

visitors bureau, shall be initially made by the Columbus-Lowndes Convention and Visitors Bureau but shall not become effective without the joint concurrence of both the mayor and the city council of the city and the board of supervisors.
(Ord. of 12-9-86, § 3; Ord. of 11-22-88)

Sec. 2-115. Authority, responsibility of bureau.

The bureau shall have responsibility for matters relating to the establishment, promotion and development of tourism and conventions and related matters within the city and county. Subject to section 2-114, the bureau is authorized to contract for the furnishing, equipping and operation of any and all facilities necessary or useful in the promotion of tourism and conventions.

(Ord. of 12-9-86, § 4)

Secs. 2-116—2-130. Reserved.

**ARTICLE V. BOARD OF ADJUSTMENTS AND APPEALS OF DEVELOPMENT
CODES***

Sec. 2-131. Purpose.

This article establishes a board of appeals and sets rules for the perfecting of an appeal from either the building official regarding the 2015 International Codes, including the following:

- (1) International Existing Building Code;
 - (2) International Fuel Gas Code;
 - (3) International Residential Code;
 - (4) International Mechanical Code;
 - (5) International Building Code;
 - (6) ICC Electrical Code—Administrative Provisions, NFPA 70, 2005 Ed.;
 - (7) International Plumbing Code;
 - (8) International Property Maintenance Code;
 - (9) Establishing a board of appeals from decisions of the fire marshal or fire chief related to the International Fire Code and provisions of the city's ordinance on fire issues.
- (Ord. of 5-20-08; Ord. of 3-2-10(1); § F; Ord. of 3-2-10(2), § H)

***Editor's note**—An ordinance of May 20, 2008, §§ 1—6, amended the Code by, in effect, repealing former art. V, §§ 2-131—2-138, and adding a new art. V. Former art. V pertained to similar subject matter, and derived from an ordinance of January 27, 2004.

Sec. 2-132. Application for appeal.

A person shall have the right to appeal a decision of the code official to the board of appeals from any action of the code official interpreting any of the codes referenced in this article. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the code official within 20 days after the notice was served.

Limitation of authority. The board of appeals shall have no authority relative to interpretation of the administration of this Code nor shall such board be empowered to waive the requirements of this Code.

(Ord. of 5-20-08, § 1)

Sec. 2-133. Membership of board.

(a) *Initial terms.* The board of appeals shall consist of five members appointed by the mayor and city council as follows: one for five years; one for four years; one for three years; one for two years; and one for one year. Thereafter, each new member shall serve for five years or until a successor has been appointed.

(b) *Qualifications.* There shall be a preference for service on the board for applicants who are resident citizens of the city; however, resident citizenship of the city is not required. The board of appeals shall consist of six individuals, one from each of the professions or disciplines set forth in this section.

- (1) Registered design professional who is a registered architect; or a builder or superintendent of building construction with at least ten years' experience, five of which shall have been in responsible charge of work.
- (2) Registered design professional with structural engineering or architectural experience.
- (3) Registered design professional with mechanical and plumbing engineering experience; or a mechanical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
- (4) Registered design professional with electrical engineering experience; or an electrical contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
- (5) Registered design professional with fire protection engineering experience; or a fire protection contractor with at least ten years' experience, five of which shall have been in responsible charge of work.
- (6) A licensed engineer with the engineering firm which serves as the city engineer.

(c) *Alternate members.* The chief appointing authority shall appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for five years, or until a successor has been appointed.

(d) *Chairman.* The board shall annually select one of its members to serve as chairman.

(e) *Disqualification of member.* A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(f) *Secretary.* The chief administrative office shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

(g) *Compensation of members.* Compensation of members shall be determined by law.
(Ord. of 5-20-08, § 2)

Sec. 2-134. Notice of meeting.

The board shall meet upon notice from the chairman, within ten days of the filing of an appeal, or at a stated regular time and date of each month, which date shall be established by the board. Meetings shall be conducted so as to comply with the Mississippi Open Meetings Act.

(Ord. of 5-20-08, § 3)

Sec. 2-135. Open hearing.

All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(Ord. of 5-20-08, § 4)

Sec. 2-136. Postponed hearing.

When six members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(Ord. of 5-20-08, § 5)

Sec. 2-137. Board decision/review by mayor and city council.

(a) The board may only modify or reverse the decision of the code enforcement official or of the building official by a concurring vote of a majority of the members present at a meeting of the board at which a quorum is present. If the board fails to vote, by a majority to uphold the decision of the code enforcement official or the building official, but doesn't now modify or

reverse it, the decision shall be considered upheld by the board. A majority of the members shall constitute a quorum. The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code enforcement official or the building official, as the case may be. The decision of the board, to uphold, modify or reverse, shall be advisory to the mayor and council. The minutes of the meeting of the board shall be presented to the mayor and council as soon as possible after the meeting of the board. Absent exceptional circumstances, the mayor and council shall take up for consideration the board's decision, not later than the date for the next regular meeting of the mayor and council after the minutes are prepared, and shall, at said meeting, approve or disapprove the decision. The board, and the mayor and council, in considering whether to approve, modify or disapprove the decision of the code enforcement official or the building official, shall consider:

- (1) Whether the code enforcement official or the building official's ruling was consistent with the true intention of the Code under consideration;
 - (2) Whether the code enforcement official or the building official correctly or incorrectly interpreted the provisions of the code under consideration;
 - (3) Whether the code sections cited by the code enforcement official or the building official fully apply to the issue on appeal;
 - (4) Whether an equally good or better form of construction is proposed; and
 - (5) Whether the board, if its decision to uphold or reverse the official's judgment was the product of discretion and interpretation, and if so, whether that board abused its discretion. The mayor and city council should give significant deference to discretionary rulings of the board, as experts in code interpretation.
- (b) The decision of the mayor and city council shall constitute a final decision or judgment. (Ord. of 5-20-08, § 6; Ord. of 6-7-11; Ord. of 7-19-11)

Sec. 2-138. Court review.

Any person, whether or not a previous party of the appeal from the building official to the mayor and council, shall have the right to file an appeal of the decision or judgment of the mayor and city council, in accordance with Section 11-51-75 of the Mississippi Code, as may be amended or re-codified from time to time from hereafter.

(Ord. of 5-20-08, § 7; Ord. of 6-7-11; Ord. of 7-19-11)