

There came on for consideration at a duly constituted meeting of the Mayor and Members of the City Council of the City of Gulfport, Mississippi, held on 18th day of February, 2025, the following Ordinance:

ORDINANCE NO. 3481

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE I OF THE CODE OF ORDINANCES OF THE CITY OF GULFPORT, MISSISSIPPI

WHEREAS, the City of Gulfport, Mississippi has previously enacted a “Tree Protection” Ordinance which is codified in Chapter 8, Article I of the City’s Code of Ordinances; and

WHEREAS, the City’s Governing Authority continues to recognize the importance and values of trees in its communities and as set out previously by the Governing Authority in the prior Ordinances associated with what appears in Section 8-1 of the codified version of its “Tree Protection” Ordinance; and

WHEREAS, the Governing Authority finds it is equally as important to the health, safety, and general welfare of the City to preserve southern magnolia and live oak trees and other trees that are of a certain age and maturity as the same contribute even more to the character and visual and aesthetic values of the City and its communities as well as in the protection and preservation of native habitat, protection of structures and developments, and provision of acceptable and appropriate transitions between uses and barriers and visual screens from noise, heat, traffic, and the spread of dust and debris; and

WHEREAS, the City’s tree canopy continues to be damaged through various natural disasters and adverse weather over the years, both through tropical systems and otherwise, and which cause both wind and water damage to trees throughout the City; and

WHEREAS, the City has experienced and anticipates continuing to experience an increase in development of vacant lands that are forested both heavily and lightly; and

WHEREAS, the City has experienced and anticipates continuing an increase in single family/duplex/townhome residential development/subdivision development wherein properties are cleared for the purpose of construction of such residential units; and

WHEREAS, the provisions of Chapter 8, Article I, which comprise the City’s Tree Protection Ordinance, are in need of strengthening in order to protect the City’s existing tree canopy and to encourage the growth of that canopy; and

WHEREAS, various other provisions contained in Chapter 8, Article I of the City’s Code of Ordinances are in need of clarification and also in need of amendment to further the intent and purposes associated with these findings and the City’s “Tree Protection” Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULFPORT, MISSISSIPPI, AS FOLLOWS:

SECTION 1. That the matters and things set forth in the above preamble are hereby accepted as stated as the findings of the Gulfport City Council.

SECTION 2. That Chapter 8, Article I of the Code of Ordinances of the City of Gulfport, Mississippi, should be, and hereby is, amended to now read as follows (with added changes being in bold and underlined and deletions being in bold and underlined and stricken through):

Sec. 8-2. Tree protection advisor.

The position of tree protection advisor is hereby created, who shall direct, regulate and control the care and necessary removal of all **protected** trees, **as defined herein**, existing now and hereafter in the city.

The tree protection advisor shall be a certified arborist or a horticulturist or shall hold a minimum of a ~~**bachelors-bachelor’s**~~ degree in landscape architecture or horticulture. The **tree protection advisor arborist/horticulturist** shall take active steps to process and render decisions granting or denying applications for permits under this article. Any decisions of the tree protection advisor, as authorized herein, shall be final unless an appeal is submitted to the city planning commission.

Sec. 8-3. Definitions.

As used in this article, the terms herein shall be defined as follows:

American National Standards Institute (ANSI): A private non-profit organization that oversees the development of voluntary consensus standards by accredited representatives of government agencies, industry, and other stakeholders.

ANSI A300: The industry-developed, national consensus standards of practice for tree care in the United States.

Arborist: A person trained in the proper care and maintenance of trees who has passed an independent exam administered by the International Society of Arboriculture, and maintains the credentials through continuing education.

Caliper: The diameter at breast height (DBH) of any tree trunk ~~thirty-six~~ forty-eight (36) inches above ground level.

Commercial nursery or tree farm: A licensed plant or tree nursery or farm in relation to those trees planted and growing on the premises of the licensee, which are planted and growing for sale or intended sale to the general public in the ordinary course of said licensee's business.

Critical root zone (CRZ): The area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. Per ANSI A300 (Part 5), these roots are located within six (6) to eighteen (18) times the trunk diameter (DBH) depending on species tolerance to root loss, tree age and health.

