup>

Until three counties or cities associated with the district,<sup>8</sup> the governor's appointees composed an interim governing body whose powers were limited to: correlating the affected area's long range development with the state economy and development, exploring avenues of assistance, recommending the most efficient government use of total resources, and recommending a comprehensive long-range development plan to maximize the area's recreational, cultural and economic life.<sup>9</sup>

The district is authorized to: fix compensation for attendance of members at meetings (not to exceed \$22.50 per meeting); meet regularly twice annually and, at the written request of two voting members, meet specially within ten days after the executive director's receipt of such request and notification of all members; hold public hearings; employ all necessary personnel; accept funds from federal, state or local governments or agencies; and make all necessary contracts, to be executed by the executive director. The district's general powers may not conflict with the objectives and services of the Southern Mississippi Economic Development District or any other public agency.<sup>10</sup>

Consistent with its origin,<sup>11</sup> the district is directed to give primary attention to projects for rehabilitating regional areas devastated by disaster,

promoting the safety of people within the region, and protecting property from future disaster.<sup>12</sup>

The district is authorized to serve a coordinating function by developing more effective lines of communications between the various governments and agencies, developing and updating regional plans, and providing additional planning assistance and financing to any public agency for any regional project. However, such actions are taken by the district only at the request of the public agency involved in the project.<sup>13</sup> When public agencies submit plans for approval, the district conducts a feasibility analysis, including the plan of operation, source of anticipated revenue, estimated expenditures, and estimated cost of construction.<sup>14</sup> After independently evaluating the plan, the district may also modify or disapprove the plan. The costs of this independent evaluation are borne by the agency submitting the plan.<sup>15</sup> And if the agency requests that the district undertake the project in its behalf and the district agrees, such agreement is enforceable in chancery court.<sup>16</sup>

Financing of regional projects approved by the district may be provided by the member counties and cities through appropriations from general or surplus funds or levying an annual ad valorem tax not to exceed two mills on all taxable property.<sup>17</sup> Financing by the district and member counties and cities may also be achieved by issuing revenue bonds, notes or other revenue obligations, or by mortgaging property. Resolutions for the issuance of such bonds are published for three successive weeks in a local newspaper and put to an election if ten percent of the region's electors so petition in writing. If the bond issue is not approved by a majority of those voting, further proceedings are not taken for

six months from the date of the election.<sup>18</sup>

Revenue bonds issued are payable only out of revenues accruing from the approved regional project, and the full faith and credit of the district, county or city is not pledged nor is any ad valorem tax levied.<sup>19</sup>

General obligations bonds are issued only by the associated city or county, not the district itself.<sup>20</sup>

Income from bonds and interest coupons issued on them is exempt from all state taxation.

The district may, in addition, coordinate planning activities with other governmental entities by proposing the adoption of uniform codes and disseminating information on planning matters between the counties, cities, and municipalities within the region. Toward achieving this end, each county and city within the district's region is required to make its current zoning ordinances, building codes, housing codes, subdivision regulations and all other authorized codes available to the district.<sup>21</sup>

In exercising its planning function the district is further authorized to acquire land, property, and interests, including easements, licenses, franchises, and privileges necessary to carry out approved projects. However, the right of eminent domain is exercised only by the governing bodies of the political subdivision within whose boundaries the approved project is to apply.<sup>22</sup> The district may also use the Gulf Regional Planning Commission as its planning instrumentality.<sup>23</sup>

The district and its members may enforce all legal rights of the district or its associated counties and cities by mandamus in any chancery court having

jurisdiction of the subject matter.<sup>24</sup>

Appeal from any decision<sup>25</sup> by the district or associated county or city's governing body may be made in any chancery court having jurisdiction of the subject matter by a bill of exceptions embodying the facts, judgment, and decision, to be signed by the presiding officer of the governing body whose decision is being appealed.<sup>26</sup> If the chancery court, in term or vacation time, reverses the judgment on appeal, judgment is rendered and costs awarded as in other cases. Counsel employed to represent the district or associated member in such suits are paid out of its funds.<sup>27</sup>

## GULF REGIONAL DISTRICT

## FOOTNOTES

1. Act of Apr. 14, 1971, ch. 517, [1971] Gen. Laws Miss. 733.
2. Miss. Code Ann. § 17-11-5 (1972).
3. Id. § 17-11-3(E).
4. Id. § 17-11-11.
5. Id. § 17-11-13.
6. Id. § 17-11-19.
7. Id. § 17-11-7. Terms are to be concurrent to terms of elective office.  
Mayors and presidents of the boards of supervisors unable to attend  
may designate in writing another member who may attend and vote  
for them.
8. The district is not lawfully organized until: (1) three cities or counties  
have elected to become associated; (2) the attorney general has reviewed  
the official proceedings of the governing bodies of the counties and cities;  
(3) the attorney general has certified to the governor that the counties  
and cities have elected to become associated; (4) the governor issues a  
proclamation that the district is organized. Id. § 17-11-17.
9. Id. § 17-11-15.
10. Id. § 17-11-21.
11. See note 1, supra.
12. Miss. Code Ann. § 17-11-25 (1972).
13. Id. § 17-11-23. The district is not vested with any governmental powers  
or functions other than those voluntarily conferred on it by public

agencies in the manner provided by statute. Id. § 17-11-59.

14. Id. § 17-11-27.

15. Id. § 17-11-29.

16. Id.

17. Id. § 17-11-19.

18. Id. § 17-11-37.

19. Id. § 17-11-39.

20. Id. § 17-11-41.

21. Id. § 17-11-31.

22. Id. § 17-11-31.

23. Id. § 17-11-33. In the exercise of its powers the district may not abridge or curtail the existing powers of a municipality. Id. § 17-11-59.

24. Id. § 17-11-55.

25. Id. § 17-11-57.

26. The lone exception to this rule is that no appeal may be taken from any order for issuance of bonds. Id.

27. In such suits, process may be served on the executive director or chairman of the governing body of the district. Id.

## C. COUNTY

### 1. HARRISON COUNTY PARKWAY COMMISSION

The Harrison County Parkway Commission is composed of the governor, as ex officio chairman, and five qualified electors of Harrison County appointed by him. The governing authorities of the municipalities of Biloxi, Gulfport, Long Beach, Pass Christian, and the Harrison County Board of Supervisors each recommend one of the five appointed commissioners.<sup>1</sup>

The Commission is empowered to create a public parkway in Harrison County on an area extending on the east to Point Cadet and on the west to Third Street in Henderson Point. This area is also bounded by U. S. Highway 90 (or Front Street) and the road protection (or seawall) right-of-way.<sup>2</sup>

The Commission is authorized, in cooperation with Harrison County and municipalities involved, to prescribe regulations for the use of the parkway.<sup>3</sup>

The Commission may acquire the necessary property for the parkway by purchase, gift, easement or lease with funds appropriated for that purpose.<sup>4</sup> Improvements placed on such leased land remain public property and may be removed on expiration of the public right.<sup>5</sup>

In the construction of the parkway the Commission may advertise for bids for purchasing materials and letting contracts, but no contract funded by the county is binding on the county until approved by the board of supervisors.<sup>6</sup> The Commission may adopt beautification plans and employ a beautification engineer in the construction of the parkway, but the same requirement of approval by the board of supervisors attaches to any county funding.<sup>7</sup>

Harrison County and the municipalities of Biloxi, Gulfport, Long Beach,

and Pass Christian may contribute men and machinery and appropriate funds toward the construction of the parkway. A special ad valorem tax, not exceeding one mill, may be levied in order to raise the necessary funds.<sup>8</sup>

## HARRISON COUNTY PARKWAY COMMISSION

## FOOTNOTES

1. Miss. Code Ann. § 55-11-1 (1972).
2. Id. § 55-11-7.
3. Id. § 55-11-15.
4. Id. § 55-11-7.
5. Id. § 55-11-21.
6. Id. § 55-11-11.
7. Id. § 55-11-9.
8. Id. § 55-11-17.

