

City of Bay St. Louis, Mississippi

Ordinance No. ____

AN ORDINANCE OF THE CITY OF BAY ST. LOUIS, MISSISSIPPI, PROVIDING FOR THE REGULATION, PROTECTION, AND PRESERVATION OF TREES WITHIN THE CITY; ESTABLISHING A TREE PROTECTION ADVISOR; SETTING FORTH PERMITTING AND MITIGATION REQUIREMENTS; AND FOR RELATED PURPOSES.

WHEREAS, the City of Bay St. Louis recognizes that trees are a vital part of the community's natural environment, providing essential benefits including air purification, stormwater management, energy conservation, and scenic beauty; and

WHEREAS, the City Council finds that preservation of the existing tree canopy is critical for reducing erosion, improving air and water quality, mitigating heat island effects, and enhancing the overall quality of life for residents and visitors; and

WHEREAS, uncontrolled or unnecessary removal of trees can result in increased flooding, loss of habitat, degradation of property values, and diminished community character; and

WHEREAS, it is the intent of the City to regulate tree removal and protection in a fair, reasonable, and predictable manner that balances private property rights with the public interest in maintaining a healthy urban forest; and

WHEREAS, it is the intent of the City to make regulations necessary for the preservation of good order and public health, to prevent injury or annoyance from anything dangerous, offensive, or unhealthy, and to abate nuisances; and

WHEREAS, the City of Bay St. Louis has determined that the adoption of this Ordinance is necessary to conserve and enhance its urban forest and to promote the health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY ST. LOUIS, MISSISSIPPI, AS FOLLOWS:

SECTION A. PURPOSE

The purpose of this Ordinance is to regulate, control, and promote the planting and preservation of trees; to encourage the protection of existing trees on public and private property; to regulate tree preservation, replacement, and removal; and to establish procedures to ensure that the City maintains and enhances its urban tree canopy as a public resource.

SECTION B. DEFINITIONS

For the purpose of this Ordinance, the following items shall have the meanings ascribed to them unless the context clearly indicates otherwise.

1. **Tree:** A self-supporting woody plant with a trunk diameter of at least 2 inches DBH.
2. **DBH (Diameter at Breast Height) or Caliper:** The diameter of a tree measured at 4.5 feet (54 inches) above the ground.
3. **Dripline:** The area defined by the outermost circumference of a tree's canopy.
4. **Critical Root Zone:** The circular area around a tree, generally 1 foot of radius per inch of DBH.
5. **Minor Pruning:** Cutting, pruning, or otherwise altering any limb, branch, or portion of a Protected Tree greater than six (6) inches in diameter, measured at the point of cut.
6. **Protected Tree:** A live oak or southern magnolia meeting the DBH declared in this Ordinance.
7. **Removal:** The direct or indirect act of cutting down, killing, damaging, or relocating a protected tree.
8. **Site Plan:** As required in the City Subdivision Regulations contained Article 47 of City Ordinances.
9. **Tree Fund:** A designated account maintained by the City for the purposes of planting and maintaining Protected Trees.

SECTION C. INTENT

The intent of this Ordinance is to:

1. Conserve and expand the urban forest for soil stabilization, water quality, air quality, and noise reduction.
2. Enhance community appearance, property values, and neighborhood livability.
3. Protect public health, safety, and welfare by preserving trees that provide ecosystem and social benefits.

The Building Department of the City, in coordination with the Tree Protection Advisor, shall be responsible for the administration of this Ordinance. Violations shall be documented in writing, and failure to correct violations within the time specified shall constitute a separate offense for each day the violation continues.

SECTION D. APPLICABILITY

This Ordinance shall apply to all property and development within the City limits of Bay St. Louis.

However, the following activities are exempt:

1. Removal of dead or naturally fallen trees. The Tree Protection Advisor shall determine if a tree is considered dead.
2. Removal of diseased or hazardous trees as certified by a qualified arborist and agreed to by the Tree Protection Advisor.
3. Minor Pruning.
4. Activities within tree nurseries and bona fide agricultural operations.
- ~~5.~~ Removal of any unprotected trees.

1. **Appointment & Qualifications.**

The Mayor shall appoint a Tree Protection Advisor, who must be a certified arborist.

2. **Duties of Tree Protection Advisor.**

The Tree Protection Advisor shall:

- a. Review site plans and provide recommendations to the Building Department when Protected Trees are involved.
- b. Review permit applications when Protected Trees are present on property.
- c. Determine disease or damage status of trees.
- d. Provide recommendations on pruning, trimming and removal to the Building Department.