Destroy: Any intentional or negligent act which causes **or leads to the probability of** a tree to decline and die, including, but not limited to, such damage inflicted upon the root system of a tree by the application of toxic substances, the operation of heavy machinery, the change of natural grade by excavation or ~~filling the covered area or around the trunks~~ **elevation of the area over the root system** of a tree, trenching, **excessive compaction of soil under the tree canopy**, paving with concrete, asphalt or other impervious materials and damages **inflicted on trees from injury or fire which result in or permit pest infestation**~~from injury or from fire inflicted on trees which result in or permit pest infestation~~. Cutting, grilling, injecting, bulldozing and excessive pruning **or trimming** that result in the death **or decay** of a tree are also considered destruction.

Diameter at breast height (DBH): The measurement of the width of the trunk of the tree at four and one-half (4½) feet above the existing grade. For multi-trunk trees the DBH shall be the sum of the diameter of the trunks.

Drip line: ~~The circumference of the tree's natural, unaltered canopy extended vertically to the ground~~ **A vertical line running through the outermost portion of a tree crown extending to the ground.**

Flush cutting: The removal of limbs by cutting immediately adjacent to the trunk, destroying the protective branch collar and exposing the trunk to decay organisms.

Protective barrier: A physical structure limiting access to **the crown, trunk and/or root system of** a protected tree, composed of wood, **plastic safety fence**, or other suitable materials, which assures compliance with the intent of this article.

Pruning or prune: This means that definition of the term as set forth in both the most recent International Society of Arboricultural pruning standards and guidelines and American National Safety Institute A300 (Part 1) (ANSI A300 (Part 1)), both of which shall be followed for pruning. At no time shall **trimming, topping, tipping or flush cutting of trees be deemed a form of "pruning."**

Residual density: The number of natural trees growing on an existing lot or site that is expressed as the actual number of trees per square foot of area.

Selective root pruning: A process consisting of soil excavation using supersonic air tools, pressurized water, or hand tools, followed by cutting individual roots conducted under the supervision of an ISA certified arborist as set forth in ANSI A300 (part 8) Best Management Practices.

Tipping: The cutting of a lateral limb in such manner as to leave a prominent stub extending beyond a branch node or the trunk.

Topping: The cutting of a leader trunk in such manner as to leave a prominent stub extending beyond the node (crotch) of another leader trunk or major branch that may become a leader trunk.

Tree, protected: Any woody, perennial, hardwood plant that is either a live oak (quercus virginiana), southern magnolia (magnolia grandiflora), **American Sycamore (Platanus occidentalis)**, swamp chestnut oak (quercus michauxii), ~~sweet bay (magnolia virginiana), sweet gum (liquidambar styraciflua)~~, overcup oak (quercus lyrata), shumard oak (quercus shumardii), nuttall oak (quercus texana), American holly (Ilex opaca), bald cypress (taxodium distichum), red maple (acer rubrum), willow oak (quercus phellos) that has a single or multiple trunk with a total caliper trunk of eight (8) inches or a circumference of twenty-five (25) inches or more.

Tree, replacement: A tree of the same species as that of the protected tree having a minimum ~~one and one half inch~~ **two (2) inch** caliper nursery stock with a minimum height of ~~seven (7) feet~~ **ten (10) feet and a minimum canopy of six (6) feet** after planting.

Tree removal: The displacement, removal, relocation, alteration or effective removal as a result of damaging or destroying any protected tree **or to reduce residual density.**

Trimming or trim: Cutting a stem to an indiscriminate length, as determined by the city tree protector advisor. While trimming is unacceptable, pruning- the act of cutting stems at nodes- is permissible.

Sec. 8-4. Application of provisions.

