

Roadhouse 5(1)(c)

STATE OF MISSISSIPPI
COUNTY OF CLAY

ORDINANCE REGULATING PLACES OF PUBLIC ASSEMBLAGE,
INCLUDING ROADHOUSES AND LIKE ESTABLISHMENTS,
AND PROVIDING FOR PENALTIES FOR VIOLATIONS

WHEREAS, Article Six, Section 170 of the Mississippi Constitution and Section 19-3-41 of the Mississippi Code of 1972, as amended and annotated, grant jurisdiction over roads and all matters of County Police to Boards of Supervisors; and

WHEREAS, Chapter 5, Title 19 of the Mississippi Code of 1972, as amended and annotated, authorizes counties to protect the general health, safety and welfare of its citizens where the Legislature has not made provision; and

WHEREAS, Section 19-3-40 of the Mississippi Code of 1972, as amended and annotated, the "home rule" statute, grants counties the power to adopt ordinances respecting county affairs for which no specific provision has been made by the Legislature and which is not inconsistent with the Mississippi Constitution; and

WHEREAS, Clay County is in the process of creating a long-term comprehensive development plan for the benefit of its citizens and the adoption of an ordinance regulating public assemblage will enhance such plan; and

WHEREAS, the Clay County Board of Supervisors has received significant accounts of places of public assemblage, including roadhouses, nightclubs, dance halls and the like, within and without of the County which contribute to littering, public intoxication, controlled substance violations, noise, disorderly conduct, assaults, overcrowding and traffic congestion limiting emergency responders in the performance of their duties, and, additionally, some of these assemblages have permeated conspiracies of silence, allowing violators to escape the administration of justice, and which are managed without adequate attention to these problems; and

WHEREAS, on numerous occasions, the impact of these business operations has been more significant when the establishment is hosted by an entertainment promoter for a special event or performance, or the like when the establishment fails to alert law enforcement of criminal conduct occurring during operations; and

WHEREAS, some of those operations are located in buildings which are not in compliance with current building and/or National Fire Protection Association standards, causing a safety hazard for the occupants, customers and patrons of said buildings.

NOW THEREFORE, BE IT ORDAINED by the Board of Supervisors of Clay County, Mississippi:

Article I.
Applicability, Intent & Interpretation

This ordinance shall apply to all unincorporated places of public assemblage in Clay County, Mississippi as defined in Article II, including all existing establishments, as well as any that make application subsequent to the adoption of this ordinance. This ordinance shall not apply to functions hosted or sponsored by a governmental entity or its agents acting on behalf of said entity or any charitable organization which has exempt status as established by the Internal Revenue Service.

The intent of this ordinance is to promote public safety and welfare by regulating premises security, alcohol policies, loitering, littering, noise, overcrowding, parking and other nuisances which affect public safety and welfare.

If any portion of this ordinance is claimed to be ambiguous, the appropriate regulating authority as identified in Article III shall render interpretations of this ordinance based on the intent. Any party in disagreement with the interpretation of the regulating authority may file a written appeal to the Regulations Committee as described in Article V. Upon receipt of a written appeal, the Regulations Committee shall schedule a meeting with the appellant within thirty (30) calendar days to hear testimony from both sides and to render a decision as outlined in Article III. The interpretation of the authority shall stand during any appeal process.

Article II.
Definitions

This ordinance shall apply to all places of public assemblage, including but not limited to, roadhouses, nightclubs, dance halls, lounges, taverns, cabarets, bars, pool halls, community centers, recreation centers, convention centers and restaurants, whether allowing alcoholic beverages or not, and regardless of whether entertainment is provided or allowed during any portion of its regular operation and which provides entertainment activities through any of the following: amplified music, whether live or programmed, dancing, table games and/or video games. This definition also includes open air assemblages as well as restaurant/bar establishments which provide entertainment as described above during any portion of its operation. Any other establishment which only occasionally hosts the abovedescribed activities shall be subject to the provisions of this ordinance while engaging in such activities. This definition is applicable to the owner of the real estate, any lessee, operator, host, entertainment promoter and any borrower of the premises conducting events on the property.

Bring Your Own Bottle/BYOB: Any establishment that allows hard liquor to be brought inside for consumption shall not allow it to be poured into any other container of more than twelve (12) ounces in size.

