

## **Section 1 Short Title**

This ordinance shall be known and may be cited as the Tree Ordinance for the City of Horn Lake.

## **Section 2 Statement of Purpose**

The purpose of this ordinance is to promote the public health, safety and welfare of the citizens of Horn Lake, and to enhance the economic, environmental, and aesthetic qualities of the urban surroundings by preventing the unwarranted clear cutting of urban forest for the purpose of expediting development.

The goal of this ordinance is to protect through preservation, to promote the establishment of, and to maintain a 40% Urban Tree Canopy Cover in the City of Horn Lake.

## **Section 3 Definitions**

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein:

**Caliper:** the diameter of the plant stem six inches above the ground, for trees with a caliper of four (4) inches or less. Trees possessing a caliper in excess of four inches are measured fifty-four (54) inches above the ground.

**Clear Cut:** cutting more than 60 percent of the Tree Canopy Cover on any Commercial, Industrial or Residential tract of land.

**DBH (Diameter at Breast Height):** the diameter of a tree trunk measured in inches at a height of four and one-half (4½) feet above the ground. If a tree splits into multiple trunks below four and one-half feet (4½) feet, then the trunk is measured at its most narrow point beneath the split.

**Existing Tree:** all trees located within the boundaries of a parcel of property to which this ordinance applies, except the following:

1. A tree demonstrated to be dead or dying;
2. A tree that is diseased and likely to die;
3. A tree that is damaged or injured to the extent that it is likely to die or become diseased;
4. A tree that is an unsafe tree; or
5. A tree that is listed on the “undesirable” list in the City of Horn Lake’s Tree Board manual.

**In-Lieu Fund:** a City fund established to provide that trees may be planted on a site such as a school, public park, public use land, or public right-of-way, where the

owner/developer shall donate funds and the city shall plant the required trees when it is not feasible to plant the required trees within a site's project area.

**Forested Land:** includes areas that are predominantly covered with trees and woody vegetation and may be open or closed-canopy, deciduous wooded areas or wooded areas dominated by pine and other coniferous tree species.

**Forestry activities:** any activity on merchantable forest land associated with the reforestation, growing, managing, protecting or harvesting of timber, wood, or forest products, including non-game species.

**Merchantable Forest land:** any land in the city devoted to the growing of trees or the commercial production of timber, wood, or forest products where the land is classified by the county with a Forestry Designation or an Agricultural Crop Designation and is being used as forest land in the performance of forestry activities.

**Mitigation Tree:** a new tree planted to replace the loss of existing Tree Canopy Cover pro-rated at 20 trees per acre of existing Tree Canopy Cover per site. An acceptable Mitigation Tree shall be a minimum of two (2) inches in caliper and have a minimum height of ten (10) feet. Acceptable tree species can be obtained from the Trees for Mississippi Homes booklet located at the Urban Forester office for the City of Horn Lake.

**On Site Mitigation:** planting trees within the boundaries of the project applying for a tree removal permit to replace trees which are to be permitted for removal from the tree canopy cover, including any and all protected trees.

**Person:** an individual, firm, partnership, association, corporation, company, or organization of any kind.

**Property Owner:** the person owning such property according to the land records of DeSoto County, Mississippi.

**Protected Trees:** any woody perennial plant with a single trunk that has reached a diameter of eight (8) inches or twenty-five (25) inches in circumference when measured fifty-four (54) inches above the ground and multi-trunked trees that are five (5) inches in diameter or sixteen (16) inches in circumference when measured eighteen inches above the ground which is not an undesirable tree listed in the City of Horn Lake's Tree Board manual.

**Small trees:** those with a mature height of up to forty (40) feet.

**Tree Canopy Cover:** the boundaries of the area or areas surrounding trees which must remain undisturbed to prevent damage and loss of trees which are to be retained on site during the development and building process. This area is to be measured at the drip line of a tree or group of trees.

**Section 4  
Application**

- A. Commercial - Applies to all Commercial Zoning Classifications.
- B. Industrial – Applies to all Industrial Zoning Classifications.
- C. Residential – Applies to all Residential Zoning Classifications.