## 2. COUNTY BRIDGE AND PARK COMMISSION

The creation of county and municipal bridge and park commissions is authorized by the Mississippi Legislature in order to encourage economic growth and commercial development of navigation and harbor facilities, as well as boat and related facilities in or near the state's navigable waters.<sup>1</sup>

The governing authorities of any county, bordering on the Mississippi Sound or Gulf of Mexico, containing a municipality with a port or harbor engaged in international commerce, and having an assessed valuation of between thirty-five and ninety million dollars, may establish a bridge and park commission.<sup>2</sup>

The county bridge and park commission is composed of five qualified electors residing in the county which are appointed by the governing authorities of the county to serve for five year terms, except for the initial appointees whose terms were staggered.<sup>3</sup> Vacancies on the commission are filled by the county's governing authorities for the unexpired term.<sup>4</sup> The president and vice-president are elected by the commission from its members, but the secretary and treasurer need not be members.<sup>5</sup> Each commissioner, while engaged in commission duties, is compensated for actual traveling expenses and receives twenty-five dollars (\$25.00) per day, not to exceed one hundred and fifty days per year.<sup>5</sup> Conflicts of interest should not arise among the commissioners since they may not have pecuniary interest in the business of the commission.<sup>7</sup>

The commission's general powers as a public agency, including the power to employ necessary personnel<sup>8</sup> and exercise the power of eminent domain,<sup>9</sup> follow the general statutory form prescribed for other state agencies. The

commission is also authorized to construct, maintain and operate bridges, ferries, causeways, tunnels or combinations of them to connect any islands acquired to the mainland.<sup>10</sup> While the state may not authorize the permanent obstruction of navigable waters, this does not prevent the construction of bridges for railroads or other roads so long as the bridges do not prevent the safe passage of vessels.<sup>11</sup>

The commission is designed to cooperate with other state agencies in the construction of causeways, bridges, tunnels and approaches.<sup>12</sup> The State Highway Department may construct driveways and entrances to parks, but the county bridge and park commission is responsible for their maintenance.<sup>13</sup> Further, the Lower Mississippi River Basin Development District is authorized to provide for public parks and recreational facilities and to acquire land for such purposes, but unlike the bridge and park commission it may not institute condemnation proceedings to acquire such land.<sup>14</sup> Municipalities, however, may exercise the powers of eminent domain for playground and public parks.<sup>15</sup> Municipal contracts for construction or reconstruction of parks and playgrounds, as part of the urban renewal program,<sup>16</sup> are also to be encouraged by the municipalities.<sup>17</sup> Operation and maintenance of rehabilitated parks and playgrounds are supervised by the municipal park commission.<sup>18</sup>

The commission is authorized to employ several means of acquiring land necessary for park, recreational or harbor purposes. Any island in the Gulf of Mexico or Mississippi Sound lying within the county boundaries may be acquired by eminent domain.<sup>19</sup> The commission may make physical improvements on

acquired islands in order to render the property usable as a public park, parkway, boulevard or pleasureway.<sup>20</sup> After acquisition of such islands, the commission may purchase submerged lands from the state.<sup>21</sup> These lands may be filled and reclaimed as long as there is no interference with public use of navigable waters.<sup>22</sup> However, before the land is reclaimed the commission brings suit to confirm its title to the lands.<sup>23</sup> Appeal from a decree confirming the commission's title may be taken by any party to the suit as in other proceedings. Interlocutory appeals must be taken within ten days of the decree, and final decrees must be appealed within sixty days.<sup>24</sup>

The commission may choose to lease the submerged lands which it reclaims for a period not exceeding ninety-nine years, and, if it finds the lease impractical, the commission may sell the reclaimed lands in fee simple.<sup>25</sup> The commission is also authorized to dredge, deepen, and widen any adjacent or existing channels if it aids normal navigation and harbor development in the area.<sup>26</sup>

If the commission finds that any property, acquired by means other than eminent domain, has become unnecessary for park or recreational purposes or other public uses, it may lease or convey such property to any person or corporation. The commission's determination that the property is unnecessary is final.<sup>27</sup>

Construction by the commission may be financed by collecting tolls for the bridges, tunnels and causeways which it has constructed and operates,<sup>28</sup> by accepting contributions and loans from the federal government or its agencies,<sup>29</sup>

and by levying an ad valorem tax not exceeding four mills on all taxable property within the county.<sup>30</sup> Immediate funds for financing construction may be provided by the issuance of county bonds which bear interest not exceeding six percent and mature within forty years.<sup>31</sup> The property for which the bonds are issued may be pledged as security for their payment,<sup>32</sup> but such bonds do not constitute an obligation binding county revenues.<sup>33</sup> The holder of any bond issued by the commission or coupon thereto may bring a civil action, mandamus or other proceeding to enforce all duties of the commission in issuing bonds.<sup>34</sup>

## COUNTY BRIDGE AND PARK COMMISSION

## FOOTNOTES

1. Miss. Code Ann. § 55-7-1 (1972),
2. Id. § 55-7-3. For a municipality to qualify, it must border on the Mississippi Sound or the Gulf of Mexico, have a commercial harbor, and have a seafood industry within its corporate limits.
3. Id. § 55-7-5.
4. Id. § 55-7-7. In the case of a municipal bridge and park commission the commissioners must reside within the municipality.
5. Id.
6. Id. § 55-7-9.
7. Id. § 55-7-7. This statute represents a relaxation in the conflicts of interest requirements for commissioners. Municipal "park commissioners" are prohibited from holding any other public office. Miss. Code Ann. § 21-37-33 (1972).
8. Id. § 55-7-25.
9. Id. § 55-7-11. Powers also include the power to sue and be sued, to contract and be contracted with, and to adopt and later a corporate seal.
10. Id. § 55-7-17.
11. Miss. Const. art. 4, § 81.
12. Miss. Code Ann. §§ 55-7-55, 55-7-59 (1972),
13. Id. § 65-1-37.

