AN ORDINANCE REGULATING PROTECTION AND REMOVAL OF TREES IN THE CITY OF RIDGELAND, MISSISSIPPI PROVIDING A METHOD FOR PERMIT OF REMOVAL, PROVIDING FOR PENALTIES FOR VIOLATION OF ANY PROVISIONS OF THIS ORDINANCE AND FOR RELATED PURPOSES

WHEREAS, it is hereby declared that trees on public and private property in commercial, industrial, mobile home, undeveloped residential and multi-family zoning districts within the City of Ridgeland are both an economic and aesthetic asset to the City of Ridgeland; and,

WHEREAS, the existing trees so located are in need of protection and active measures to support their health and growth; and,

WHEREAS, it is desirable to specifically establish and charge the City Arborist with the responsibility and duty of fostering the planting, growth and protection of trees on the aforementioned private properties.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF RIDGELAND, COUNTY OF MADISON, STATE OF MISSISSIPPI AS FOLLOWS:

Section 1
Short Title

This ordinance shall be known and may be cited as the Tree Ordinance for the City of Ridgeland.

Section 2
Purpose, Findings and Intent

A. The purpose of this ordinance is to promote the public health, safety and welfare of the citizens of Ridgeland, and to enhance the aesthetic qualities of the environment by regulating the protection and removal and of trees on public and private property zoned commercial, industrial, mobile home, undeveloped residential and multi-family.

B. Findings. The City recognizes and it is hereby found that:

1. Rapid growth and development in certain areas of the city have resulted in the loss of innumerable trees in those areas. Tree roots hold soil in place and tree photosynthesis converts carbon dioxide to oxygen. Tree loss thus has contributed to increased soil erosion and sedimentation. High growth areas, where natural green spaces are diminishing, have left fewer trees to transform into oxygen the carbon dioxide of ever increasing, harmful vehicular and industrial emissions, resulting in air quality degradation;

2. Integrated forest canopies reduce the costs of maintenance of other co-located parts of the urban infrastructure;

3. Well-managed urban forest resources increase in value and provide benefits to all the citizens of the community with respect to air quality, water quality, stormwater management, temperature amelioration, community aesthetics and general quality of life;

4. These benefits are crucial to the long term health, benefit, welfare, and safety of the citizens of the community;

5. The removal of forest canopy from urban areas of the state and its replacement with more intensive land uses exacts real costs upon the infrastructure which must be borne by all citizens of the community;

6. Community forests function to the benefit of the local citizenry as a part of the public infrastructure as much as streets, utilities, stormwater management structures, and sewers;

7. Healthy community forests increase local commercial and residential property values; and,

8. A tree ordinance is one part of a dedicated and integrated planning process dealing with land use, impacts of impervious surface, urban hydrology and water quality, air quality, soil erosion, transportation, noise abatement, and wildlife habitat.

C. Provision of Standards. The city finds that it is in the best interests of the public to provide standards for the preservation and/or replacement of trees as part of the land development and building construction process for the purpose of making this city a more attractive place to live, providing a healthy living environment, and better maintaining control of stormwater runoff, noise, glare and soil erosion.

Section 3
Definitions

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein:

Caliper: the diameter of the stem six inches above the ground, for trees with a caliper of four inches or less. Trees possessing a caliper in excess of four inches are measured 54 inches above the ground.

City: the City of Ridgeland, County of Madison, State of Mississippi.

City Arborist: a qualified, designated consultant of the city assigned to assist in the enforcement of this Ordinance. The City Arborist will be a consultant to Ridgeland Community Development Department.

Clear Cut: cutting more than one-half of the existing protected trees in an area of one (1) acre per parcel over period of five (5) consecutive years or less. Nonetheless, a minimum of ten (10) protected trees per acre of cleared land must be left on the site.

DBH (Diameter at Breast Height): the diameter of a tree trunk measured in inches at a height of four and one-half (4) feet above the ground. If a tree splits into multiple trunks below four and one-half feet (4) feet, then the trunk is measured at its most narrow point beneath the split.