Consume or Consumption: Consume or consumption is the ingestion of alcoholic beverages or the possession of any alcoholic beverages in its original container or bottle, can or other container, which has been opened. Consumers are restricted to the inside of the place of public assemblage while consuming or consumption of alcoholic beverages, with the exception of open air functions (ex. blues festivals and outdoor concerts, etc.), but not include the parking lot area.

Entertainment Promoter: Any individual, partnership, corporation, or other entity or agent promoting any venue, performing artists, advertising services, or similar activities, by contracting with a person, partnership or corporation not owned and operated by the promoter.

For Profit Event: Any event other than a non-profit event.

Non-Profit Event: Any event designed and intended to produce profits for the benefit of and/or subsequent disbursement by organizations which are tax exempt under federal tax laws and Internal Revenue Service regulations.

Overcrowding. A condition that exists when either there are more people in a building, structure or portion thereof than has been authorized or posed by the fire official or when the fire official determines that a threat exists to the safety of the occupants, due to the persons sitting and/or standing in locations which may obstruct or impede the use of aisles, passages, corridors, stairways, exits, or other components of means of egress as required by the Mississippi Legislature and/or adopted by the Clay County Board of Supervisors.

Public Safety Concerns. One or more acts of violence resulting in physical injury or observed illegal drug activity, or the unlawful possession of beer or light wine, occurring inside of the establishment or in the premises parking area or an open-air activity owned, leased or operated by the establishment.

Regulating Authority. The official, officer or entity charged with regulating the provisions of this ordinance, including but not limited to, the Sheriff and/or his designee, fire coordinator, State Fire Marshal, or the Alcohol Beverage Control division of the State Department of Revenue.

Regulations Committee. The committee designated by the Clay County of Supervisors to administer certain sections of this ordinance as provided in Article V.

Safe Operation. A period of least ninety (90) days during which Clay County E911 office has recorded no calls for service reporting criminal activity or public safety concerns other than those reported by the establishment.

Article III Permit

Permit Required. (A) As a condition precedent to having an event or opening any establishment as defined in Article II, the owner, lessee, operator, host, promoter or borrower of the premises, as the case may be, whether on a regular basis or one (1) time event, shall obtain a permit prior to allowing customers or patrons into the place of public assemblage.

- 1) A building, part of a building, or outdoor location may be occupied and used as a place of public assemblage by a person, entity or organization other than the owner or full-time lessee, only when the operator, promoter or any borrower has been issued a permit which is in effect under the provisions of this article;

- 2) Compliance with physical requirements of the facilities shall be the responsibility of the owner. Compliance with operating requirements shall be the responsibility of the owner unless a valid permit has been obtained by a lessee, operator, promoter, host or borrower, and in which case, the owner shall be jointly responsible for compliance; and
- 3) If a place of public assembly, as defined in Article II deviates from the primary operation of business, a separate permit will be required. If a business' primary scope of business is rental, a permit will be required for each separate rental.

(B) Permit Application and Issuance: Permit applications may be obtained from the Clay County Sheriff and/or his designee. Upon submission of a completed application and an annual permit fee of Fifty Dollars (\$50.00), the Sheriff and/or his designee shall review the application, as well as any incidents occurring at the place of public assemblage within the preceding twelve (12) month time period, past compliance with Article IV of this ordinance, and the historical record, if any. The Sheriff and/or his designee shall then submit his recommendations to the Regulations Committee.

The Regulations Committee shall issue permits recommended by the Clay County Sheriff's Office (CCSO), subject to the facility meeting all occupancy requirements of the State or County's adopted building and life safety codes.

(C) Permit Validity. The permit shall be valid for a period of one (1) year, excluding rentals, unless suspended or revoked for failure to comply with the provisions of Article IV. If the permit is revoked, the permit holder forfeits the annual permit fee for that year.

(D) Permit Renewal.

- 1) A permit renewal application may be granted after a review of the past year's performance. Consideration by the Sheriff and/or his designee shall include but not be limited to: safe operation, past permit revocations and/or suspensions, violations of other applicable law, and any prior permittees affiliated or associated with the applicant, evidence of illegal drug activity, beer or light wine violations, evidence of fighting, disorderly conduct and other dangerous activities on or about the permitted premises.
- 2) Violations of this ordinance on the premises' events conducted by persons, entities, or organizations other than the owner, whether permitted under this ordinance or not, may be grounds for non-renewal of the permit.