14. Id. § 51-21-17.
15. Id. § 17-1-3.
16. Id. § 43-35-15.
17. Id. § 43-35-9.
18. Id. §§ 21-37-35 through 31-37-37.
19. Id. § 55-7-13. For municipalities to exercise such powers of eminent domain the island(s) must lie within three leagues of the municipal corporate limits. Id. Any island acquired by a municipal bridge and park commission may be incorporated into the municipality in the same manner as adjacent lands are incorporated. Id. § 55-7-53.
20. Id.
21. See *Treuting v. Bridge and Park Commission*, 199 So.2d 627 (Miss. 1967) (recognizing the state's power to convey submerged land where the project for which it is conveyed was in the public interest and accommodated expanding population, tourism, and commerce).
22. Miss. Code Ann. § 55-7-13 (1972).
23. Id. § 55-7-15.
24. Id.
25. Id. § 55-7-21.
26. Id. § 55-7-27.
27. Id. § 55-7-21.

28. Id. § 55-7-33; see also id. § 55-7-49.

29. Id. § 55-7-29.

30. Id. § 55-7-35.

31. Id. §§ 55-7-39.

Municipalities with a population of at

least 3,500 people may also issue bonds. Id. § 55-9-1.

32. Id. § 55-7-41.

33. Id. § 55-7-33.

34. Id. § 55-7-51.

## D. MUNICIPALITIES

### 1. Special Jurisdiction - Municipalities - Generally.

Pursuant to this section<sup>1</sup> the governing authorities of municipalities may receive and disburse both federal and state funds to plan, build, develop and repair inland ports. The governing authorities of municipalities may own, operate and regulate piers, pavilions, bathhouses and other appropriate structures for public recreation and pleasure purposes. These structures may be located on any tidewaters or navigable streams within or on the border of the municipal limits and may be reached either by the use of streets or public landings of the municipality or landings purchased or procured for such a purpose. Municipal bonds may be issued for the acquisition and construction of the aforementioned improvements, such bonds to be issued under the general statutes of the state as in other cases.<sup>2</sup>

The governing authority of any municipality may construct all needed improvements in the harbor. It may control, guide or deflect the current of a river. Further, the municipality may repair and regulate public wharves and docks and may collect levee rates and wharfage on articles brought into the port of the municipality. The municipality may lease or set aside portions of the wharf for special purposes, but any lease or permit to use a portion of the wharf shall not be granted for a term in excess of twenty-five (25) years.<sup>3</sup>

Municipalities may establish, alter or change the channels of streams or water courses, and may provide bridges in order to promote the health, comfort and convenience of the inhabitants of the municipality. If the cost of the improvements is in excess of one-fourth (1/4) of the taxes levied in the

preceding year for general revenue purposes, the work shall not be authorized until an ordinance providing for the work is approved by a majority of the legal voters of the municipality. If a majority of the voters authorize the work, bonds to raise money for the project may be issued by the municipality.<sup>4</sup>

The governing authority of any municipality, or any commission created under legislative act and operating as an agency of any municipality, may exercise the power of eminent domain in the laying out, constructing, erecting or perfecting of levees, or a system of levees, for the protection of the municipality or any part thereof, or for the protection of any public work or building, and for the construction or perfection of its drainage system. The municipality or its commission may also establish, alter or change the channel of streams, water courses or ditches and acquire land to bridge these waterways. The right of eminent domain may be exercised outside, as well as within, the corporate limits of the municipality.<sup>5</sup>

The governing authorities of every municipality in this state are responsible for the care, management and control of the municipal affairs and its property and finances and may enact ordinances for the purposes provided by law and likewise have the power to alter, modify, and repeal such ordinances.<sup>6</sup> The municipalities have the power to grant to any person, corporation, or association, on such terms as the municipality may prescribe, the use of the streets, alleys, and other public grounds for the purpose of laying, constructing, repairing, and maintaining gas, water, sewer, steam pipes, or conduits for electric light, telegraph, and telephone lines, and pipe lines for transporting crude oil, petroleum, kerosene, gasoline and other commodities transported by pipe line. Any fran-

chise, right of way, or privilege shall not be granted for a longer period than twenty-five (25) years, nor shall the privilege be exclusive.<sup>7</sup> The governing authorities of each municipal corporation may lease any or all lands owned by the municipality for oil, gas, and mineral exploration and development. The items, conditions, and considerations for such leases shall be determined by the governing authorities of the municipality.<sup>8</sup> No municipality may grant, extend or renew an exclusive franchise or right to use or occupy the streets, highways, bridges or public places in the municipality without compensation for a period longer than twenty-five (25) years.<sup>9</sup>

Any municipality in the state with a population in excess of one hundred thousand (100,000) people may set aside, appropriate and expend funds for the purpose of advertising and bringing to the attention of the citizens of the municipality the reasons and ~~the status~~ of any municipal activity, litigation, franchise, proposed bond issue or any other municipal matter about which the people should be fully informed. Any advertising may be accomplished by newspaper, magazine, radio, television or any combination thereof, which in the judgment of the governing body of the municipality will be helpful toward advancing the moral, financial and other interests of the municipality.<sup>10</sup> The governing authorities of any municipality may expend funds for the purpose of advertising and bringing into favorable notice the opportunities, possibilities and resources of the municipality. The expenditures for such advertising are not to exceed one (1) mill of the municipality's valuation and assessment.<sup>11</sup> Governing authorities of a municipality may appropriate up to ten thousand dollars (\$10,000.00) for the purpose of advertising the agricultural or industrial resources of the municipality through

fair associations. <sup>12</sup>

The governing authorities of any municipality, except those municipalities bordering on the Gulf of Mexico with a population in excess of eighty thousand (80,000) people, are authorized to permit the placing of advertising signs upon parking meters or parking meter posts. The municipality may contract with any individual or company for the rental or lease of the meters upon terms advantageous to the municipality. The signs shall be placed in compliance with the rules set out by the municipality and shall be placed so as not to obstruct the view of the street, the operation of the meters, or endanger the drivers parking in front or near the meters, nor the pedestrians using the sidewalks by the meters. Any person placing advertising signs upon parking meters or parking meter posts is required to enter into such contracts of insurance as may be necessary to protect the municipality or any person from loss or damage caused by the presence of the advertising signs. Funds received by the municipality pursuant to the contract of lease or rental shall be placed in the general fund of the city. <sup>13</sup>

Municipalities in Mississippi having in whole or in part a national guard camp, United States Army training camp, Army air base, or artillery range may acquire, construct, improve, or extend waterworks systems, sewer systems, sewage disposal systems, garbage disposal systems, rubbish disposal systems or any combination thereof. The municipality may borrow money and issue bonds for the extension of such public works. Bonds shall be payable as to both principal and interest from revenues derived from the public works.