3. **Authority.**

The Tree Protection Advisor may take immediate action to prevent unlawful or harmful removal of protected trees, including, but not limited to, placing a stop work order on the project or reporting to the Police Department for legal citations or actions.

SECTION F. PERMIT REQUIREMENTS

It shall be unlawful to remove, relocate, substantially alter, majorly prune, or damage any Protected Tree without first obtaining a permit from the City.

A permit is not required for minor pruning of a Protected Tree.

Permits must be obtained from the Building Department. The Building Department shall consult with the Tree Protection Advisor prior to issuing a permit for the removal of a Protected Tree. If there is a question as to whether a Protected Tree is being substantially altered, or more than minorly pruned, the Tree Protection Advisor will be consulted by the Building Department.

SECTION G. PROTECTED TREE SITE PLAN

A Site Plan must be submitted to the Building Department prior to development activity showing:

1. Lot layout, existing and proposed structures, and Protected Tree locations.
2. Protected trees identified by species and DBH (Diameter at Breast Height).
3. Trees proposed for removal, relocation, or preservation.
4. Proposed protective barriers during construction.
5. Tree replacement or mitigation plan.

SECTION H. CRITERIA FOR REVIEW

In reviewing applications, the Tree Protection Advisor shall consider:

1. Tree health, risk, and safety.
2. Alternatives in site design to preserve trees.
3. Environmental impacts (erosion, water quality, habitat, air quality).
4. Economic hardship.
5. Neighborhood character and canopy contribution.

The Tree Protection Advisor shall use these factors to make a recommendation to the Building Department as to whether or not a tree removal permit shall be issued by the City.

SECTION I. PROTECTED TREES

1. Definition.

A Protected Tree is any species listed below with a DBH or Caliper equal to or greater than the threshold indicated:

Type of Tree	Minimum DBH* (inches)
Live oak	6" DBH
Southern magnolia	6" DBH

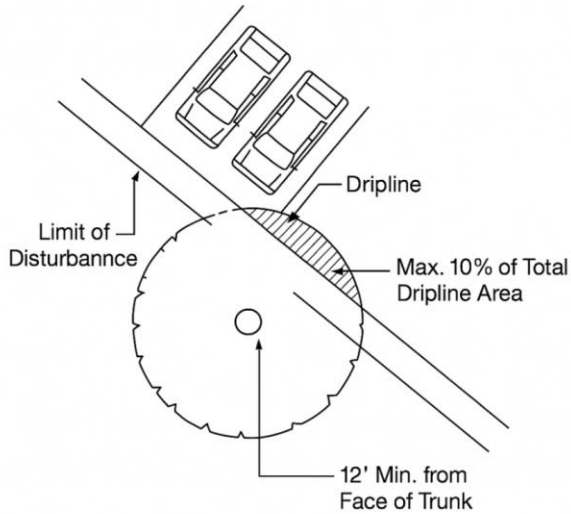
*DBH (Diameter at Breast Height) or Caliper is measured at a height of 4.5 feet above grade at the base of the tree.

2. Prohibited Actions.

Protected Trees shall not be removed, pruned or damaged except as allowed under this Ordinance.

3. Construction Restrictions.

No paving or soil compaction shall occur within the dripline beyond ten percent (10%), or within twelve (12) feet of the trunk, whichever is greater.



SECTION J. REMOVAL OF PROTECTED TREES

1. Permit Approval.

A permit for removal or pruning may be granted only if:

- a) Removal or pruning is recommended by the Tree Protection Advisor.
- b) The applicant demonstrates compliance with this Ordinance.
- c) The tree prevents reasonable use of a legally platted lot or hinders compliance with other City standards.
- d) Mitigation is provided as required in Section K.

2. Exemption.

No mitigation shall be required if the tree is certified by an arborist and agreed to by the Tree Protection Advisor, as dying, severely diseased, or hazardous.

SECTION K. MITIGATION FOR REMOVAL

Mitigation shall be required for each healthy protected tree removed. Mitigation shall occur in one or more, including a combination, of the following forms:

1. On-Site Replacement Trees.

- a) Protected Trees may only be mitigated with a species of Protected Tree.
- b) One or more replacement trees must be planted such that the total Caliper of replacement trees equals or exceeds the DBH of the protected tree removed.
- c) Each replacement tree must measure at least 3 inches in Caliper.
- d) Replacement trees shall be installed within twelve (12) months of removal and maintained for a minimum of two (2) years.