- 3) Should the Regulations Committee find that the applicant has not submitted a complete application or appropriate fee, or if the Sheriff and/or his designee find that the applicant has failed to comply with this Article, the Regulations Committee shall decline to issue the permit. The annual permit fee shall be returned to the applicant along with a letter stating the reasons for the denial.

(E) Permit Suspension and/or Revocation. The Regulations Committee may temporarily suspend a permit for a violation of one or more of the provisions of this ordinance.

- 1) If a permit is suspended or revoked, no entertainment activities, including amplified music, whether live or programmed, dancing, table games or video games may be conducted on the premises. If any entertainment activities occur during a period of suspension or revocation, the privilege license and certificate of occupancy shall be revoked. Such suspension or revocation does not otherwise affect the sale or purchase of the realty or personalty during the suspension or revocation.
- 2) The Regulations Committee may permanently revoke a permit for two or more violations within the provisions of this ordinance in a twelve (12) month period or for more than three violations of the provisions of this ordinance. Such permanent revocations shall also result in the revocation of the privilege license and certificate of occupancy.
- 3) Such suspension shall be held in abeyance for a period of three (3) business days to permit the owner, lessee, manager, host, agent, etc. to appeal the suspension or revocation. Notice of the suspension or revocation shall be by certified mail, hand delivery, or by leaving notification at the door of the permittee's location.
- 4) A permit shall not be suspended or revoked for a violation of Article IV which is not a public safety concern unless the violation is found to have continued or recurred after the permittee had received notice of the violation and an opportunity to remedy or prevent the violation's occurrence.

(F) Emergency Temporary Suspension by Sheriff. The Sheriff's on-duty field Supervisor/Commander may temporarily suspend the establishment's permit if he/she determines that an immediate suspension is necessary to restore order for failure to comply with Article IV security requirements or events endanger the life, health and safety of customers/patrons or neighbors of the establishment or any call for service at the location as follows:

- 1) The facility shall be vacated and closed, effective immediately, upon verbal notification to the owner, lessee, manager, host, agent or representative and shall be effective for up to 24 hours or as needed to restore order or to ensure compliance with security requirements.
- 2) The establishment may re-open thereafter, provided that the situation giving rise to the emergency temporary suspension of the permit has been adequately addressed as determined by the Sheriff and/or his designee. The Field Supervisor shall submit a report outlining the basis for his/her decision to suspend the permit(s) to the Sheriff and/or his designee. The Sheriff and/or his designee shall, within five (5) business days, submit a finding to the Regulations Committee, either recommending the continuation of the permit, temporary suspension for a designated period or revocation. The Regulations Committee shall notify the permittee as provided herein.
- 3) Within three (3) business days of receiving notice of denial, suspension or revocation of the permit, the permittee or applicant may appeal the action by filing a written notice of appeal with the Regulations Committee at the Office of the County Administrator.
- 4) The Regulation Committee will conduct a hearing as promptly as possible, and within five (5) business days of receiving the written notice of appeal, to determine whether to: (a) reinstate or issue the permit; (b) temporarily suspend the permit; or (c) permanently revoke the permit.
- 5) The permittee or applicant for a permit shall be entitled to appear, testify and present evidence at a hearing. However, formal rules of evidence shall not apply and reasonable limitations may be placed upon total hearing time. Upon request, the hearing shall be recorded.
- 6) A temporary suspension may not extend beyond the date on which the permit expires. Any such suspension or revocation does not otherwise affect the owner's sale of the premises or personalty. The Regulations Committee shall prepare written findings and conclusions concerning the appeal decision within five (5) business days of the hearing.

(G) *Appeal Procedure Concerning Imposition of Supplemental Security Requirement (Article IV, Item H):*

- 1) Within ten (10) business days of receiving notice that the business has become subject to the supplemental security requirement, the permittee may appeal the action by filing a written notice of appeal with the Regulations Committee. The Regulations Committee will conduct

a hearing as promptly as possible, and within five (5) business days of receiving the written notice of appeal, to determine whether to: (a) continue imposition of the security requirement; (b) continue imposition of the security requirement, but shorten the requirements; or (c) remove the security requirement.