Any bonds issued under this act are subject to validation as required by law. None of the provisions of this act shall operate to dispense with approvals respecting such public works by any state department or agency as required by law.<sup>14</sup>

Municipalities may create a park commission to manage and control all parks, playgrounds, and swimming pools. The members of the park commission shall be qualified electors of the community, and may receive compensation from the municipality.<sup>15</sup>

Any municipality may contract with the board of supervisors of a county to use jointly any municipal dump or garbage or rubbish disposal system.<sup>16</sup>

The governing authorities of any municipality owning now or in the future any public utility system may create a commission to control and manage such system(s). The commission should have three (3) to five (5) commissioners to be elected by the governing authorities. The commissioners may hold no other municipal office for honor or profit and must be qualified city electors.<sup>17</sup> Each public utility commissioner will serve a term of years equivalent to the number of commissioners elected with the terms staggered. The commission duties include managing and controlling the utilities owned by the city and providing the utilities' service and facilities to those consumers eligible.<sup>18</sup>

The governing authorities of municipalities may compel owners of property adjacent to walks and ways to erect and maintain railings, safeguards and barriers where construction, repair or other building activities create a dangerous or hazardous condition, or whenever the hazard is created by the property owner.<sup>19</sup>

In implementing zoning plans, the legislative body of a city may use the city engineering department or a citizens' advisory committee to recommend the boundaries of the various districts and the appropriate regulations therein.<sup>20</sup>

As used in the convention center act,<sup>21</sup> a municipality is defined as any county within the State of Mississippi which borders upon the Mississippi Gulf coast with an area in excess of seven hundred twenty (720) but less than seven hundred twenty-five (725) square miles, a total assessed valuation between eighty million dollars (\$80,000,000) and one hundred million dollars (\$100,000,000) according to the 1963 tabulation by the Mississippi State Tax Commission, and with a population between sixty-five thousand (65,000) and seventy-five thousand (75,000) people in the 1960 census. The municipality in such a county may be any city, town, supervisor's district or other political entity created by the state located in whole or in part in that county.<sup>22</sup> The act<sup>23</sup> authorizing convention centers defines a convention center to include but not be limited to facilities, land and the improvements thereon having the common objective of promoting conventions, tourism and trade within the State of Mississippi. The facility may be a coliseum, auditorium, pavilion, gallery, hotel, motel, restaurant, club and other facilities of a similar nature.<sup>24</sup> Every municipality is authorized to acquire by any available funds real property in fee or a lesser estate for the purpose of establishing a convention center. Any land previously acquired by a municipality which is not needed for any other municipal purpose may also be used for a convention center. Land acquired for a convention center may be by purchase, lease, gift, devise, dedication or any other lawful manner.<sup>25</sup> Any municipality, as it deems proper for the efficient and effective exercise of the

purpose of this act,<sup>26</sup> may acquire real or personal property and may use any real or personal municipal property not otherwise required for a municipal purpose.<sup>27</sup>

No municipality may use real or personal property to engage in the business of hotels, motels, restaurants, clubs or any other business of a similar nature. These businesses are expressly restricted to private entrepreneurs on lease, grant, or other conveyance of land and personal property by the municipality.<sup>28</sup>

Every municipality is authorized to plan, establish, develop, construct enlarge, improve, maintain, equip and operate coliseums, amphitheaters, arenas, stadiums, auditoriums, pavilions, galleries or similar facilities to accomodate public meetings, gatherings, assemblies, conventions, or any similar public gathering for a lawful and common purpose.<sup>29</sup>

Any municipality acting under this act<sup>30</sup> may sue and be sued, may exercise the powers of this act and defray costs by available funds, and may enter into leases as lessor or lessee of any lands and facilities. Any judgments against the municipality arising out of the exercise of powers of this act shall be limited in levy and execution to the assets of the municipality. The municipality may enter into contracts and borrow money when deemed necessary, but in the borrowing of money the municipality shall not pledge the full faith and credit of the municipality. However, revenues derived from the exercise of powers authorized under this act may be irrevocably pledged for the repayment of any money borrowed for the act.<sup>31</sup> Under the act<sup>32</sup> any municipality may accept and disburse any federal and state funds. All federal funds shall be accepted and

expended under such terms and conditions as are prescribed by the United States and are consistent with state law. All state funds shall be accepted and expended on the terms and conditions prescribed by the state.<sup>33</sup>

Any municipality under this act<sup>34</sup> may borrow money and issue revenue bonds for the purposes of the act as long as the bond procedure complies with the laws of the state. No bond issued pursuant to this act shall constitute an indebtedness of a municipality.<sup>35</sup> The bonds may be issued without approval by election, shall be sold upon the terms of the municipality, but in no event shall the interest cost to maturity exceed eight (8) per cent per annum. Any bonds issued under this act shall be exempt from all state, county, municipal and other taxation with respect to both the principal and interest.<sup>36</sup>

Municipalities may prevent animals from running at large. They may provide for the impounding and sale of these animals so found.<sup>37</sup> All misdemeanors against the state committed within the corporate limits of a municipality are also offenses against that municipality and may be punished with the same penalty as the state imposes.<sup>38</sup>

## MUNICIPALITIES

## FOOTNOTES

1. Miss. Code Ann. § 43-35-201 (1972).

2. Id. § 21-37-13.

3. Id. § 21-37-15.

4. Id. § 21-19-13.

5. Id. § 21-37-47.

6. Id. § 21-17-5.

7. Id. § 21-27-5.

8. Id. §§ 17-9-1 through 17-9-9.

9. Id. § 21-27-1.

10. Id. § 21-19-61.

11. Id. § 17-3-1.

12. Id. § 21-19-51.

13. Id. § 21-37-31.

14. Id. § 17-5-3.

15. Id. § 21-37-33.

16. Id. § 19-5-17.

17. Id. § 21-27-13.

18. Id.

19. Id. § 21-19-27.

20. Id. § 17-1-13.

21. Id. § 17-3-9 et seq.

22. Id. § 17-3-9.
23. Id. § 17-3-9 et seq.
24. Id. § 17-3-9.
25. Id. § 17-3-11.
26. Id. § 17-3-9 et seq.
27. Id. § 17-3-11.
28. Id.
29. Id.
30. Id. § 17-3-13.
31. Id.
32. Id. § 17-3-17.
33. Id.
34. Id.
35. Id. § 17-3-15.
36. Id.
37. Id. § 21-19-9.
38. Id. § 21-13-19.

## 2. Special Jurisdiction - Municipalities - City of Biloxi.

Pursuant to legislative authorization,<sup>1</sup> the city of Biloxi has established a bridge and park commission.<sup>2</sup> The governing authorities of the City of Biloxi appoint the five (5) commissioners of the Biloxi Bridge and Park Commission from the residents and qualified electors of the municipality. A commissioner's term is five (5) years.<sup>3</sup> The Biloxi Bridge and Park Commission has the rights and powers granted in the state enabling legislation at chapter 434 of the Mississippi Laws of 1960 and chapter 216 of the Mississippi Laws of 1962 and all other applicable legislation.<sup>4</sup> The park commissioners, appointed by the mayor and board of commissioners, must be qualified electors of the city and may not hold any other municipal office. The park commissioners shall serve without pay.<sup>5</sup> The jurisdiction of the park commission extends to all the parks, playgrounds and swimming pools established by the city and other such facilities for recreational purposes as the appointing officials designate.<sup>6</sup> The commission may accept and expend the money necessary to operate and maintain the recreational facilities within its jurisdiction. The commission may also hire necessary employees, issue contracts for the leasing of concessions, insure all property against fire and damage, and perform any other duties necessary to operate and maintain the park facilities.<sup>7</sup>

