

ORDINANCE NO. 682-07-2026

AN ORDINANCE OF THE CITY OF BAY ST. LOUIS, MISSISSIPPI, AMENDING SECTION 1011.7 OF THE CITY OF BAY ST. LOUIS ZONING ORDINANCE TO STRENGTHEN THE REQUIREMENTS FOR THE REPLACEMENT OF PROTECTED TREES; ESTABLISHING REPLACEMENT REQUIREMENTS BASED UPON THE DIAMETER OF REMOVED TREES; ESTABLISHING MINIMUM SIZE, SPECIES, PLANTING, MAINTENANCE, SURVIVAL, AND FINANCIAL-SECURITY REQUIREMENTS; PROVIDING ENHANCED MITIGATION FOR THE UNAUTHORIZED REMOVAL OF PROTECTED TREES; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS, CODIFICATION, AND AN EFFECTIVE DATE; AND FOR RELATED PURPOSES.

WHEREAS, the City Council of the City of Bay St. Louis, Mississippi, finds that mature trees provide substantial public benefits, including stormwater management, erosion control, soil stabilization, shade, energy conservation, wildlife habitat, carbon sequestration, air-quality improvement, noise reduction, neighborhood character, scenic value, and increased resiliency against severe weather; and

WHEREAS, the City Council finds that the removal of a mature protected tree cannot be adequately mitigated in all circumstances by the planting of a single small replacement tree; and

WHEREAS, the existing one-to-one replacement ratio contained in Section 1011.7 does not account for the trunk diameter, canopy, age, species, ecological value, or other characteristics of the protected tree removed; and

WHEREAS, the City Council finds that replacement requirements based upon the diameter of the protected tree removed will more closely approximate the loss of tree canopy and environmental benefits caused by the removal; and

WHEREAS, the City Council desires to require replacement trees of sufficient size and quality, ensure their long-term survival, and provide enhanced mitigation when protected trees are removed without authorization; and

WHEREAS, the City Council finds that the following amendment advances the public health, safety, welfare, environmental resiliency, and aesthetic character of the City of Bay St. Louis;

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

SECTION 1. FINDINGS AND PURPOSE

The foregoing recitals are adopted as the findings of the City Council and are incorporated into this ordinance as if fully stated herein.

The purpose of this ordinance is to ensure that the removal of protected trees is adequately mitigated through the planting and long-term maintenance of replacement trees whose combined size and characteristics reasonably correspond to the size, canopy, ecological value, and community benefit of the protected trees removed.

SECTION 2. AMENDMENT OF SECTION 1011.7

Section 1011.7 of the City of Bay St. Louis Zoning Ordinance is hereby deleted in its entirety and replaced with the following:

1011.7 REPLACEMENT OF PROTECTED TREES

1011.7.1 Replacement Required

No permit authorizing the removal, destruction, or substantial injury of a protected tree shall be issued unless the applicant submits and obtains approval of a tree-replacement plan meeting the requirements of this section.

The replacement obligation shall be determined according to the number, diameter, species, condition, canopy classification, and environmental value of each protected tree proposed for removal. The obligation shall not be satisfied solely by planting one small replacement tree for each protected tree removed.

Removal of a protected tree shall include the cutting, felling, uprooting, poisoning, excessive pruning, root destruction, grade alteration, construction damage, or other action that causes or is reasonably likely to cause the death or substantial decline of the tree.

1011.7.2 Measurement of Protected Trees

The diameter of each protected tree proposed for removal shall be measured as diameter at breast height, referred to in this section as “DBH.”

DBH shall be measured at four and one-half feet above the existing ground level on the uphill side of the tree.

When a tree branches or divides below four and one-half feet above ground level, its DBH shall be determined in accordance with accepted arboricultural measurement standards approved by the Tree Protection Advisor.

Any fraction of an inch shall be rounded upward to the next whole inch when calculating a replacement obligation.

1011.7.3 Standard Replacement Ratio

Except as otherwise provided in this section, each protected tree authorized for removal shall be replaced with one or more replacement trees having a combined caliper of not less than:

One and one-half inches of replacement-tree caliper for each one inch of DBH of the protected tree removed.