- 2) The permittee or permit applicant shall be entitled to appear, testify and present evidence at the hearing. However, formal rules of evidence shall not apply and reasonable limitations may be placed upon total hearing time. Upon request, the hearing shall be recorded. The Regulations Committee shall prepare its findings and conclusions concerning the appeal decision within five (5) business days of the hearing.

Article IV Operating Requirement

(A) Applicability. All policies set forth herein must adhere to the posted occupancy allowed. The occupancy is 100 or more if there has been more than one call for service to the establishment within any six month period. The supplemental security requirement shall not apply to establishments with a safe operation record, or an establishment of less than 100 occupancy, except when such establishment has had more than one call for service within a six month period.

(B) Entertainment Promoter Use. The owner or lessee of the establishment shall not allow any entertainment promoter to use, sub-lease or rent the premises (including any outdoor and/or parking areas) without verifying that the promoter has a valid entertainment promoter permit and has complied with the security staffing requirements.

(C) Hours of Operation. Operating hours for establishments shall be from noon until 1:00 a.m. the following morning. At 1:30 a.m., all customers shall be out of the building and off the premises. The owner, management, band and security will be allowed inside the building after 1:30 a.m. to clean the premises and remove equipment. The owner, management, band and security must be off the premises by 2:00 a.m.

(D) Age Restrictions. Anyone entering the establishment must be at least eighteen (18) years of age or accompanied by a parent or legal guardian. All persons aged twenty-one (21) years or older shall be wearing a non-removable, easily identifiable armband. The permittee shall be responsible for verifying the age of all occupants.

(E) Weapons and Other Dangerous Items. The permittee shall post a sign on the entrance door declaring that no weapons are allowed inside. The permittee shall also be responsible to ensure that no guns, knives, brass knuckles, or other paraphernalia which may be used as weapons are brought into the building except by security guards duly licensed and authorized to carry said weapons.

Aside from a location listed in Subsection (1)(f) of this section or Section 45-9-101(13) indicating that the possession of a firearm is prohibited on the premises, as long as the sign also indicates that it does not apply to a person who is properly licensed under Section 45-9-101 or Section 91-31-1(2) to carry concealed firearm or to a person lawfully carrying a firearm that is not concealed.

Hand wand metal detectors shall be utilized on all persons entering the establishment.

Pyrotechnics are prohibited and the permittee is responsible to ensure that no fire or other hazardous materials are used inside the premises.

(F) Occupancy Capacity. The number of people in an assembly area, in concentrated use without fixed seating, shall be seven square feet per person. If fixed seating is present, the occupancy will be the number of seats with adequate aisles and clearances.

The assembly area is to be measured in a continuous area. This area requirement may be modified for a bandstand, speaker's stand or for displays.

(G) Egress. There shall be a minimum of two means of egress from the assembly area. The paths to these exits must not be obstructed and no lock or exit hardware shall present free escape from the premises. Each exit shall be clearly marked with any exit having a minimum opening of 36 inches and be hinged in the outward direction of egress travel. Egress capacities shall be consistent with assembly capacity. An egress shall terminate in a safe, free and unobstructed area.

(H) Emergency Lighting. Emergency lighting shall be installed to illuminate the assembly area and paths of egress in the case of a power failure.

(I) Signage. Signage shall be provided at all exits or paths of egress to an exit. Signs stating "NO EXIT" shall be provided for all dead-end corridors, closet doors, openings to kitchen or utility rooms.

(J) The Authority Having Jurisdiction (AHJ) shall have the ability to inspect any premises to ensure adherence to this ordinance, as well as to make recommendations for overall safety for every day and special event operations.

- 1) Overcrowded or admittance of any person beyond the approved capacity of a building or portion thereof shall not be allowed. Each person admitted beyond the safety capacity shall be considered a separate offense.
- 2) The fire official or law enforcement official, upon finding any overcrowding, obstructions of any passageways, aisles or other means of egress, or upon finding any condition which constitutes a life safety hazard shall be authorized to cause the event to be immediately ceased until such condition or obstruction is corrected.
- 3) Owners or any permittee shall be responsible for recording the number of people allowed in the facility and such numbers shall be produced upon request by fire or law enforcement officials. Failure to provide a documented tabulation of customers/patrons admitted shall constitute a misdemeanor.