The provisions of this article shall apply to protected trees that are located on any real property that is located or lying within a district that has been designated on the Gulfport Comprehensive Zoning District Map as ~~follows: set out herein below in this Section or elsewhere in this Ordinance.~~

- (a) **Any type of ~~An~~** industrial district;
- (b) **Any type of ~~A~~** business **or commercial** district; **and**
- (c) **Any type of ~~A~~** residential district, ~~provided that the development (multifamily) exceeds ten (10) units per acre;~~
- ~~(d) A residence district for all other residential uses occupying an area of more than one two (2) or more acres; or~~
- ~~(e) All districts (i.e., industrial, business, residence) with respect to protected live oaks and southern magnolias, with the exception of those live oaks and southern magnolias located on lots or parcels less than one (1) acre in size that are developed with an owner occupied single family home.~~

Sec. 8-5. Permits—Required.

(a) **Generally.** It shall be unlawful for any person, without first obtaining a permit to do so as herein provided, to remove, cause to be removed, relocate or substantially alter **or trim**, or to effectively remove as a result of damaging or destroying any protected tree **or to change the residual density on a lot or site.** It shall be unlawful for any licensed tree surgeon, **tree contractor**, service company or general contractor to remove, cause to be removed, relocate or substantially alter or to effectively remove as a result of damaging or destroying any **protected** tree covered by the terms and provisions of this article **or to change the residual density on a lot or site** without first having in its possession a proper permit authorizing the removal of said tree. Upon the second violation of the terms and provisions of this article by any licensed tree surgeon, service company or general contractor, the mayor and city council shall, after investigation by the tree protection advisor and upon subsequent recommendation to them, revoke for a period of six (6) months the city privilege license of said tree surgeon, service company or general contractor.

(b) Tree pruning. **It shall be unlawful for any person who is not an owner or the then current resident of the property on which the affected tree is located to prune or substantially alter any protected tree without first obtaining a permit to do so as herein provided.**

~~(bc)~~ **Site plans for development or redevelopment; Denial of permit.** A site plan for the development or redevelopment of any tract of land located in the city shall be submitted to the city, along with the application for a building permit, prior to the removal of any tree as herein defined. **Additionally, no ~~No~~ building permit shall be issued until a the tree site plan and tree permit application have has been prepared and submitted in accordance with the terms herein, and** reviewed and approved in writing by the tree protection advisor, and a **tree** permit as provided **herein** is issued or denied within fourteen (14) working days of submittal. Reasons for denial shall also be reported to the applicant in writing. If the applicant is not notified of approval or disapproval within fourteen (14) working days, such plans shall be considered approved, and such permit shall be considered issued by the tree protection advisor through the department of urban development. The tree site plan must show, in addition to the usual requirements, the following information at a scale sufficient to enable the determination of matters required under these regulations:

- (1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements if any.

- (2) Location and dimensions of all protected trees identified by common or botanical name. Trees proposed to remain, to be relocated or to be removed shall be so identified. Groups of trees in close proximity, three-foot spacing or closer, may be designated as a "clump" of trees and a predominant species, estimated number and average size listed.
- (3) A statement showing how trees not proposed for removal are to be protected during land clearing and construction, i.e., a statement as to proposed protective barriers as defined in section 8-3.
- (4) Statement as to grade changes proposed for the lot or parcel, and how such changes will effect these regulations.
- (5) Any proposed tree replacement program.
- (6) The tree protection advisor may require the applicant to furnish additional information as he deems necessary and appropriate to properly analyze the application.

The function of the tree protection advisor in the review of the site plans will be to assure that protected trees **and residual density** are preserved and retained within the city. A permit from the tree protection advisor is required for any work on or affecting trees covered by the provisions of this article. The tree protection advisor shall specify the work to be done and may inspect the work in progress and make a final inspection upon the completion of the work as necessary. The director of urban development (or designee) shall have concurrent authority to enforce the regulations of this article in the event that the tree protection advisor is unable to inspect any work for the purpose of ensuring compliance with this article.

(d) *Building moving permits.* The tree protection advisor, along with any other affected city departments, shall review and approve or disapprove all applications for building moving permits to ensure that such movement will not endanger any tree specified in this article.

