

## ORDINANCE NO. 490

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AMENDING ORDINANCE NO. 364, ENTITLED, "AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, REGULATING THE PLANTING 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" TO INCREASE THE FILING FEE FOR APPLICATION TO REMOVE TREES AND TO MAKE SAME APPLICABLE FOR EACH PARCEL AND TO ESTABLISH PERMIT FEES FOR TREE REMOVAL, AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and Board of Aldermen (the "Governing Body") of the City of Long Beach, Mississippi, (the "Municipality") having made due investigation therefore, do now find, determined, adjudicate and declare as follows:

1. That in order to more effectively fulfill the purpose and intent of the City's "Tree Ordinance", being Ordinance No. 364, and equitably assess the cost of application and enforcement of same, it is necessary to amend the permit application fee and establish permit fees for trees permitted to be removed pursuant to the said ordinance. Now therefore,

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

SECTION 1. Section 5 of Ordinance No. 364 of the City of Long Beach, Mississippi, entitled, "AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, REGULATING THE PLANTING 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" be and it is hereby amended to read as follows:

"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 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 trees 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 trees on the property and identification of size and species.

(9) Designation of all disease and/or damaged trees

(10) Designation of any trees endangering any roadway, pavement, or utility line

(11) Any proposed 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 removed 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 nutrients to 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 2. Section 7 of said Ordinance No 364 of the City of Long Beach, Mississippi, be and it is hereby amended to read as follows:

"SECTION 7. FINAL APPROVAL OF GOVERNING BODY REQUIRED FOR TREE

REMOVAL PERMIT.

(a) And its next regular meeting following the receipt of the recommendations of the Planning Commission concerning an application for Tree Removal Permit, or at such meeting to which the same may be recessed or adjourned, the Mayor and 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:

\$45.00 per tree permitted to be removed"

**SECTION 3. Severability**

If any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof, be held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not affect the remaining portions of this Ordinance

**SECTION 4 Effective Date**

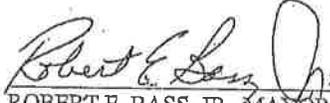
This ordinance shall take effect and be and force thirty (30) days after its adoption, publication and enrollment thereof as provided by law

The above and foregoing Ordinance No 490 was introduced in writing by Alderman Ponthieux who moved its adoption Alderman Bennett seconded the motion to adopt the Ordinance, and after discussion, no member of the Board of Aldermen having requested the Ordinance to be read by the City Clerk, and the question being put to a roll call vote, the result was as follows:

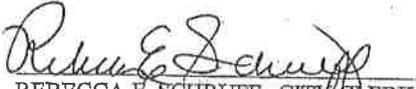
Alderman Jimmy Levens	voted Nay
Alderman Jerry Rouse	voted Aye
Alderman Gary Ponthieux	voted Aye
Alderman Richard Bennett	voted Aye
Alderman Billy Skellie	voted Nay
Alderman Allen D Holder, Jr	voted Nay
Alderman Joseph McNary	voted Aye

The question having received the affirmative vote of a majority the Alderman present and voting, the Mayor declared the motion carried in the said Ordinance adopted and approved this the 21st day of October, 2003 <sup>2003</sup>

APPROVED:

  
ROBERT E. BASS, JR., MAYOR

ATTEST:

  
REBECCA E. SCHRUFF, CITY CLERK

### C E R T I F I C A T E

STATE OF MISSISSIPPI  
COUNTY OF HARRISON  
CITY OF LONG BEACH

I, the undersigned, Rebecca E. Schruoff, 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 #490<sup>2</sup> 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 21<sup>st</sup> day of October, 2003, as the same appears of record in Ordinance Book #6, pages 498-501, inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 22<sup>nd</sup> day of October, 2003.

(SEAL)

  
Rebecca E. Schruoff, City Clerk