Existing Tree: all trees located within the boundaries of a parcel of property to which this ordinance applies, except the following:

1. A tree demonstrated to be dead or dying;
2. A tree that is diseased and likely to die if determined by the City Arborist;
3. A tree that is damaged or injured to the extent that it is likely to die or become diseased as determined by the City Arborist;
4. A tree that is an unsafe tree;
5. A tree that is listed on the "undesirable" list in the City of Ridgeland Landscape Ordinance.

Forest land: any land in the state devoted to the growing of trees or the commercial production of timber, wood, or forest products where the land is classified by the county as forest land and is being used as forest land in the performance of forestry activities.

Forestry activities: any activity on forest land associated with the reforesting, growing, managing, protecting and harvesting of timber, wood, and forest products, including non-game species.

Large trees: those with a mature height of over forty (40) feet.

Off Site Abatement: a site such as a school or public park, where the owner/developer shall donate and plant the required trees when it is not feasible to plant the required trees within their site's project area.

Person: any individual, firm, partnership, association, corporation, company, or organization of any kind.

Property Owner: the person owning such property according to the land records of Madison County, Mississippi.

Protected Trees: any woody perennial plant that has a single trunk that has reached a diameter of eight (8) inches or twenty-five (25) inches in circumference when measured fifty-four (54) inches above the ground and multi-trunked trees that are five (5) inches in diameter or sixteen (16) in circumference when measured eighteen inches above the ground which is not an undesirable tree listed in the City of Ridgeland Landscape Ordinance.

Select Cut: See "Clear Cut".

Small trees: those with a mature height of up to forty (40) feet.

Undeveloped residential: property located in a R-1, R-2, R-3, R-4, or R-E zoning district which has not been platted into a recorded subdivision, or for which a building permit has not been issued. This shall include all land under common ownership in excess of an area of two (2) acres immediately surrounding residential improvements constructed on the land.

Deleted: or

Urban Forest: the collection of trees, shrubs, other vegetation and associated natural features that make up the urban tree canopy and its growing zone.

Section 4
The City Arborist

A. The Mayor and Board of Aldermen shall appoint a qualified individual as the City Arborist.

B. The City Arborist shall be a person skilled and trained in the arts and sciences of urban forestry, and shall hold a college degree or its equivalent in urban forestry, landscape architecture, horticulture, forestry, arboriculture; or other closely related fields.

C. The City Arborist will be a part time consultant used as needed under the direction of the Community Development Director.

D. The City Arborist shall receive an hourly wage commensurate with his training and experience as full compensation for all services rendered.

Section 5
Duties of The City Arborist

The City Arborist shall:

A. assist in the enforcement of the provisions of this Ordinance. In the absence of the City Arborist these duties shall be the responsibility of a qualified alternate designated by the Director of the Community Development Department.

B. review landscape plans and tree removal requests for all projects on private property zoned commercial, industrial, mobile home, undeveloped residential and multi- family.

C. shall visit the site as directed by the Community Development Director.

Section 6
Authority of the City Arborist

A. The City Arborist shall report to the Community Development Director and shall attend regular and special meetings of the Community Development Department, Architectural Review Board or other community meetings as directed by the Community Development Director.

B. When requested, the City Arborist will advise other city departments on issues concerning removal, planting, or protection of trees on public property.

C. At the request of the Community Development Director, the City Arborist will inspect work done under a permit issued in accordance with the terms of this Ordinance.

D. At the request of the Community Development Director, the City Arborist will recommend reasonable conditions to the granting of a permit in accordance with the terms of this Ordinance.

Section 7
Permit Required

A. A tree removal permit shall be required when:

1. The property owner intends to clear or clear-cut protected trees from private property zoned commercial, industrial, mobile home, undeveloped residential or multi-family for any purpose other than legitimate “forestry activities” as defined herein.

2. The property owner intends to subdivide property into a platted subdivision or to obtain a building permit on residential property which does not require the approval of a subdivision plat; or,

3. The owner of commercial, industrial, mobile home or multi-family zoned property seeks site plan approval or a building permit.

B. Procedure:

1. Unless the applicant can prove legitimate “forestry activities”, no person shall remove or disturb any protected tree on any public or

private property zoned commercial, industrial, mobile home, undeveloped residential or multi-family without filing an application and procuring a permit from the Community Development Department.