The following examples are provided for illustration:

1. Removal of a protected tree measuring ten inches DBH shall require at least fifteen total caliper inches of replacement trees.
2. Removal of a protected tree measuring twenty inches DBH shall require at least thirty total caliper inches of replacement trees.
3. Removal of a protected tree measuring thirty inches DBH shall require at least forty-five total caliper inches of replacement trees.

The required replacement caliper may be divided among multiple replacement trees, subject to the minimum size requirements of this section.

1011.7.4 Minimum Size of Replacement Trees

Each replacement tree shall, at the time of planting:

1. Have a minimum caliper of 2.5 inches;
2. Have a minimum height of twelve feet after planting;
3. Be nursery-grown;
4. Be healthy and vigorous;
5. Be free from material disease, infestation, trunk injury, root damage, and structural defect;
6. Meet generally accepted nursery-stock and arboricultural standards;
7. Have a well-developed root system appropriate for the size and species of the tree; and
8. Be planted in accordance with the specifications approved by the Tree Protection Advisor.

A replacement tree exceeding six inches in caliper shall not receive credit for more than six caliper inches unless the Tree Protection Advisor determines in writing that the tree can be successfully transported, planted, established, and maintained at the proposed location.

1011.7.5 Replacement Plan

Before issuance of a tree-removal permit, the applicant shall submit a tree-replacement plan containing, at a minimum:

1. The location, species, DBH, approximate height, canopy spread, and condition of each protected tree proposed for removal;
2. The reason for the proposed removal of each protected tree;
3. Photographs of each protected tree proposed for removal;
4. The species, caliper, height, quantity, and proposed location of each replacement tree;
5. The calculation of the total replacement obligation;
6. The planting methods and specifications;

7. The proposed planting schedule;
8. The proposed irrigation or watering plan;
9. The maintenance and monitoring plan;
10. The measures proposed to protect replacement trees from construction activity, vehicles, equipment, soil compaction, erosion, and other damage; and
11. Any additional information reasonably required by the Tree Protection Advisor to evaluate compliance with this section.

The species, number, size, condition, location, spacing, planting method, and maintenance plan for all replacement trees must be approved in writing by the Tree Protection Advisor before issuance of the tree-removal permit.

1011.7.6 On-Site Replacement

Replacement trees shall be planted on the same parcel or development site from which the protected tree was removed.

Replacement trees shall be reasonably distributed throughout the property and located where they will have sufficient room for healthy root development and mature canopy growth.

Replacement trees shall not be placed:

1. Under overhead utility lines unless the mature height of the species is appropriate for that location;
2. Within required visibility triangles;
3. In drainageways or utility easements when prohibited;
4. In locations where mature growth will unreasonably damage structures, pavement, utilities, or drainage facilities; or
5. In locations where long-term survival is unlikely.

The applicant shall maximize on-site replacement before requesting approval of any alternative mitigation method.

1011.7.7 Alternative Mitigation

When the Tree Protection Advisor determines in writing that the property cannot reasonably accommodate all required replacement trees, the remaining obligation may be satisfied through one or more of the following methods, in the order determined appropriate by the City:

1. Planting replacement trees on another property owned or controlled by the applicant within the City;
2. Planting replacement trees on public property designated by the City;
3. Planting replacement trees on another property within the City pursuant to a written agreement acceptable to the City;
4. Paying an approved fee in lieu of planting into a dedicated City tree-replacement or tree-mitigation fund.

Alternative mitigation shall not be approved solely for the convenience or economic benefit of the applicant.

Any fee in lieu of planting shall equal the City's full estimated cost of:

1. Purchasing the required replacement trees;
2. Transporting and planting the trees;
3. Providing irrigation or watering;
4. Maintaining the trees during the required establishment period;
5. Conducting inspections; and
6. Replacing trees that do not survive.

Payment of a fee in lieu of planting shall not relieve the applicant of any separate fine, penalty, restoration obligation, or enforcement cost arising from an unauthorized removal.

1011.7.8 Planting Deadline

Unless otherwise approved in writing, all replacement trees shall be planted before the first of the following occurs:

1. Issuance of a certificate of occupancy;
2. Issuance of a certificate of completion;
3. Final subdivision or development approval;
4. Release of a development bond or other project security; or
5. Final inspection or closure of the associated permit.

When planting is temporarily impracticable due to drought, extreme heat, saturated soil, storm damage, seasonal conditions, or another condition affecting tree survival, the Tree Protection Advisor may approve a delayed planting date.