(K) Nuisance Activity. The establishment/permittee, etc. shall provide all nuisances, including the following activities: (1) prohibiting loitering outside the establishment and/or nearby properties; (2) ensuring that patrons/customers do not create a nuisance to nearby property owners and/or residential areas by littering, loitering, vandalizing, making loud noises or disturbing nearby property residents. Property residents aggrieved by the activities of an establishment or its patrons may file a written complaint fully describing the nature of the nuisance with the Clay County Sheriff's Office; (3) the Sheriff's Department shall issue citations charging the alleged violators, citing this article as the violation, and require all parties involved to appear in Clay County Justice Court for a hearing on the alleged violation(s). If found guilty, the Court is authorized to fine and/or imprison or, as allowed by law for misdemeanor offenses, be subject to suspension or revocation of the permit as provided in Article III of this ordinance; (4) any continued violations of littering, loitering, vandalizing, loud noise, fighting, assaults, blocking roadways, and any other nuisance will be grounds for suspension or revocation of the permit.

(L) Security.

- 1) Unless otherwise excused, all establishments and their operators, as contained in this ordinance shall provide a minimum of two (2) bonded security guards per 100 people for each event, plus a minimum of one (1) bonded security guard in each parking lot. At least one of the bonded security guards shall remain on site for at least one hour after the establishment closes to ensure that no loitering, littering or other unlawful activity occurs. The bonded security guards must present their Mississippi Department of Public Safety guard permits to the Clay County Sheriff and/or his designee prior to providing security services

at the establishment. Should the security guard fail to have a permit from the Department of Public Safety and/or been approved by the Sheriff and/or his designee prior to providing such service shall constitute a misdemeanor under this ordinance.

- 2) Bonded security guards shall utilize a hand wand metal detector on all persons entering the premises.
- 3) The owners or permittees shall install security cameras and record events in each of the several areas of the interior premises, as well as the parking lot, which will be subject to inspection at any time by the Clay County Sheriff's Department or fire officials.
- 4) Restaurant establishments may apply for an exemption under the following conditions: (a) submission of a seating plan for approval by the Regulations Committee; (b) if approved, the seating plan must be posted in the establishment along with the occupant capacity certification and the tables and chairs must be in place according to the plan during all hours of restaurant operation; and (c) the establishment may be exempt from the security guard requirement if approved by the Regulations Committee.

(M) Independent Contractors/Food Vendors.

- 1) Any independent contractor or food vendor inside or outside the premises must follow the Mississippi Department of Health Codes and have the required certifications to serve food.
- 2) Such contractor or vendor must all also follow the same time requirements as the bar, nightclub, roadhouse, etc., meaning that all sales must be final by 1:00 a.m. The contractors/vendors must be off the premises by 1:30 a.m.

Article V
Regulations Committee

(A) There is hereby established a Regulations Committee composed of the following members: (a) County Sheriff and/or his designee; (b) County Fire Coordinator and/or his designee; (c) a citizen of Clay County duly appointed by the Clay County Board of Supervisors; (d) the County Administrator and/or his designee; and (e) the County Attorney.

(B) The committee shall meet on an "as needed" basis. A three-fifths (3/5ths) majority present at a meeting shall constitute a quorum. The committee shall elect a president, vice president and secretary. The president shall preside at meetings. In the absence of the president, the vice president shall preside. In

the absence of the president and vice president, the secretary shall preside. The presiding officer shall conduct the meeting in accordance with common law rules of parliamentary procedure. The committee shall have the following duties and authority:

- 1) To render interpretations of this ordinance when an interpretation of a regulating authority is challenged as outlined in Article I;
- 2) The authority to suspend or revoke the license by the procedure described in the paragraph below of any establishment found guilty of any two of the same or separate violations during a twelve (12) month period of any county, state or federal regulation, including but not limited to, the regulations contained in this ordinance or a total of any three violations. This authority shall not affect the authority of any other officer or entity to exercise a legal right to close the operation;
- 3) To make rules for conducting the business of the committee;
- 4) Members of the committee shall report any violations to the secretary. The secretary shall keep an accounting of reported violations and report to the other members of the committee when a business accumulates three violations. For the purpose of this, a guilty verdict rendered by a local, state or federal court shall constitute a violation;
- 5) Any member of the committee may ask for a meeting of the committee to determine what, if any, action should be taken relative to a business which has been found guilty of any three violations;
- 6) The committee shall give written notice of a meeting to the subject business owner, lessee, operator, host, etc., at least ten (10) calendar days in advance of the meeting by registered mail to the address of the operation contained in the application and/or permit in order to afford them the right to appear and give testimony at said meeting;
- 7) Action by the committee shall be decided by a majority vote of the members present at such meeting. The committee shall give written notice of the decision to the affected party by sending same by registered mail to the address contained in the application/permit;
- 8) The owner, permittee, etc. may appeal the decision of the committee by filing a written appeal with the Clay County Board of Supervisors within ten (10) calendar days following the postmark date on the notice from the committee with the Chancery Clerk of Clay County;