(e) Insurance. In the event an insurance company that underwrites or affords insurance with respect to a particular property requires removal of a protected tree found thereon as a condition to the provision of continued coverage or as a grounds for cancellation of existing coverage, documented proof of such basis shall be provided in writing from the insurance company to the city's tree protection advisor before a permit is issued that allows removal or pruning of such a tree and such permit shall include mitigation / replacement as addressed under this ordinance as a condition to issuance of such permit.

Sec. 8-6. Same—Application; Application Fee; Expiration of Permit.

(a) Any person required by this article to obtain a tree permit shall make a written application to the tree protection advisor through the planning **office in the department of urban development administrator**. The filing fee will be based on the total number of trees being reviewed by the tree protection advisor. At a minimum, such application shall require the following:

- (1) Full name of Applicant;**
- (2) Street address and contact phone number for Applicant;**
- (3) Street address of location of affected tree(s);**
- (4) Full names of all owners of the property for where each affected tree is located;**
- (5) Street address and contact phone number for each owner of the property for each location of each affected tree;**
- (6) If any of the work sought to be permitted in the Application is to be performed by a contractor, the full name, street address, and contact phone number for each contractor;**
- (7) Description of each tree that is the subject of the Application, to include its location on the affected property and its believed species;**

(8) A tree site plan with respect to each affected tree; and

(9) Any other information set forth or provided in this Ordinance / Article.

(b) Any person NOT required by this article to obtain a tree permit that makes a written application to the tree protection advisor through the planning administrator will be assessed a filing fee based on the total number of trees requested to be reviewed by the tree protection advisor.

(c) In order to complete the submission of an Application, the submitting party (Applicant) must submit the requisite filing or application fee, which shall be determined by the following, subject to review and approval of the city's tree protection advisor. ~~The cost for filing fee:~~

RESIDENTIAL AND COMMERCIAL (IMPROVED)

One tree \$25.00

Each additional tree \$10.00

**Maximum charge \$250.00
per half acre
of property
included in tree review**

RESIDENTIAL AND COMMERCIAL (UNIMPROVED)

One tree \$35.00

Each additional tree \$15.00

**Maximum charge \$350.00
per half acre
of property
included in tree review**

(d) Where an application as required by this article has been submitted, no permit shall be issued until a tree site plan for the lot or parcel has been submitted by the applicant to the tree protection advisor and reviewed and approved by the tree protection advisor. ~~Upon a proper showing by the applicant of extreme hardship due to causes unrelated to the acts or omissions of the applicant, the tree protection advisor, in his discretion, may waive all or part of the requirements for the tree site plan submission.~~

(e) Upon approval of the tree permit application by the tree protection advisor, the applicant must pick-up the approved permit within fourteen (14) business days from date of issuance, failing in which the tree permit shall automatically expire and terminate. Except for this exception, the tree permit shall be valid for a period of (180) days following date of issuance after which period the permit shall automatically expire and terminate

Sec. 8-7. ~~Same~~ Criteria for issuance of permit.

After the application is filed with the **Department of Urban Development as set forth herein**~~building department~~, the tree protection advisor shall consider the following criteria in the approval or denial of a tree permit ~~for the removal, relocation or substantial alteration of a protected tree:~~

- (1) The condition of the **protected** tree or trees proposed to be removed with respect to disease, insect attack, danger of falling, proximity to existing or proposed structures and interference with utility services.
- (2) The necessity of removing the **protected** tree or trees in order to construct the proposed improvements or structures to allow reasonable economic use of the property.
- (3) The effect of removal on erosion, soil moisture retention, flow of surface waters and coordination with the drainage system plan of the city.
- (4) The number and density of **protected** trees in the area, and the effect of tree removal on property values of the neighborhood and other existing vegetation.
- (5) Whether any **protected** tree proposed to be removed is worthy of preservation.
- (6) Impact upon the urban and natural environment, including:
 - a. Whether **protected** tree removal would substantially alter the water table or affect the stability of ground and surface water.
 - b. Whether **protected** tree removal would affect water quality and aquifer recharge by reducing the natural assimilation of nutrients, chemical pollutants, heavy metals and other substances from ground and surface waters during the movement of water towards an aquifer or natural stream.
 - c. Whether **protected** tree removal would have an adverse impact upon existing biological and ecological systems.
 - d. Whether **protected** tree removal would affect noise pollution by increasing source noise levels to such a degree that a public nuisance or violation of noise control would occur.
 - e. Whether **protected** tree removal will affect air movement by significantly reducing the ability of existing vegetation to reduce wind velocities.
 - f. Whether **protected** tree removal will affect quality by significantly affecting the natural cleansing of the atmosphere by vegetation.
 - g. Whether **protected** tree removal will affect wildlife habitat by significantly reducing the habitat available for wildlife existence and reproduction or causing the emigration of wildlife from adjacent or associated ecosystems.
- (7) The ease with which the applicant can alter or revise the proposed development or improvement to accommodate existing **protected** trees.
- ~~(8) The economic hardship that would be imposed upon the applicant were the permit denied.~~
- ~~(89)~~ The heightened desirability of preserving **protected** tree cover in densely developed or densely populated areas.
- ~~(910)~~ The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.
- ~~(1011)~~ Whether the continued presence of the **protected** tree or trees is likely to cause danger to a person or property.