Every public place where food is processed, served, prepared, sold, given in exchange, or given away and all establishments where food or candy is prepared, stored, or manufactured for use must obtain a privilege license. Before the license may be issued, a permit must be obtained from the Harrison

County Health Department.<sup>8</sup>

Trees within the "tree protective zone", i. e. , all property lying north of and adjacent to U. S. Highway 90 within 350 feet of the highway right of way, between Oak Street on the east and Debuys Road on the west, may not be cut or otherwise damaged or destroyed nor shall the area within five (5) feet of any such tree be paved without permission of the city arborist.<sup>9</sup> No building may be built in an area bounded on the west by Hopkins Boulevard, on the north by the Louisville and Nashville Railroad, on the east by Elmer Street, and on the south by the Mississippi Sound until the plans and specifications of the building have been approved in writing as meeting certain standards. An architectural advisory committee has been established to aid in the evaluation of submitted building requests.<sup>10</sup>

Biloxi has adopted the Southern Standard Housing Code as the housing code standard for the city. To enforce this code a city building official will be appointed.<sup>11</sup> Biloxi has adopted the National Electrical Code (as adapted by the National Fire Protection Association under the auspices of the American National Standards Institute) as the electrical code of the city. The code applies to all public and private buildings with certain exceptions including ships.<sup>12</sup> To assist in enforcement of the electrical code, an electrical examining board for electrical contractors has been created. The board consists of five (5) members appointed by the mayor and board of councilmen and includes as a permanent member an electrical inspector.<sup>13</sup>

It is unlawful to engage in the work or business of plumbing in Biloxi without a plumbing license. A plumbing board consisting of a plumbing inspector,

who must be a skilled and experienced plumber, and four (4) other members are appointed by the city council to issue plumbing licenses.<sup>14</sup> Before a person may drill a well to produce water a permit must be obtained showing that the well will meet certain specifications as to depth and construction.<sup>15</sup>

All areas within the corporate limits of Biloxi which are under water and not within a zoning district are subject to the zoning regulations of the adjacent zoning district.<sup>16</sup> It is unlawful to place any sign, billboard or poster or to construct any building upon land situated south of Beach Boulevard or U. S. Highway 90, designated on the zoning map as "sand beach".<sup>17</sup> The area zoned as the Central Business District of the City of Biloxi includes the area between Hopkins Street on the west, and Louisville and Nashville Railroad right of way on the north, Elmer Street on the east, and the Mississippi Sound on the south; and also the area between Washington Street on the north, Nixon Street on the east, East Howard Avenue on the south, and Elmer Street on the west containing the Beach Commercial District as well as other districts.<sup>18</sup> There are certain regulations which apply specifically to the Beach Commercial District.<sup>19</sup>

## CITY OF BILOXI

## FOOTNOTES

1. Miss. Code Ann. § 55-7-1 et seq. (1972).
2. Biloxi, Miss., Code § 2-19 (1959).
3. Id. § 2-10.
4. Id. § 2-22.
5. Id. § 13-1.
6. Id. § 13-2.
7. Id. § 13-3.
8. Id. § 11-27-29.
9. Id. § 15-44, 47, 48.
10. Id. § 6-13-14.
11. Id. § 6-33-34.
12. Id. § 6-39.1, 6-40.
13. Id. § 6-41.
14. Id. § 6-64-66.
15. Id. § 20-44-46.
16. Id. § 21-3(E).
17. Id. § 21-3(F).
18. Id. § 21-17.
19. Id. § 21-19(I).

### 3. Special Jurisdiction - Municipalities - City of Gulfport.

Any carnival or street fair must apply for a permit on the proper form supplied by the city. The promoter must particularly describe the character of the event and must stipulate that there will be no gambling nor any immoral shows.<sup>1</sup>

The "Bridge and Park Commission" of the City of Gulfport as provided for by Mississippi law<sup>2</sup> is recognized and established.<sup>3</sup> The bridge and park commission is composed of five (5) members. The term of office for each member is five (5) years from the date of appointment by the governing authorities of the municipality.<sup>4</sup> The bridge and park commission is given powers consonant with chapter 434, Laws of 1960, chapter 216, Laws of 1962, and any amendments to those acts.<sup>5</sup>

No animals other than dogs, cats, birds, or other household pets may be kept in the City of Gulfport within three hundred (300) feet of the residence of another person who complains to the mayor in writing.<sup>6</sup> The City of Gulfport requires a rabies inoculation for every dog six (6) months of age or older. The inoculation must be evidenced by a metal tag attached to the dog's collar giving the serial number of the vaccination and the year in which the dog was vaccinated. The vaccination must be done on or before July 30th of every year.<sup>7</sup>

It shall be unlawful for any person to ride a bicycle on any pier or plank walk adjoining any pier.<sup>8</sup> No one shall enter or exit the Mississippi Sound for swimming purposes from the public streets.<sup>9</sup> The City of Gulfport prohibits trammel or gill nets or commercial fishing of any kind within fifteen hundred

(1500) feet of any jetty, breakwater, pier, wharf, bulkhead, seawall, or beach within the corporate boundaries of the city.<sup>10</sup>

All persons owning, operating, leasing, or exercising control over any watercraft utilizing the water craft facilities of the Bert Jones Yacht Basin are subject to the following rules and regulations.<sup>11</sup> The dockmaster shall be appointed by and subject to the control of the mayor and board of commissioners. The dock master is charged with the enforcement of the rules applicable to the Bert Jones Yacht Basin.<sup>12</sup> The dockmaster must keep a record in triplicate of all moneys received and must file one copy with the city.<sup>13</sup> Rates and charges, as established by the city, are to be paid for the use of Bert Jones Yacht Basin dockage, anchorage, and other services. The rates established are without regard to the time the watercraft is actually docked, moored or anchored at the dock, slip, wharf, or moving space in the basin.<sup>14</sup> The master or owner of all incoming water craft must notify the dockmaster of the Bert Jones Yacht Basin within twenty-four (24) hours of their arrival.<sup>15</sup> The master or owner of any craft must make an application for berthing space and must sign a rent contract form provided by the city except that certain commercial craft wishing to dock only occasionally for the purpose of picking up passengers may do so upon application and approval of the dockmaster.<sup>16</sup> The rent contract may not be assigned, sub-let, nor may any craft except the one described occupy an assigned berth.<sup>17</sup> No space in the Bert Jones Yacht Basin is to be rented to any person, firm or corporation until all debts owed to the city from former berthings in the basin are discharged.<sup>18</sup> All rent for dockage space at the Bert Jones Yacht Basin is payable in advance monthly and no craft may occupy space unpaid

for except that those commercial craft allowed to use space as allowed in section 7-19 must pay their special rates before leaving the basin.<sup>19</sup> The sale, lease or transfer of title of any craft the subject of a rent contract shall cancel that contract and the new party in interest must negotiate a new contract within forty-eight (48) hours or remove the craft.<sup>20</sup> If any craft occupies a space without a rent contract or if a craft remains in a berth without payment of rent then there shall be a lien, as authorized by section 340-01, Mississippi Code of 1942, against that craft for not less than one month's rent.<sup>21</sup> No person may transfer a water craft from one berth, slip or docking space to another, except as a temporary emergency upon order or authorization of the dockmaster.<sup>22</sup> No person may operate more than one (1) boat from a single berth, slip, or docking space, however if the boat for which the rent is paid is over twenty (20) feet, the owner may also keep a skiff no greater than fourteen (14) feet.<sup>23</sup>