A delayed planting date shall not extend more than six months after the date otherwise required unless the Tree Protection Advisor makes written findings supporting a longer period.

Financial security required under this section must be provided before a delayed planting date is approved.

1011.7.9 Maintenance and Survival

The property owner and permit holder shall maintain each replacement tree in a healthy and vigorous condition for at least thirty-six months after planting.

Required maintenance shall include, as appropriate:

1. Regular watering or irrigation;
2. Mulching;
3. Proper pruning;

4. Weed and pest control;
5. Protection from construction activity;
6. Protection from vehicles, lawn equipment, and animals;
7. Removal of staking or support materials at the appropriate time;
8. Correction of soil or drainage conditions affecting survival; and
9. Other maintenance reasonably required by the Tree Protection Advisor.

A replacement tree shall not be considered to have satisfied this section until it has remained alive, healthy, and in good condition throughout the thirty-six-month establishment period.

A replacement tree that dies, is removed, becomes severely damaged, or is determined by the Tree Protection Advisor to be unhealthy or unlikely to survive during the establishment period shall be replaced during the next suitable planting season.

A tree planted to replace a failed replacement tree shall comply with all requirements applicable to the original replacement tree and shall begin a new thirty-six-month establishment period on the date it is planted.

The replacement obligation shall continue until the required number and caliper of replacement trees have successfully completed the establishment period.

1011.7.10 Inspection

The Tree Protection Advisor or other authorized City representative may inspect the property at reasonable times to determine compliance with the approved replacement plan and this section.

At a minimum, inspections may be conducted:

1. Following initial planting;
2. Approximately twelve months after planting;
3. Approximately twenty-four months after planting; and
4. At the conclusion of the thirty-six-month establishment period.

The property owner and permit holder shall provide reasonable access for required inspections.

Failure to permit an inspection may delay release of financial security and may constitute a violation of this section.

1011.7.11 Financial Security

Before issuance of a permit authorizing removal of a protected tree, the applicant shall provide a performance bond or cash deposit to the City.

The amount of financial security shall equal one hundred fifty percent of the City's estimated cost of:

1. Purchasing the required replacement trees;
2. Transporting and planting the trees;
3. Providing required irrigation or watering;
4. Maintaining the trees throughout the establishment period;
5. Conducting necessary inspections; and
6. Replacing any tree that dies or fails to become established.

The financial security shall remain valid until the Tree Protection Advisor certifies in writing that:

1. All required replacement trees have been planted;
2. All required replacement trees have successfully completed the establishment period;
3. All required maintenance has been performed; and
4. All other obligations imposed by this section have been satisfied.

The City may draw upon or use the financial security to complete planting, maintenance, replacement, or corrective work when the responsible party fails to perform such work after written notice and a reasonable opportunity to cure.

Release of financial security shall not prevent enforcement of a violation discovered after release when the violation occurred during the establishment period or resulted from materially false or misleading information supplied by the applicant.

1011.7.12 Protection of Replacement Trees

Each replacement tree shall be deemed a protected tree immediately upon planting, regardless of whether it independently meets the size threshold otherwise required for protected-tree status.

Each replacement tree shall receive all protections provided to protected trees under this ordinance.

Removal, destruction, or substantial injury of a replacement tree without authorization shall constitute the unauthorized removal of a protected tree and shall be subject to the enhanced replacement requirements and other remedies provided by this ordinance.

1011.7.13 Unauthorized Removal

A protected tree removed, destroyed, or substantially injured without a required permit or in violation of an approved permit shall be replaced with one or more replacement trees having a combined caliper of not less than:

Three inches of replacement-tree caliper for each one inch of DBH unlawfully removed, destroyed, or substantially injured.

The enhanced replacement obligation shall be in addition to any:

1. Criminal or civil fine;
2. Administrative penalty;
3. Stop-work order;
4. Permit suspension or revocation;
5. Restoration order;
6. Injunctive remedy;
7. Assessment of inspection or enforcement costs; or
8. Other remedy authorized by law or ordinance.

When the former size of an unlawfully removed or destroyed tree cannot be directly measured, the Tree Protection Advisor may estimate its DBH, species, condition, and canopy using reasonably reliable evidence, including:

1. The remaining stump;
2. Root flare or trunk remnants;
3. Photographs or videos;
4. Surveys or site plans;
5. Aerial or satellite imagery;
6. Prior permit records;
7. Arborist reports;
8. Testimony or written statements;
9. Adjacent or comparable trees; and
10. Other available evidence.