~~(1112)~~ Whether the topography of the area in which the **protected** tree or trees are located is of such a nature to be damaging or injurious to trees.

~~(1213)~~ Whether the removal of the **protected** trees is for the purpose of thinning a heavily wooded area where some **protected** trees will remain.

Sec. 8-8. Permit Conditions Same—Tree relocation or replacement: Replacement Trees.

(a) As a condition to the granting of a tree removal permit, the applicant may be required to:

- (1) Relocate those protected trees which would otherwise be destroyed to another location upon the site; or
- (2) To 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 tree protection advisor shall consider the needs of the intended use of the property, including all lands dedicated to public use, together with an evaluation of the following:
 - a. Existing tree coverage on the site and in the immediate surrounding area.
 - b. The number of trees to be removed on the entire site.
 - c. The type, size and condition of the tree(s) to be removed.
 - d. The area to be covered with structures, parking and driveways.
 - e. The feasibility of relocating the particular tree or trees.
 - f. The topography and drainage of the site.
 - g. The extent to which the tree(s) contribute to the aesthetic, economic and environmental integrity of the surrounding area.

(b) Each replacement tree shall have characteristics comparable to those of the protected tree removed and shall be a minimum of **two (2) one and one half inch** caliper nursery stock, **ten (10) seven-**foot minimum height after planting. The type of replacement trees and location of relocated or replacement trees shall be identified by the tree protection advisor prior to the issuance of a tree permit. **Replacement trees that are unable to be planted onsite will be placed in the City's plant yard to be planted in the future by the City at an alternative public site to be determined by the city tree protection advisor.** 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 minimum of a one to one ratio, per the standards listed below:**

Replacement tree table

8"-12" caliper tree = 2 trees

13"-18" caliper tree = 3 trees

19"-24" caliper tree = 4 trees

25"+ caliper tree = 5 trees

(c) Tree Mitigation Trust. Replacement trees that are not able to be planted onsite may be replaced by a monetary contribution to the mitigation trust based on the replacement tree table listed in Sec. 8-8 (b)

(1) Application. To participate in the Tree Mitigation Trust, a form must accompany a tree permit through the Planning and Zoning Department and must be approved by the City of Gulfport's Tree Advisor.

(2) Mitigation Trees. Upon approval of a request to participate in the Tree Mitigation trust, the Tree Advisor will determine what protected trees to be planted on public grounds or rights-of-way would be comparable to the trees or landscaping otherwise required on-site by the City Ordinance. The approved participant will then pay a one-time, flat cost estimate for the purchase, planting, and maintenance of such trees. The flat cost estimate for planting and initial maintenance of comparable trees is two (2) times the base price for the City to purchase a two (2) inch caliper, ten (10) foot comparable tree in local nursery stock.

(3) Tree Mitigation Trust Administration. Funds paid into the Tree Mitigation Trust will be used for the sole purpose of planting and maintaining trees on public grounds and rights-of-way at the direction of the Tree Protection Advisor. As an essential infrastructure, the Tree Protection Advisor will ensure that, when possible, the trees planted pursuant to the Tree Mitigation trust are located in the nearby vicinity of the land development with which they are associated.

