

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, REGULATING THE PLANNING AND REMOVAL OF STREET TREES AND TREES ON PRIVATE PROPERTY WITHIN SAID CITY, REQUIRING A PERMIT FOR THE REMOVAL OF CERTAIN TREES FROM PRIVATE PROPERTY, PROVIDING FOR THE PROTECTION OF TREES FROM ABUSE AND MUTILATION, PROVIDING FOR PENALTIES FOR ANY VIOLATION OF ANY PROVISION OF THIS ORDINANCE, AND FOR RELATED PURPOSES.

THIS ORDINANCE CONSOLIDATES ORDINANCES 364, 490 AND 491.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AS FOLLOWS:

SECTION 1. SHORT TITLE

This Ordinance shall be known, and may be cited, as “The Tree Preservation and Protection Ordinance of the City of Long Beach, Mississippi.

SECTION 2. INTENT & PURPOSE

The intent and purpose of this Ordinance is, through the preservation and planting of trees and removal thereof, to: aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water runoff and the costs associated therewith and replenish ground water supplies; aid in the removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer and screen against noise pollution; provide protection against severe weather; aid in the control of drainage and restoration of denuded soil subsequent to-construction or grading; provide a haven for birds which in turn assists in the control of insects; protect and increase property values; conserve and enhance the City’s physical and aesthetic environment; and generally protect and enhance the quality of life and the general welfare of the City.

SECTION 3. DEFINITIONS

- (a) In addition to any words and terms or phrases elsewhere defined herein, the following words, terms and phrases shall have the following meanings, unless some other meaning is plainly intended.

“Caliper” shall mean the diameter of any tree trunk six (6) inches above ground level.

“City” shall mean the City of Long Beach, Mississippi.

“Governing Body” shall mean the Mayor and Board of Aldermen of the city of Long Beach Mississippi.

“Mayor” shall mean the Mayor of the City,

“Building Official” shall mean the building Official of the City

“Magnolia Tree” shall mean a Southern Magnolia (Magnolia Grandiflora)

“Person” shall mean an individual, partnership, corporation, society, trust or any unincorporated organization, association, or other combination of individuals whether legal or natural , and any agency, department or subdivision of the City.

“Planning Commission” shall mean the Planning and Development Commission of the City.

“Public Works Department” shall mean the Public Works Department of the City.

“Removal” shall mean the ultimate destruction or removal of any shrub, or tree through cutting, land fill, drainage, poison, fire, explosion, damaging, or any other direct or indirect action resulting in the death of such, shrubs, tree or trees.

“Street tree” or “street shrub” shall mean any tree or shrub in a public place.

“Tree Board” shall mean board established by Governing Body to evaluate Tree Removal Applications and submit their recommendations to the Planning and Development Commission, Applications should be reviewed by at least two Tree Board Members and their evaluation should be based on Section 6 (a) through (m) of this Ordinance.

“Tree Worthy of Preservation” Shall mean any tree which can reasonably be determined by the Planning and Development Commission of the City to have a remaining life span equal to or greater than that of a proposed structure included in a site plan or subdivision plat, or any tree which is unique by reason of age, size, rarity or status as a landmark or species specimen, or other outstanding quality.

SECTION 4. STREET TREES/STREET SHRUBS—JURISDICTION.

- (a) “The Planning and Development Commission” subject to the approval of the Governing Body of the City, shall have jurisdiction and supervision over all trees, shrubs and grassy areas planted or growing in public places. The Public Works Department of the City, with the advice of the Planning and Development Commission, shall have the duty to plant, trim, spray, treat, preserve, remove trees, shrubs, and grassy areas in public places to ensure safety or preserve the symmetry and beauty of such public places.
- (b) It shall be unlawful for any person to hinder, prevent, delay, or interfere with the Planning and Development Commission, the Public Works Department, of any agent or employee thereof, in the exercise of the powers and duties in the carrying out of the provisions hereof. This section shall not be construed to prohibit the pursuit of any legal or equitable remedy in a court of competent jurisdiction for the protection of personal or property rights by any property owner in the City of Long Beach, Mississippi.
- (c) There is excluded from the provisions of this section, public places in the median of U.S. Highway 90 within jurisdiction of Harrison County.
- (d) All action of the Planning and Development Commission and/or the Public Works Department in carrying out the provision of this Section are subject to the prior approval of the Governing Body of the City which may provide for such actions, in the discretion, to be carried out by contract with private persons.