When the responsible party's actions have made accurate measurement impossible, any reasonable uncertainty concerning the former size of the tree may be resolved in favor of the larger supported measurement.

1011.7.14 Stop-Work and Permit Enforcement

When a protected tree is removed, destroyed, or substantially injured in violation of this ordinance, the City may issue a stop-work order for activity on the affected property.

The City may withhold inspections, certificates of occupancy, certificates of completion, final development approvals, or other permits or approvals until:

1. A corrective replacement plan has been approved;
2. Required replacement trees have been planted or secured;
3. Required financial security has been posted;
4. Applicable penalties and enforcement costs have been paid; and
5. The violation has otherwise been corrected to the City's satisfaction.

The remedies stated in this subsection are cumulative and do not limit any other remedy available to the City.

1011.7.15 Continuing Obligation and Successors

The replacement, planting, maintenance, survival, inspection, and financial obligations imposed by this section shall run with the land until fully satisfied.

Those obligations shall be binding upon:

1. The applicant;
2. The permit holder;
3. The property owner;
4. Any person responsible for the removal;
5. Successors and assigns;
6. Purchasers and transferees; and
7. Subsequent owners of the affected property.

A transfer of ownership shall not extinguish an existing replacement or maintenance obligation.

The City may require an approved replacement plan, maintenance obligation, or notice of continuing obligation to be recorded in the land records of Hancock County when necessary to provide notice to subsequent owners.

1011.7.16 Administrative Standards

The Tree Protection Advisor may develop and maintain administrative standards, approved planting specifications, species lists, measurement procedures, inspection forms, maintenance requirements, cost schedules, and other written guidance necessary to implement this section.

Administrative standards shall be consistent with this ordinance and shall not reduce the minimum replacement ratios, minimum tree sizes, survival periods, or protections established herein.

SECTION 3. CONTINUING VALIDITY OF REMAINDER OF ZONING ORDINANCE

Except as expressly amended by this ordinance, all provisions of the City of Bay St. Louis Zoning Ordinance shall remain in full force and effect.

Nothing in this ordinance shall be interpreted to authorize the removal of a protected tree that is otherwise prohibited from removal under another provision of the Zoning Ordinance or other applicable law.

SECTION 4. APPLICABILITY

This ordinance shall apply to:

1. Applications for tree-removal permits submitted on or after its effective date;
2. Applications pending on the effective date for which no final tree-removal permit has been issued;

3. Material amendments to previously approved development plans submitted on or after the effective date; and
4. Protected trees removed, destroyed, or substantially injured without authorization on or after the effective date.

A tree-removal permit lawfully issued before the effective date shall remain governed by the ordinance in effect when the permit was issued, unless the permit expires, is revoked, or is materially amended after the effective date.

SECTION 5. SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase, or provision of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.

The City Council declares that it would have adopted this ordinance and each remaining section, subsection, paragraph, sentence, clause, phrase, and provision without the invalid or unconstitutional portion.

SECTION 6. REPEAL OF CONFLICTING PROVISIONS

All ordinances, resolutions, policies, rules, or portions thereof in conflict with this ordinance are repealed or superseded only to the extent of the conflict.

SECTION 7. CODIFICATION

The City Clerk and the City's code publisher are authorized to codify this ordinance as part of the City of Bay St. Louis Zoning Ordinance.

The City Clerk and code publisher may:

1. Correct manifest typographical, grammatical, punctuation, and numbering errors;
2. Renumber provisions for consistency with the Zoning Ordinance;
3. Modify headings and cross-references;
4. Substitute the final ordinance number and adoption date; and
5. Make other nonsubstantive editorial changes necessary for codification.

No editorial change may alter the substantive meaning or effect of this ordinance.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective as provided by applicable law following its adoption, approval, publication, and filing, if required.

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 _____ 2026.

CERTIFICATION

I, Caitlin Bourgeois, Deputy Municipal 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 _____, 2026, a quorum being present, in the City Council Conference Chambers, 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 _____ 2026.

Caitlin Bourgeois, Deputy City Clerk

Approved/Disapproved, and signed by me on this, the ____ day of _____ 2026.

Michael J. Favre, Mayor