C. Application: When making application for a tree removal permit the Applicant shall illustrate the number and kinds of protected trees to be removed or retained, their size, locations, health/age condition and their method of removal and such other information as the Community Development Department shall find reasonably necessary to make a fair determination of whether a permit should be issued. A $100.00 filing fee will be required with the application. Notice of Completion of the project shall be given the Community Development Department for inspection.

D. Review: For applications to clear or clear-cut protected trees:

1. When neither a site plan nor preliminary subdivision plat is involved, the Community Development Department shall, based on the criteria of this ordinance and with the assistance of the City Arborist, recommend to the Mayor and Board of Aldermen whether a permit should be granted and conditions to be placed on the permit.

2. During the process to approve a new subdivision, the Community Development and Public Works Departments will insure that the applicant has complied with the protection and permitting requirements of this Ordinance when the preliminary plat is presented to the Zoning Board which will also make a recommendation to the Mayor and Board of Aldermen on issues involving tree removal. If the applicant is seeking a building permit for a residence when property subdivision is not required, the review procedure set out in Section 8. D. (1) shall be followed.

3. When making application for the approval of a site plan, the applicant shall provide sufficient information to illustrate the number and kinds of protected trees to be removed or retained, their size, locations, health/age condition, and method of removal. The Community Development Department shall review and present the request to the Architectural Review Board to determine if there is compliance with this Ordinance and whether a tree removal permit should be recommended for approval to the Mayor and Board of Aldermen.

4. The Mayor and Board of Aldermen shall determine whether a tree removal permit shall be granted and may place requirements and restrictions on each permit granted.

E. Conflict: Nothing in this Ordinance shall be construed to conflict with or abrogate any of the rights or privileges granted by the Mississippi Agricultural and Forestry Activity Act.

Section 8
Protection of Protected Trees

A. Unless removal is authorized, the entire area within the dripline of an existing protected tree shall be naturally preserved or provided with pervious landscape material and shall be maintained at its original grade with no trenching or cutting of roots. There shall be no storage of fill or compaction of the soil by heavy equipment or otherwise, or placement of concrete, paint, harmful chemicals or other harmful foreign substances in the soil within the dripline area.

B. Unless authorized by a properly issued tree removal permit, no soil shall be removed from within the dripline of any protected tree that is to remain in its original location.

C. No protected tree which is to remain shall be damaged from skinning, barking, bumping, cutting of roots, or similar activities.

D. Active insect infestation of a protected tree shall be treated to alleviate such infestation.

E. No change shall be made affecting the permeability of the surface or grade of the surface within ten (10) feet of the trunk of any protected tree, which is to remain.

F. Every existing protected tree which is destroyed or damaged to the extent that it dies shall be replaced by a tree of the same species or, alternatively, a tree of equivalent environmental value, within six (6) months of such destruction or damage.

Deleted: t

G. No person shall change natural drainage or elevation, excavate any ditches, tunnels, trenches or lay any drive within a radius of ten (10) feet from any protected tree on public or private property zoned commercial, industrial, mobile home, undeveloped residential or multi-family without first obtaining a permit from the Community Development Department.

Section 9
Tree Relocation or Replacement

As a condition to the granting of a tree removal permit, the applicant shall be required to:

A. Relocate those protected trees which would otherwise be destroyed to another location upon the site, or

B. Replace those protected trees which will be destroyed with suitable replacement trees elsewhere within the site. In determining the required relocation or replacement of trees, the Community Development Department, Zoning or Architectural Review Board shall consider the needs of the intended use of the property with an evaluation of the following:

1. Existing tree coverage on the site and in the immediate surrounding area.
2. Number of trees to be removed on the entire site.
3. The type, size and condition of the tree(s) to be removed.
4. The area to be covered with structures, parking and driveways.
5. The feasibility of relocating the particular tree or trees.
6. Topography and drainage of the site.
7. The extent to which the tree(s) contribute to the aesthetic, economic, and environmental integrity of the surrounding area or

C. If neither relocations nor replacement on site is feasible, the applicant can replace those protected trees which cannot be relocated on site at an agreeable Off Site Abatement location. A plan of Off Site Abatement shall be presented to the Mayor and Board of Aldermen for approval.