No person or craft is permitted to discard refuse of any kind on the docks or piers or within the yacht basin inside the corporate limits of Gulfport which extend five thousand (5,000) feet south of the seawall.<sup>24</sup> No bilge or oil shall be pumped, emptied or deposited into the basin.<sup>25</sup> There is not to be any equipment, material, or supplies left on any dock or wharf within the basin, except that supplies may be placed on the dock for immediate transfer to the craft.<sup>26</sup> No person shall leave any equipment, material, or supplies of any character upon the parkways, streets, or sidewalks adjacent to the Bert Jones Yacht Basin.<sup>27</sup>

No signs, alterations, repairs or other edifications are to be made on or attached to any dock, wharf, or ground adjacent to the Bert Jones Yacht Basin unless a written application has been made to the city engineer and he has issued approval in writing.<sup>28</sup>

No person shall make any repairs to a water craft while the craft is in the Bert Jones Yacht Basin (excepting minor repairs) without the written permission of the dockmaster. Any refuse from any repair must be removed.<sup>29</sup> Rental space in the basin is not to be granted to water craft which is unsightly, potentially dangerous, or might possibly damage the wharf or dock to which it is moored. Any such craft is a public nuisance and upon notice the owner is given seven (7) days to remove the craft from the basin. If after seven (7) days it remains unmoved, the city may remove it and assess the removal costs to the owner. If sufficiently dangerous, the city, in its sole discretion, may remove the craft immediately and without notice. This section<sup>30</sup> is to be incorporated into every rental contract.

Any person damaging the docks or wharves of the Bert Jones Yacht Basin is liable to the city of Gulfport for the cost of the repairs and the city shall have a lien on any water craft, its equipment and appurtenances for this purpose.<sup>31</sup>

There shall be no permanent anchors or "dead men" located in the Bert Jones Yacht Basin for the purposes of mooring unless written permission is given by the dockmaster. Any permission given may be revoked upon five (5) days notice addressed to the owner at the address given at the time the permission was granted.<sup>32</sup> No house boat shall enter or remain in the Bert Jones Yacht Basin, excepting yachting house boats which are motor driven.<sup>33</sup> No person is allowed to operate a row boat in the basin except for the sole purpose of transporting from boat to boat, or to and from a dock to a boat, or to and from fishing grounds.<sup>34</sup> Tug boats, freighter boats, fishing boats and similar vessels may not enter the basin except for emergency reasons. This does not include

charter boats used mainly for recreation or excursion boats.<sup>35</sup>

It is prohibited to fish or crab from any of the structures making up the Bert Jones Yacht Basin or to fish in the basin itself with seines or trawls.<sup>36</sup> Excursion boats may not play music while docked in the basin or permit gambling of any kind upon the boat.<sup>37</sup> No person, owner, master or operator of a vessel is permitted to moor or tie up to the creosoted bulkhead along the north and west line of the harbor basin.<sup>38</sup> Dangerous or reckless operation of a water craft in the basin is prohibited.<sup>39</sup> The speed limit in the basin is five (5) miles per hour or the speed at which a noticeable wake is left, whichever is lesser.<sup>40</sup> No person shall operate a water craft while under the influence of intoxicating liquor.<sup>41</sup>

No person shall solicit business, sell or offer to sell any article or commodity on the sidewalks, streets, parkways, docks or wharves in, on or adjacent to the Bert Jones Yacht Basin without first securing the written permission of the dockmaster.<sup>42</sup> No person shall go upon the slips, docks or berths of the basin except the lessee of the dock, slip or berthing space, the guest or agent of the lessee, or the duly authorized employees of the City of Gulfport.<sup>43</sup>

Gasoline is not to be transported in the Bert Jones Yacht Basin except by pipeline or closed container and it may not in any case be placed on any dock or wharf except for immediate transfer to a vessel.<sup>44</sup>

For the violation of any provision of Article seven (7) the city may, in addition to the penalties of § 1-9, cancel the rent contract of any lessee upon five (5) days notice. Upon cancellation the lessee is entitled to the pro rata unearned rental.<sup>45</sup>

No gangplank or similar device may extend to the dock except for loading and unloading while a competent person specially detailed for the purpose is stationed there to prevent rats from boarding or leaving the vessel.<sup>46</sup> No vessel may lie nearer than eight (8) feet to the dock or wharf. All spars, chains, ropes or lines which extend to the docks must have properly designed rat guards. This provision<sup>47</sup> does not apply to harbor boats which must be fumigated once every sixty (60) days within the discretion of the health officer.

The Southern Standard Building Code has been adopted as to the building code of the City of Gulfport, subject to the amendments hereinafter set forth.<sup>48</sup> The chief appointing authority referred to in the building code is to be the mayor and the board of commissioners of the city.<sup>49</sup> The mayor and board of commissioners may appoint a building inspector with the qualifications specified in the Southern Building Code. In addition the inspector must have two (2) years experience as a city building official issuing permits for construction.<sup>50</sup>

The National Electric Code has been adopted as the electric code of the City of Gulfport, however when Mississippi statutes and the National Electric Code conflict, the state statute shall prevail.<sup>51</sup>

The mayor and board of commissioners shall appoint one building contractor and two electrical engineers to serve as an electrical examining board. The electrical inspector is an ex-officio non-voting member. The term of office for the members on the examining board shall be three (3) years. A chairman is to be elected by majority vote and all members are to serve without pay.<sup>52</sup> The function of the board is to examine all present and prospective electrical contractors and when satisfied of their qualifications the board may issue them a license. The board may also provide how the qualification is to be determined,

how it is to be renewed, and the procedure of the board. The fee for qualification for license is ten dollars (\$10.00).<sup>53</sup> The office of electrical inspector may be filled by a man well versed in the mechanics of electricity and with the requisite administrative knowledge and ability. The electrical inspector will be recommended to the city commissioners by the electrical advisory board. The electrical inspector's salary is to be determined by the city commissioners. The electrical inspector is required to post bond, payable to the city, in the amount of one thousand (\$1,000.00) dollars. Infractions of the duties of electrical supervisor shall be sufficient cause for his removal from office, but he may be removed for other just causes.<sup>54</sup> It is the duty of the electrical inspector to see that the ordinances pertaining to electricity are enforced as well as the statutes of the State of Mississippi relating to the sale of electrical equipment. The electrical inspector may grant permits for the installation and alteration of electrical equipment and may inspect all new electrical installations. The electrical inspector will keep complete records of all permits, inspections, and other work performed.<sup>55</sup> No electrical wiring, fittings, devices, fixtures or equipment may be installed in any building, structure, or premises, nor shall any alterations be made in any existing electrical equipment without a permit from the electrical inspector.<sup>56</sup> No permit will be required to execute any of the classes of electrical work as follows:

- (1) Minor repair work, the replacement of lamps or the connection of portable electrical equipment.
- (2) The installation, alteration or repair of electrical equipment for the operation of signals or the transmission of intelligence.