If a ~~A~~ replacement tree that dies within ~~two (2) one (1)~~ years of its planting for whatever reason including, but not limited to, lack of care, ~~shall, likewise, it shall be the responsibility of the present owner for the dead tree to be~~ replaced ~~by with~~ a new replacement tree that conforms to the requirements of this article.

In addition to the protection of certain specified trees identified in Section 8-3, the tree protection advisor may require tree replacement of other natural trees, as well as protected trees, under the following circumstances. Where the residual density of **other** natural trees (any species with a total caliper trunk of two (2) inches or six and one-quarter (6.25) inches in circumference or larger) in any lot or site is greater than the standards listed below, the requirement for replacement trees to be planted will be waived. If the residual density of **other** natural trees is less than the standards listed below, the property owner or developer will be required to plant trees to the proper density.

Site Area square feet)	Required Trees
0 to 10,000	1 tree/1,000 sq. ft.
10,000 to 110,000	10 trees for first 10,000 sq. ft., plus 1 tree/2,500 sq. ft. over 10,000 sq. ft.
Over 110,000	50 trees for first 110,000 sq. ft., plus 1 tree/5,000 sq. ft. over 110,000 sq. ft.

Sec. 8-9. ~~Same~~ ~~Trimming, p~~Pruning, planting and removal of trees on public property.

- (a) Except as provided herein, any person desiring to remove, destroy, cut, severely prune, including the root system, or treat any tree in and upon any public street or public property owned by the city, its agencies, boards, authorities and commissions, shall first obtain a written permit from the tree protection advisor. Any work performed under such permit must be done in strict accordance with the conditions of the permit and the provisions of this article.
- (b) Individual permits shall not be required of public and private utility companies which install overhead and underground utilities (including cable television and water and sewer installations by or at the direction of the public works department) **and which have valid and current franchise agreements with the city;** provided that a determination is made **by the tree protection advisor** that the services provided by them are necessary for the general health, safety and welfare of the citizens of the city. Their actions that would ultimately result in the destruction of any tree designated by this article shall be limited to the amount necessary in order to provide such utility service. The companies' written pruning and trenching specifications along with specific site location shall be reviewed by the tree protection advisor for

their comments in advance of any pruning or removal. All utility pruning within the city limits shall be done to ANSI pruning standards.

(c) Any person desiring to plant a tree upon any public street or public place must also obtain written permission a permit from the tree protection advisor. However, before any approval is granted the issuance of a permit to plant, the request must also be reviewed by the superintendent of traffic control and safety to determine if the proposed planting would create a sight distance hazard for traffic. The filing fee of ten dollars (\$10.00) will be waived in obtaining this permit.

Sec. 8-10. Injuring trees in public places.

(a) It shall be unlawful for a person, except with a written permit, to place or maintain upon the ground in any public street or public place any stone, cement or other impervious matter or substance in such a manner as may obstruct the free access of air and water to the roots of any tree in any such street or place.

(b) It shall be the responsibility of the person in charge of the erection, repair, alteration or removal of any building or structure to place a guard or protector around any tree on public ground so as to prevent injury to such tree arising out of such erection, repair, alteration or removal. If the erection, repair, alteration or removal of any structure shall require the trimming-pruning or removal of any tree upon public ground, a written permit shall be obtained as provided in section 8-8.

(c) It shall be unlawful for any person to attach to any tree in and upon any public street or public place, or to the guard or stake intended for the protection of such tree, any rope, wire, chain, nails, advertisement, poster, sign or other device whatsoever except for the purpose of protecting it.

(d) No person shall intentionally damage, cut, carve, transplant or remove any tree in and upon any public street-stress or public place.

(e) No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein. Sunlight to any public tree cannot be permanently blocked by placement of materials without written authorization of the tree protection advisor.

Sec. 8-11. TrimmingPruning of trees adjacent to public property.