- 9) Any decision by the Clay County Board of Supervisors may be appealed pursuant to the provisions of Section 11-51-75 of the Mississippi Code of 1972, as amended and annotated;
- 10) Members of the committee shall not be held personally liable, either individually or as a group, for any action taken by the committee while acting in good faith on behalf of Clay County.

Article VI
Violations and Penalties

(A) A violation of any provision of this ordinance shall be a misdemeanor. Unless provided for in this ordinance, each violation shall subject the owner/permittee to a mandatory fine of not less than Five Hundred Dollars (\$500.00) and/or not more than ninety (90) days in jail, or both.

(B) Each day that a violation exists shall constitute a separate offense and will be subject to separate penalties for every day that the violation continues.

(C) If any court determines that any violation is a felony, such finding shall supersede the penalties provided in this ordinance.

Article VII
Ordinance Provisions

(A) The omission of any specific requirement or provision for this ordinance shall not be interpreted as permitting any variation from the general meaning and intent of the ordinance as commonly inferred or interpreted, and should the occasion arise as to such intent and meaning, the interpretation of the governing authorities shall hold.

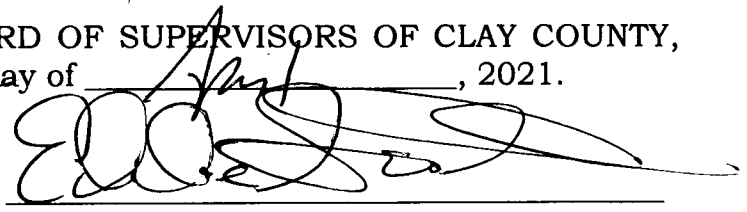
(B) Should any section or provision of this ordinance be declared unconstitutional or invalid, such declaration shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

(C) Whenever any requirements of this ordinance are in conflict with the provisions of any other legally adopted rules or regulations, the most restrictive law or requirement shall govern.

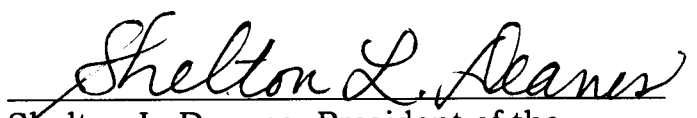
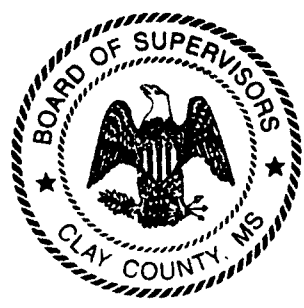
Article VIII
Effective Date

This ordinance will become effective thirty (30) days from the date of its passage by the Board of Supervisors of Clay County, Mississippi.

SO ORDAINED BY THE BOARD OF SUPERVISORS OF CLAY COUNTY,
MISSISSIPPI, on this the 13th day of April, 2021.

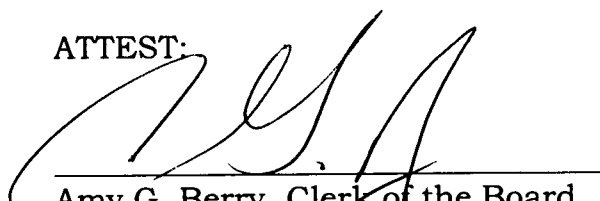


Eddie Scott, Sheriff of Clay County,
Mississippi



Shelton L. Deanes, President of the
Board of Supervisors of Clay County,
Mississippi

ATTEST:



Amy G. Berry, Clerk of the Board
of Supervisors of Clay County,
Mississippi and Chancery
Clerk of Clay County, Mississippi