2. Tree Fund Payment.

- a) In lieu of planting replacement trees, the applicant may be required to mitigate by monetary contribution to the City Tree Fund. The purpose of the Tree Fund is to offset the environmental and community value lost from protected tree removal and to ensure no net loss of the City’s tree canopy.
- b) Unless otherwise established by Council resolution, the monetary contribution rate shall be One Hundred Fifty Dollars (~~\$150.00~~) per inch of DBH of each protected tree removed.
 - a. Formula: $\$150.00 \times \text{DBH} = \text{\$Amount Due}$.
 - b. Example: If a Protected Tree (i.e. live oak) with a DBH of 24 is removed, \$3,600.00 will be due to the Tree Fund.
- c) The Tree Fund shall be used exclusively for planting and maintaining Protected Trees on public property.

Commented [1]: Need to decided between \$100 or \$200.

3. Combination Option.

Applicants may satisfy mitigation through a combination of on-site replacement and payment into the Tree Fund as required by the Building Department.

SECTION L. PUBLIC PROPERTY TREES

- 1. A permit is required for a private party, entity, or citizen to remove, prune, or plant any trees, not only protected trees, on public property.
- 2. Utilities are exempt only to the extent necessary to maintain essential services.
- 3. The City may prune trees in rights-of-way and any City owned property to maintain traffic and pedestrian safety.

SECTION M. CONSTRUCTION PROTECTION

- 1. Tree protection fencing shall be installed one foot beyond the dripline of protected trees.
- 2. No grading, storage, or construction activity is allowed inside fenced areas.
- 3. Signs stating “**TREE SAVE AREA – KEEP OUT**” shall be posted.
- 4. Fill dirt beyond the dripline of protected trees must not impact the growth of the protected tree or create a low-lying area that the tree cannot survive.

SECTION N. PENALTIES AND ENFORCEMENT

1. Offense Classification.

Any person, firm, corporation, or other entity who violates or fails to comply with any provision of this Ordinance, or who causes, allows, or permits another to do so, shall be deemed guilty of a misdemeanor. Each act or omission constituting a violation, and each day that such violation continues, shall constitute a separate and distinct offense.

2. Fines and Imprisonment.

Upon conviction in the Municipal Court of the City of Bay St. Louis, any person found guilty of violating this Ordinance shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00), or imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment, as authorized under *Miss. Code Ann. § 21-13-1* and *§ 21-23-7*.

3. Restitution and Mitigation.

In addition to the penalties provided herein, the Municipal Court may order the violator to restore, replace, or otherwise mitigate any tree or canopy loss resulting from the violation in accordance with this Ordinance. The cost of such restoration shall be borne by the violator and may be collected in the same manner as fines or other judgments.

4. Civil Remedies Not Limited.

The City may also pursue civil or equitable remedies, including injunction, abatement, or recovery of damages, to enforce compliance with this Ordinance. Imposition of a criminal penalty shall not preclude the City from seeking civil recovery for loss of public tree resources.

SECTION O. TEMPORARY WAIVERS

During declared emergencies (including storms, floods, or fires), the Mayor may temporarily waive the requirements of this Ordinance as necessary to protect public safety and restore order. If the Mayor chooses to waive the terms of this Ordinance, it shall be specifically noted in a declaration of emergency.

SECTION P. APPEALS

Appeals of any decision made by the Building Department shall be made directly to the City Council and filed with the City Clerk within ten (10) calendar days of the date of the decision.

SECTION Q. SEVERABILITY AND CONFLICTS

1. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

2. Conflicts.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION R. EFFECTIVE DATE

This Ordinance shall take effect and be in force thirty (30) days after adoption and publication as required by law.

After being reduced to writing, the foregoing Ordinance was read and considered, section by section, and then as a whole, whereupon Council Member _____ moved for its adoption, and after a second by Council Member _____, the following roll call vote was had:

Council Member Jordan Bradford	YEA/NAY
Council Member Nancy Moynan	YEA/NAY
Council Member Phalba Holmes	YEA/NAY
Council Member Kyle Lewis	YEA/NAY
Council Member Linda Kay Davis	YEA/NAY
Council Member Josh DeSalvo	YEA/NAY
Council Member Larry Smith	YEA/NAY

Passed by the City Council of the City of Bay Saint Louis on the ____ day of _____ 2025.

CERTIFICATION

I, Michael Reso, City Clerk for the City of Bay Saint Louis, Mississippi, do hereby certify that the foregoing Ordinance was approved and adopted in the public meeting of the City Council held on _____, 2025, a quorum being present, in the City Council Conference Chambers and to be recorded in the Minute Books, said Council being the duly elected, qualified, and acting governing body of Bay Saint Louis, Mississippi.

Presented by me to the Mayor on this, the __ day of _____ 2025.

Michael Reso, City Clerk

Approved/Disapproved, and signed by me on this, the ____ day of _____ 2025.

Michael J. Favre, Mayor