Trees standing in or upon any lot or land adjacent to any public right-of-way or public place and having branches, limbs, trunks or other parts projecting into the public right-of-way or place which have been determined by the city superintendent of traffic control and safety or his designee to interfere with the free and safe passage and line of sight along the public way by pedestrians and vehicular traffic may be kept trimmed by the city.

Where a particular tree requires trimming or pruning for a second consecutive year in order to allow for free and safe passage and line of sight along the public way, the city shall proceed in accord with MCA 1972, § 21-19-11, as amended, to protect the public health, safety and welfare of the community by having the tree trimmed and/or pruned and/or cut. Alternatively, the city may proceed via appropriate processes for the municipal environmental court to compel trimmingpruning of the limbs, branches or tree trunks.

Sec. 8-12. Construction near trees.

(a) During construction=Before the commencement of any construction, land clearing, filling, or any land alteration, the developer or builder shall erect suitable protective barriers around all protected trees, and this protection, where be required, shall remain until permanent barriers have been erected to=erect suitable protective barriers around all such protected trees to be preserved.

(ba) ~~Excluding Including~~ sidewalks and driveways, no person shall pave with concrete, asphalt or other impervious material within five (5) feet ~~of the outside~~ **inside the** diameter of any **protected** tree **dripline**. If necessary, the tree protection advisor **can permit less than five (5) feet inside the diameter of any protected tree dripline or** will require additional footage beyond the minimum requirement of five (5) feet ~~from the outside inside the~~ diameter of any protected tree **dripline** to prohibit any impervious materials.

(c) During construction, no attachments or wires other than protective guy wires shall be attached to any trees.

(d) Filling under the spread of limbs of any protected trees is hereby limited to one (1) inch of soil unless protective measures are taken as approved by the tree protection advisor.

(e) It shall be unlawful for any person in the construction of any structure or other improvement to conduct non-selective root pruning within the critical root zone (CRZ) as described in ANSI A300 (Part 5) of any tree retained on a land development or improvement, and selective root pruning shall be conducted under the supervision of an ISA certified arborist as described in ANSI A300 (part 8) best management practices.

(f) It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery, or temporary soil deposits within the critical root zone (CRZ) as described in ANSI A300 (part 5) of any tree retained on a land development or improvement.

Sec. 8-16. Enforcement of article.

The tree protection advisor and the ~~building~~ department **of urban development** shall be charged with the enforcement of this article. For the purpose of enforcement, the tree protection advisor and the director of urban development or designee are hereby empowered to ensure that the provisions of this article are not violated, including the issuance of citations for the violations of any provisions of this article. The tree protection advisor or ~~the their~~ authorized designee **of the tree protection advisor,** ~~and~~ the building official **or planning administrator** may periodically inspect sites subject to the provisions of this article.

If, through inspection, it is determined that a person has failed to comply with the provisions of this article, a notice to comply shall be served upon that person by certified mail **and/or delivered in person to the site of the violation(s)** from the tree protection advisor or the director of urban development. The notice shall set forth all the provisions which will be necessary to comply with this article.

The tree protection advisor and the director of urban development shall have the power to conduct such investigations as deemed reasonably necessary to carry out duties as prescribed in this article and, for such purpose, may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this article. No person shall refuse entry or access to the tree protection advisor or ~~the their~~ authorized designee **of the tree protection advisor, representative and** the building official **or planning administrator** who may request entry for the purpose of inspections, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with such representative **of the city** while in the process of carrying out their official duties.

Sec. 8-17. ~~Variances and a Appeals from the decision of the tree protection advisor.~~

~~(a) A variance from the provisions of this article may be considered by the planning commission in cases of unusual circumstances and special conditions where the literal enforcement of the provisions of this article would result in depriving the property owner of the reasonable use of land.~~

~~(a b)~~ In the event that any person is dissatisfied with a decision of the tree protection advisor, ~~adversely affecting such person involving the application of this article,~~ such person may appeal to the city planning commission by filing written notice thereof with the planning commission, ~~together and~~ with a copy to the tree protection advisor, within fifteen (15) days after the decision of the tree protection advisor. The planning commission shall hear any complaints of such person; and, after a full and complete hearing, the commission shall render its opinion affirming, overruling or modifying the decision of the tree protection advisor based upon the criteria set forth in section 8-6. Each appeal shall be accompanied by a fee of seventy-five dollars (\$75.00) to cover the cost of publishing and mailing notices of such hearing.