SECTION 5. PERMIT REQUIRED FOR REMOVAL OF TREE FROM PRIVATE PROPERTY.

- (a) It shall be unlawful for any person to remove or cause or assist in the removal of any Live Oak or Magnolia tree within the City of Long Beach, Mississippi, without first having obtained a valid tree removal permit. For the purpose of this Section, a tree is any self-supporting Live Oak or Magnolia tree with its root system, growing upon the earth usually with one trunk or at least eighteen (18) inches in circumference or larger, measured four and one-half (4 ½) feet above the surface of the ground, or a multi-stemmed trunk system with a definitely formed crown.
- (b) Any person desiring a permit for removal of any Live Oak or Magnolia tree as required by this Ordinance, shall submit a written application together with a filing fee of \$25.00 (Amended Ordinance No. 490 October 21, 2003) per parcel of land to which such application pertains. The application, together with the filing fee, shall be submitted to the Zoning Enforcement Officer of the City, and shall include the following information:
 - (1) Name and address of the applicant and status of legal entity
 - (2) Status of applicant with respect to the land upon which such tree or tree is or are located
 - (3) Written consent of the owner and mortgagee of the land if the applicant is not the owner
 - (4) Map or diagram of the parcel of land, specifically designating the area or areas of proposed tree removal and the proposed use of such area
 - (5) Name and address of the person preparing any map, drawing or diagram submitted with the application
 - (6) Location of the property, including a street number and address and lot number as shown on the official assessor’s map of the City
 - (7) A true copy of the deed or other muniment of title evidencing ownership of the subject property
 - (8) Location of all Protected trees on the property, to include their size and species
 - (9) Designation of all diseased and/or damaged trees
 - (10) Designation of any trees endangering any roadway, pavement, or utility line
 - (11) Any purposed grade changes that might adversely affect or endanger any trees on the site and specifications of how to maintain them
 - (12) Designation of trees to be remove and trees to be maintained
 - (13) Purpose of tree removal (construction, street or roadway, recreational area, patio, parking lot, diseased tree not worthy of preservation, etc.)

- (14) Location of existing and/or proposed structures
- (15) A statement of the applicant that no person, not a party to the application, has any interest in the title in or to the property
- (c) The Zoning Enforcement officer, in addition may require the applicant to furnish, and the applicant shall thereupon supply any of the following documentation:
 - (1) A site plan specifying the methods to be used to preserve all remaining trees and their root system and the means of providing water and nutrient in their root systems
 - (2) A topographical survey of the land if development, construction, or subdivision will result in change in elevation, or if the land is more than one acre in area
 - (3) Plat or survey of the land drawn to scale by registered land surveyor or professional engineer
 - (4) Location of all existing and proposed utilities
 - (5) Grading and drainage requirements
 - (6) The extent, description and time frame which will be used by the applicant and/or owner to replenish the flora of occasioned by the removal of any Live Oak and/or Magnolia trees
 - (7) Location and description of all existing or proposed structures, improvements and site uses, properly dimensioned and referenced to property lines, drawn to scale"

SECTION 6. PLANNING AND DEVELOPMENT COMMISSION REVIEW OF PERMIT APPLICATION

The Zoning Enforcement Officer shall refer the application for tree removal permit and supporting documents to the Planning and Development Commission of the City for review and determination whether the permit should be granted or denied and appropriate recommendation to the Governing Body of the City for final action. In determining whether or not a Tree Removal Permit should be granted, and making its recommendation to the Governing Body of the City, the Planning and Development Commission shall consider the following:

- (a) The condition of the 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
- (b) The necessity of removing the tree or trees in order to construct the proposed improvements or structures to all reasonable economic use of the property
- (c) The effect of removal on erosion, soil moisture retention, flow of surface waters and coordination with the drainage system plan of the City of Long Beach, Mississippi
- (d) The number and density of trees in the area and the effect of tree removal on property values of the neighborhood and other existing vegetation
- (e) Whether any tree proposed to be removed is worthy of preservation
- (f) Impact upon the urban and natural environment, including:
 - (1) Whether tree removal would substantially alter the water table or affect the stability of ground and surface water
 - (2) Whether 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
 - (3) Whether tree removal would have an adverse impact upon existing biological and ecological systems
 - (4) Whether tree removal would affect noise pollution by increasing sound noise levels to such a degree that a public nuisance or violation of noise control would occur
 - (5) Whether tree removal will affect air movement by significantly reducing the ability of existing vegetation to reduce wind velocities
 - (6) Whether tree removal will affect air quality by significantly affecting the natural cleansing of the atmosphere by vegetation
 - (7) Whether 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 eco-systems
- (g) The ease with which the applicant can alter or revise the proposed development of improvement to accommodate existing trees
- (h) The economic hardship that would be imposed upon the applicant were the permit denied
- (i) The heightened desirability of preserving tree cover in densely developed or densely populated areas
- (j) The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or nay other visual affront

- (k) Whether the continued presence off the tree or trees is likely to cause danger to a person or property
- (l) Whether the topography of the area is which the tree or trees is located is of such a nature to be damaging or injurious to trees
- (m) Whether the removal of the trees is for the purpose of thinning a heavily wooded area where some trees will remain
- (n) These provisions shall not apply to:
 - (a) The removal of trees from commercial or horticultural properties such as farms, nurseries, or commercial forests. This exception shall not be interpreted to include lumber harvesting incidental to imminent development or public rights-of-ways
 - (b) The removal of trees on public rights-of-ways conducted by or on behalf of a Federal, State, County, Municipal, or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public right-of-ways
 - (c) The removal of a tree which has become or that threatens to become a danger to human life or property
- (o) In submitting its recommendations to the Governing Body of the City, the Planning and Development Commission shall state its reasons for either a recommendation for granting or denying the application for the Tree Removal Permit

SECTION 7. FINAL APPROVAL OF GOVERNING BODY REQUIRED FOR TREE REMOVAL PERMIT

- (a) At its next regular meeting following the receipt of the recommendations of the Planning and Development Commission concerning an application for Tree Removal permit, or at such meeting to which the same may be recessed or adjourned, the Mayor and the Governing Body of the City shall take final action in granting or denying the application for Tree Removal Permit. The underlying facts and circumstances for granting or denying the application shall be spread upon the minutes of the Mayor and Governing Body. Any person feeling aggrieved at the finding and decisions of the Mayor and Governing Body of the City shall have the right to appeal by bill of exceptions to the Circuit Court in and for the First Judicial District of Harrison County, Mississippi, in the manner provided by the Laws of the State of Mississippi.
- (b) As a condition of granting the Tree Removal Permit, the City, acting by and through its Mayor and Board of Aldermen, may require the applicant to relocate or replace trees, but may not require the replacement of trees in a number greater than the number of Live oak or Magnolia trees removed; trees to be of Four (4) inches caliper deciduous trees or five (5) feet in height of evergreen or Live Oak or Magnolia trees
- (c) Upon issuance of a Tree Removal Permit, the permit fees will be as follows:
 - (1) For Removal of a tree or trees where such removal of such tree or trees is necessitated by material damage cause by such tree or trees to permanent improvements or improvements on the parcel where such tree or trees are situated a fee of \$1.00 per tree permitted to be removed.
 - (2) For Removal of all other trees, a fee of \$45.00 per tree permitted to be removed
 - (3) NEW Developments bringing significant benefits to the City as determined by the Governing Body are exempt from the "fee per tree" requirement.