D. Each replacement tree shall have characteristics comparable to those of the protected tree removed and shall be a minimum of one and one half (1-1/2) inch caliper nursery stock, seven (7) feet minimum height after planting. The type of replacement trees and location of relocated or replacement trees shall be identified by the Community Development Director prior to issuance of a tree removal permit. Each replacement tree shall enjoy the same protection as any protected tree with a total caliper trunk of eight (8) inches or a circumference of twenty-five (25) inches or more. Each replacement tree shall be replaced at a ratio of one (1) new tree to two (2) removed trees for sites two (2) acres or less and at a ratio of one (1) new tree for every five (5) trees removed for sites greater than two (2) acres.

E. Variance: The requirements of this Section may be reduced or eliminated by the Mayor and Board of Aldermen, if after review, the Board determines that it would be in the best interest of the City and its citizens that the strict enforcement of requirements contained herein should not be carried out.

Section 10
Appeal

If the Applicant is aggrieved by the refusal of the permit or by the terms imposed by the permit, the decision of the Mayor and Board of Aldermen may be appealed in the manner allowed by Mississippi law.

Section 11
Enforcement and Penalty

The Community Development Department Director will enforce the provisions of this Ordinance. Any person, firm, or corporation violating or failing to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than one hundred ($100), nor more than one thousand ($1,000) dollars, or may be imprisoned for a term not exceeding sixty (60) days, or both.

If the violation of this Ordinance is found to be done willfully or in reckless disregard of its requirements, in addition to the penalty provided for hereinabove, the violator shall also be fined an additional $1,000.00 per protected tree cut down or destroyed.

Section 12
Temporary Waiver following disaster

In case of emergencies, such as windstorms, ice storms, fire or other disasters, the requirements of this article may be waived by the Mayor and Board of Aldermen during the emergency period so that the requirements of this ordinance would in no way hamper private or public work to restore order in the city. This shall not be interpreted to be license to circumvent the intent of this ordinance.

Section 13
Conflicts

Should any section, clause, or provisions of this Ordinance be found in conflict with any other law or Ordinance, the provisions of this Ordinance shall prevail.

Section 14
Severability

If any subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

Section 15
Effective Date

This Ordinance shall take effect and be in force thirty (30) days from and after its passage and shall be published as provided by law.

The above and foregoing Ordinance, after having been first reduced to writing and read by the Clerk, was introduced by _____, seconded by _____, and was adopted by the following roll call vote, to-wit:

Witness my signature this _____ day of _____, 2005.

CITY OF RIDGELAND, MISSISSIPPI

BY: _____
GENE F. MCGEE, Mayor

ATTEST:

_____
DAVID OVERBY, City Clerk

A MOTION for adoption was made by Aldermen _____ and SECONDED by Alderman _____ and the foregoing Ordinance having been first reduced to writing, and no request being made by the Mayor or any member of the Board of Aldermen that the Ordinance be read by the City Clerk, before any vote was taken, it was submitted to the Board of Aldermen for the passage or rejection on roll call vote upon the vote being as follows, to-wit:

Alderman Ken Heard (Ward 1) voted: _____

Alderman Chuck Gautier (Ward 2) voted: _____

Alderman Kevin Holder (Ward 3) voted: _____

Alderman Larry Roberts (Ward 4) voted: _____

Alderman Scott Jones (Ward 5) voted: _____

Alderman Linda Davis (Ward 6) voted: _____

Alderman Gerald Steen (At large) voted: _____

WHEREUPON, the Mayor declared the Motion had carried and that the Ordinance was adopted.

The foregoing Ordinance is approved, this the ____ day of _____, 2005.

APPROVED:

CITY OF RIDGELAND, MISSISSIPPI

By: _____
Gene F. McGee, Mayor

ATTEST:

By: _____
David Overby, City Clerk

TREE-ORDINANCE
6/15/05-MMH
Revised 7/13/05
Made 2nd Draft Changes 9/27/05
Made 3rd Draft Changes 10/12/05
Made 4th Draft Changes 11/10/05

Formatted