The planning commission shall prepare a record of its proceedings for each case, showing the grounds for its decision. The record shall be filed in the office of the planning commission and shall be available to the public for review.

(c) Any person or any officer, department or agency of the city aggrieved by any decision of the planning commission may, within fifteen (15) days thereafter, appeal to the city council by filing with the ~~minutes~~ clerk of the city council a written notice of appeal specifying the decision from which the appeal is taken. In case of such appeal, the planning commission shall cause a certified transcript of the proceedings in the case to be filed with the city council; and the matter will be heard on said transcript, the cost of said transcript to be borne by said appellant.

(d) Any person feeling aggrieved at the findings and decisions of the ~~mayor and~~ city council shall have the right to appeal to a court of competent jurisdiction and shall be governed by applicable statutes of the State of Mississippi.

Sec. 8-18. Penalties.

(a) It shall be unlawful for any person, firm, organization or society to violate the provisions of this article. The removal, **damaging** or destruction of each protected tree **and the failure to comply with the residual density requirements set forth in Section 8-7 herein** shall constitute a separate offense under this article, and said violation shall be punishable in accordance with section 1-9 of this Code. **Further, replacement trees shall be required as part of restitution and will be placed in the City's plant yard to be planted in the future by the City at an alternative public site to be determined by the City. The number of replacement trees for purposes of such restitution shall be determined per the standards listed below:**

Replacement tree table

8"-12" caliper tree = 4 trees

13"-18" caliper tree = 6 trees

19"-24" caliper tree = 8 trees

25"+ caliper tree = 10 trees

(b) Restitution associated with violation of this Ordinance / Article should be based on the most current version of the American Society of Consulting Arborists (ASCA) Tree and Plant Appraisal Process, should sufficient evidence of such process be presented.

SECTION 3. All provisions of Chapter 8 of the Code of the Ordinances of the City of Gulfport, Mississippi not in conflict herewith shall remain in full force and effect as heretofore provided.

SECTION 4. To provide for the immediate and temporary preservation of the public peace, health and safety, this Ordinance shall be in full force and become effective immediately upon its passage by unanimous vote and enactment according to law and shall be spread on the minutes of the Gulfport City Council. The Ordinance shall be published according to law and for failure to pass unanimously, shall take effect thirty (30) days after the date of passage.

SECTION 5. The Governing Authority further finds that the following shall serve as an explanatory statement of this Ordinance for purposes of publication: “This Ordinance amends the “Tree Ordinance” of the City’s Code of Ordinances (Chapter 8, Article I). A copy of the full text of this Ordinance is available to municipal residents upon request to the City Clerk.” For the next thirty (30) days, a copy of the full text of this Ordinance shall be posted by the City Clerk: (a) in the first floor lobby at City Hall (2309 15th Street, Gulfport, Mississippi 39501); (b) in the first floor lobby of the City’s Hardy Building (1410 24th Avenue, Gulfport, Mississippi 39501); and (c) in the first floor lobby of the County Courthouse in Gulfport (1801 23rd Avenue, Gulfport, Mississippi 39501). The City Clerk shall further furnish any resident of the City a copy of the full text of this Ordinance upon request.

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

<u>YEAS:</u>	<u>NAYS:</u>	<u>ABSENT:</u>
Casey	Holmes-Hines	None
Roland	Walker	
Flowers		
Kosloski		

WHEREUPON the President declared the motion carried and the Ordinance adopted, this the 18th day of February, 2025.



ATTEST:
/s/ Brittany Rodgers

Brittany Rodgers, Clerk of Council

ADOPTED:
/s/ Rusty Walker

F.B. “Rusty” Walker, IV, President

The above and foregoing Ordinance having been submitted to and approved by the Mayor, this the 19th day of February, 2025.

APPROVED:

/s/ Billy Hewes

Billy Hewes, Mayor