- (3) Equipment for transmission, generation, distribution, or metering of electricity; or
- (4) Any work involved in the manufacturing, testing, servicing, altering or repairing of electrical equipment or apparatus, except that this exemption shall not include permanent wiring other than that required for testing purposes.<sup>57</sup>

The chief of the fire department may organize a volunteer company and may make whatever rules and regulations necessary for the proper drilling and discipline of the company.<sup>58</sup> This section<sup>59</sup> adopts the 1965 edition of the Fire Prevention Code of the American Insurance Association except for subsequent provisions of this code which alter it. Three (3) copies of the Fire Prevention Code are on file in the clerk's office.

It is unlawful to sell unwholesome fish, shrimp, crabs or oysters as wholesome.<sup>60</sup> The meat inspector is under the direct control of the health officer and must have (1) a degree in veterinary medicine and (2) a license to practice in Mississippi.<sup>61</sup> It is the duty of the meat inspector to inspect fish, shrimp, crabs and oysters when he sees fit or at the insistence of the county board of health.<sup>62</sup> All unwholesome fish, shrimp, crabs and oysters must be removed from sale and destroyed by the meat inspector in the manner as the board of health may direct.<sup>63</sup> All fish markets or places where fish are sold must be equipped with sufficient ice chests and cold storage compartments as are needed for the meat inspector's approval.<sup>64</sup> It is unlawful to catch, keep for sale, or sell as human food any fish, crab, or shrimp caught within one fourth (1/4) mile of the sewerage outlet. The same law applies to oysters within two (2) miles

of the sewerage lines.<sup>65</sup> This section<sup>66</sup> applies to fish, crabs, shrimp or oysters taken from any waters of the Mississippi Sound within one mile of any public or private sewer.

It is unlawful to interfere with or obstruct the flow of any ditch, drain or stream.<sup>67</sup> It is also unlawful to sell ice made from surface or impure water.<sup>68</sup> No person shall discharge into any street or alley any filthy liquid or other substance which may be noisome or offensive to the sight or smell of persons residing or passing near the place of discharge.<sup>69</sup> It is unlawful for a sewage disposal unit or any other sanitary device to be connected with any storm sewer or drainage ditch or to connect a cesspool or septic tank to the sanitary sewerage system.<sup>70</sup>

It is unlawful to keep a collection of water in which mosquitoes breed or are liable to breed unless the water is treated to prevent such breeding.<sup>71</sup>

Gulfport has adopted the National Plumbing Code as approved by the American Standards Association as the plumbing code of the city.<sup>72</sup> The mayor and the board of commissioners appoint three (3) experienced plumbers, one of whom is a journeyman plumber, for a term of three years. The board acts as an advisor to the mayor and board of commissioners on plumbing matters and will examine all plumbers who wish to engage in plumbing within the city.<sup>73</sup> The mayor and board of commissioners appoint a chief plumbing inspector in concurrence with the plumbing board. The inspector must have at least five (5) years of practical plumbing experience. The plumbing inspector receives applications of plumbers wishing to work in the city and he inspects all plumbing work being performed.<sup>74</sup> The gas inspector, and such assistants as are necessary

are appointed by the mayor and board of commissioners. The plumbing inspector may be appointed as the gas inspector. The gas inspector may enter any building at reasonable times to make inspections or prevent violations, and may disconnect any gas piping or appliance which is dangerous.<sup>75</sup>

The Gulfport Planning Commission consists of five (5) members, qualified city electors, who are appointed by the mayor and board of commissioners. The duties and functions of this commission are enumerated at section 2890.5 of the Mississippi Code of 1942, as amended.<sup>76</sup>

Decisions of the housing board of adjustments may be appealed to the mayor and the board of commissioners.<sup>77</sup>

The Gulfport Citizens' Advisory Committee consists of nine (9) qualified city electors who are appointed by the mayor and board of commissioners to give advice on housing problems. A special subcommittee on minority housing consisting of three (3) qualified city electors was established to advise the committee on minority housing problems.<sup>78</sup>

The recreation commission consists of so many members as the mayor and board of commissioners may appoint. These members serve one (1) year terms. The purpose of the commission is to serve as an advisory group on recreational matters and to perform such related functions as the mayor and board of commissioners may prescribe.<sup>79</sup>

All hotels, restaurants, public boarding houses, and other food handling establishments are required to remove all garbage, kitchen refuse, and decaying matter incident to such business daily.<sup>80</sup> It is unlawful to dump any garbage or trash on any public or private property of another located within the city without prior consent of the owner.<sup>81</sup>

GULFPORT  
FOOTNOTES

1. Gulfport, Miss., Code § 5-1 (1963).
2. Miss. Code Ann. § 55-7-1 et seq. (1972).
3. Gulfport, Miss., Code § 2-31 (1963).
4. Id. § 2-32.
5. Id. § 2-34.
6. Id. § 6-7.
7. Id. § 6-21.
8. Id. § 7-1.
9. Id. § 7-3.
10. Id. § 7-4.
11. Id. § 7-14.
12. Id. § 7-15.
13. Id. § 7-16.
14. Id. § 7-17.
15. Id. § 7-18.
16. Id. § 7-19.
17. Id. § 7-20.
18. Id. § 7-21.
19. Id. § 7-22.
20. Id. § 7-23.
21. Id. § 7-24.
22. Id. § 7-25.

23. Id. § 7-26.
24. Id. § 7-27.
25. Id. § 7-28.
26. Id. § 7-29.
27. Id. § 7-30.
28. Id. § 7-31.
29. Id. § 7-32.
30. Id. § 7-33.
31. Id. § 7-34.
32. Id. § 7-35.
33. Id. § 7-36.
34. Id. § 7-37.
35. Id. § 7-38.
36. Id. § 7-40.
37. Id. § 7-41.
38. Id. § 7-42.
39. Id. § 7-43.
40. Id. § 7-44.
41. Id. § 7-45.
42. Id. § 7-39.
43. Id. § 7-47.
44. Id. § 7-46.
45. Id. § 7-48.

46. Id. § 14-51(b).
47. Id. § 14-51(a).
48. Id. § 8-1.
49. Id. § 8-2.
50. Id. § 8-4.
51. Id. § 10-5.
52. Id. § 10-18.
53. Id. § 10-19.
54. Id. § 10-36.
55. Id. § 10-37.
56. Id. § 10-40.
57. Id. § 10-41.
58. Id. § 11-2.
59. Id. § 11-14.
60. Id. § 12-43.
61. Id. § 12-21.
62. Id. § 12-44.
63. Id. § 12-45.
64. Id. § 12-46.
65. Id. § 12-47(b).
67. Id. § 14-64.
68. Id. § 14-6.
69. Id. § 14-4.