SECTION 8. REMOVAL OF TREE, PENALTIES

- (a) Any person removing any Live Oak or Magnolia tree within the City of Long Beach, Mississippi, without a valid Tree Removal Permit, shall be guilty of a misdemeanor; and upon conviction thereof shall be sentenced to pay a fine of not less than \$500.00 nor more than \$ 1,000.00. The removal of each tree without having first secured a valid Tree Removal Permit shall constitute a separate offense and shall be punishable as such.
- (b) If any person removes any Live Oak or Magnolia tree from any property within the City of Long Beach, Mississippi, without first having obtained a valid Tree Removal Permit, and have any permit granted for the construction, remodeling or demolition of any building, improvement or structure on such property or for the subdivision of such property, such person shall be in violation of the provisions of this Ordinance; and upon such finding of such violation of this Ordinance, the Governing Body of the City may suspend or revoke such permit for construction, remodeling or demolition of any building, improvement or structure on such property or for the subdivision of such property, such person so violating the provisions of this ordinance shall not be granted any new permit for the remodeling or demolition of any building, improvement or structure on such property or for the subdivision of such property or for the subdivision of such property for a period of not less than six (6) months nor more than nine (9) months from the date of such revocation of such permit. This penalty is in addition to the penalties set forth in subsection (a) of this section above.

SECTION 9. HEADINGS & CATCH PHRASES

The headings and catch phrases of each section of this Ordinance or for easy reference and research and shall not be construed to affect the meaning of any of such sections.

SECTION 10. EMERGENCIES

In the event of emergencies involving, but not limited to, hurricanes, windstorms, floods, freezes or other civil disasters, the requirements of this Ordinance may be temporarily waived or suspended by proclamation of the Mayor of the City of Long Beach, Mississippi, filed with the City Clerk of said City.

SECTION 11. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof to any person or circumstance, shall be held invalid, or unconstitutional, by any court of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions or the applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application; and to that end, the provisions of this ordinance, and each section, subsection, sentence, clause or phrase are here by declared to be severable.

SECTION 12. EFFECTIVE DATES AS FOLLOWS

Ordinance No. 364 The Tree Preservation and Protection Ordinance of the City of Long Beach, Mississippi on October 21, 1986

Ordinance No. 490 Amending: Ordinance 364 on October 21 2003

Section 5. (b) updated application fee to \$25.00

Section 7. (c) Added (c) Tree Removal Permit fee of \$45.00 per tree to be removed

Ordinance No. 491 Amending: Ordinance No. 364 February 17, 2004


Section 7. (c) Adding Tree Removal (1) Permit fee of \$1.00 for trees damaging or threatening property and (2) \$45.00 per tree for all other trees to be removed

The above and foregoing Ordinance No. 655 was introduced in writing by Alderman Johnson who moved its adoption. Alderman McCaffrey seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

Alderman Donald Frazer	Voted	Aye
Alderman Ronald Robertson	Voted	Aye
Alderman Bernie Parker	Voted	Aye
Alderman Angie Johnson	Voted	Aye
Alderman Timothy McCaffrey, Jr.	Voted	Aye
Alderman Mark E. Lishen	Voted	Aye
Alderman Patricia Bennett	Voted	Aye

The question having received the affirmative vote of all of the Aldermen present and voting, the Mayor declared the motion carried, and said Ordinance No. 655 adopted and approved, this the 19th date of January , 2021.

APPROVED:


George L. Bass, Mayor

ATTEST:


Stacey Dahl, City Clerk

C E R T I F I C A T ESTATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

I, the undersigned, Stacey Dahl, City Clerk within and for the City of Long Beach, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of that certain Ordinance #655 of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on the 19th day of January, 2021, as the same appears of record in Ordinance Book #9, pages 128 134 inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 20th day of January, 2021.

(SEAL)



Stacey Dahl
Stacey Dahl, City Clerk