70. Id. § 14-22-23.

71. Id. § 14-62.

72. Id. § 20-01.

73. Id. § 20-08-9.

74. Id. § 20-19.

75. Id. § 20-66.

76. Id. § 27-3.

77. Id. § 14A-2.

78. Id. § 37-4.

79. Id. § 18-1.

80. Id. § 13-14.

81. Id. § 13-17.

#### 4. Special Jurisdiction - Municipalities - City of Pascagoula.

The master or owner of any vessel coming into the inner harbor of the city must immediately (within twenty-four hours) report the arrival of the watercraft to the city clerk and arrange for berthing facilities.<sup>1</sup> Before obtaining berthing facilities for any watercraft, the owner or master must apply in writing and must execute a rent contract. Neither the rent contract or the berthing space may be assigned, sublet or allowed to be used by any other craft.<sup>2</sup> The city of Pascagoula sets the rates for berthing spaces.<sup>3</sup> Any vessel berthed in the harbor facilities without application having been made and a rent contract executed is subject to a lien for unpaid rent which in no case shall be less than a month's rent regardless of the time that it has been moored. This does not apply to the free time allowed visiting craft.<sup>4</sup> All visiting watercraft are granted free berthing or docking in the inner harbors for forty eight (48) hours.<sup>5</sup>

The rent contract for any berthing of a watercraft may be terminated because of preemption by anyone or by sale, lease, or transfer of the title of any watercraft so berthed.<sup>6</sup> No one may transfer any watercraft from one berth to another, except in cases of emergency or on order or authorization of the city clerk.<sup>7</sup> No one may operate more than one (1) boat from a single berth except for one (1) rowboat unless stipulated otherwise by the rent contract.<sup>8</sup> All watercraft renting space on a monthly basis are entitled to free use of the water unless such use becomes excessive.<sup>9</sup>

Docks adjacent to berths must be kept clean by the owner or operator

of the berthed vessel and no refuse may be thrown in the harbor. No equipment may be left on the docks except for immediate transfer to a berthed craft. No signs may be erected or placed on any wharf, dock, or grounds adjacent to the inner harbor except by permission of the city council.<sup>10</sup> The dock health officer shall take measures necessary to ensure that rats depart the ship for the shore.<sup>4</sup> No unsightly or badly deteriorated boat or one which might damage the harbor facilities or become a menace to navigation will be allowed to moor or be tied up in the inner harbor.<sup>12</sup> No permanent anchors or "dead men" may be placed in the inner harbor without the permission of the city clerk.<sup>13</sup> Only minor repairs may be made to a watercraft in the inner harbor without written permission of the city clerk.<sup>14</sup>

Any person injuring or damaging harbor facilities or owning watercraft which injure or damage the facilities must reimburse the city immediately and the city has a lien on any watercraft causing any damage due to negligence in the watercraft's operation.<sup>15</sup>

No one may engage in the business of selling on the docks, wharves or ground adjacent to the inner harbor without the written permission of the city clerk.<sup>16</sup>

Tug boats, freight boating, and commercial shrimping, fishing and oyster boats are prohibited from entering the inner harbor except in cases of emergency.<sup>17</sup> Charter boats may be operated only by the owner or his licensed master unless written permission is obtained from the city clerk.<sup>18</sup> No house boats, except yachting house boats which are power driven, may enter or remain in the inner harbor.<sup>19</sup> Excursion boats are prohibited from playing

music, nor may slot machines or gambling devices be used while the boat is docked or moored in the inner harbor.<sup>20</sup> All watercraft must enter slips or berths prow foremost and remain that way while docked.<sup>21</sup> Gasoline may be transferred to and from watercraft only by pipeline or closed container. No gasoline may be placed or kept on a dock or wharf except for immediate transfer to a watercraft.<sup>22</sup> No bilge or oil shall be pumped, emptied or deposited in the inner harbor.<sup>23</sup>

There shall be no fishing with seines or trawls in the waters of the inner harbor.<sup>24</sup> No wharf, dock, bridge, or other connection may be erected, altered, reconstructed or repaired to serve or connect with any structure, road, barge, or boat owned, operated or maintained for commercial purposes.

No vessel may be moored in a residential district for commercial or residential purposes or for use as a residence. No commercial fishing is allowed within the city including the inner harbor and beach front area.<sup>25</sup> No watercraft may be operated in the inner harbor in a reckless or dangerous manner which might endanger the lives or property of others, or at a speed greater than five (5) miles per hour, or by anyone under the influence of intoxicating liquor.<sup>26</sup>

The meat inspector will inspect the fish, shrimp, crabs, or oysters when he sees fit or as directed by the county board of health.<sup>27</sup> All fish, shrimp, crabs, and oysters found by the meat inspector to be unwholesome will be destroyed as directed by the board of health.<sup>28</sup> All places which sell seafood must be equipped with sufficient ice chests and cold storage compartments to accomodate the business' need subject to the approval of the meat inspector.<sup>29</sup>

The parks and recreation commission of the City of Pascagoula consists of five (5) members appointed by the city council. A commissioner's term of office is five (5) years during which time he may not hold any other municipal office. A commissioner may be dismissed for cause by the city council and someone appointed for his unexpired term.<sup>30</sup> The parks and recreation commission acts as an advisory board to the city council regarding a comprehensive municipal recreation program in the interest of the entire community and as to any specific problems within its jurisdiction.<sup>31</sup>

Before any carnival, street fair, rides or other amusements are permitted in Pascagoula, a license must be obtained on submission of a written application.<sup>32</sup> Exemption from municipal taxation for five (5) years is granted to factories, gas works, waterworks and other enterprises of public utility, other than railroads.<sup>33</sup> Private sewage disposal systems are permissible only where the public sanitary sewage system is not available.<sup>34</sup>

CITY OF PASCAGOULA  
FOOTNOTES

1. Pascagoula, Miss., Code § 6-20 (1967).
2. Id. § 6-21-22.
3. Id. § 6-24.
4. Id. § 6-26-27.
5. Id. § 6-28.
6. Id. § 6-29-30.
7. Id. § 6-31.
8. Id. § 6-32.
9. Id. § 6-33.
10. Id. § 6-34-36.
11. Id. § 6-6 (a and b).
12. Id. § 6-37.
13. Id. § 6-39.
14. Id. § 6-40.
15. Id. § 6-38.
16. Id. § 6-41.
17. Id. § 6-42.
18. Id. § 6-43.
19. Id. § 6-42.
20. Id. § 6-45.
21. Id. § 6-46.
22. Id. § 6-47.

23. Id. § 6-51.
24. Id. § 6-53.
25. Id. § 6-11.
26. Id. § 6-48-50.
27. Id. § 13-44.
28. Id. § 13-45.
29. Id. § 13-46.
30. Id. § 21-12-13.
31. Id. § 21-16.
32. Id. § 24.
33. Id. § 18-5.
34. Id. § 29-45.