**Section 5  
Exemptions**

- A. Residential Parcels less than one (1) acre are exempt from the requirements of this Ordinance.
- B. Residential Parcels less than five (5) acres on which Owners have filed Homestead Exemption are exempt from the requirements of this Ordinance.
- C. Forestry Operations on designated Merchantable Forestry Land.

**Section 6  
Permit Required**

- A. A tree removal permit shall be required when any person intends to clear or clear-cut protected trees from private property zoned commercial, industrial, or residential for any purpose other than legitimate “forestry activities” as defined herein.
- B. Procedure: Unless exempt as specified in Section 5, no person shall remove or disturb any protected tree on property zoned commercial, industrial, or residential without filing an application and procuring a permit from the Planning Department Director or director’s designee.
- C. Application: When applying for a tree removal permit, the Applicant shall illustrate the area of Tree Canopy Cover showing where the drip lines of the existing trees and/or groups of trees are delineated and measured. If available, current aerial photography may be utilized to delineate the existing Tree Canopy Cover. A \$100.00 filing fee will be required with the application.
- D. Criteria: The applicant shall demonstrate the area or areas of existing Tree Canopy Cover that will be maintained after the proposed improvements to the property. Likewise, the areas to be removed from the Tree Canopy Cover are to be identified. Areas without Tree Canopy Cover also shall be

identified. The applicant shall demonstrate how the existing Tree Canopy Cover is to be maintained on any given site whether by preservation, on-site mitigation or through utilization of the in-lieu fund. The applicant shall graphically demonstrate this information as an exhibit to accompany the proposed site plan for the property. The tabulated areas shall be shown in the provided Table format as a part of this exhibit.

- E. Permit: Based on the criteria of this Ordinance, the Planning Department Director or director's designee shall determine whether a permit should be granted and if conditions will be placed on the permit.
- F. Review: If the Applicant is aggrieved by the failure to issue a permit or by conditions imposed, the Applicant may request that the Mayor and Board of Aldermen determine whether a tree removal permit shall be granted and whether conditions or restrictions are required.
- G. Conflict: Nothing in this Ordinance shall be construed to conflict with or abrogate any of the rights or privileges granted by the Mississippi Agricultural and Forestry Activity Act.
- H. Inspection: Notice of Completion of the project shall be given to the Planning Department for inspection.
- I. Variance: The requirements of this Ordinance may be reduced or eliminated by the Mayor and Board of Aldermen, if after review, the Board determines that it would be in the best interest of the City and its citizens that the strict enforcement of requirements contained herein should not be enforced.

## **Section 7 Protection of Protected Trees**

Unless removal is authorized, the entire area within the dripline of an existing protected tree shall be naturally preserved or provided with pervious landscape material and shall be maintained at its original grade with no trenching or cutting of roots. There shall be no storage of fill or compaction of the soil by heavy equipment or otherwise, nor shall concrete, paint, harmful chemicals or other harmful foreign substances be placed on the soil within the dripline area.

## **Section 8 Tree Mitigation**

- A. The removal of Tree Canopy Cover from a site shall require Mitigation. Preservation, On-Site Mitigation, Contribution to the In-Lieu Fund, or a combination thereof can be used at the discretion of the Applicant to satisfy the Mitigation requirement.

- B. The Mitigation requirement shall be computed at the rate of 20 trees per acre of total existing Tree Canopy Cover.
- C. In an effort to encourage Preservation, credit shall be given at the rate of one (1) Mitigation Tree per thousand (1000) square feet of Tree Canopy Cover preserved on the site.
- D. Should the Applicant fail to preserve an adequate area of the existing Tree Canopy Cover, On-site Mitigation may occur by the planting of the appropriate number of Mitigation Trees to accomplish the required Tree Mitigation.
- E. In the event that Preservation or On-Site Mitigation cannot be achieved, the Applicant shall contribute to the In-Lieu Fund at the rate of \$300 per required Mitigation Tree.
- F. One of the following Tables shall be included in the Applicant's petition for a Permit:

<b>Table 1: Mitigation Table for use with Sites less than 10 acres</b>			
<b>Line</b>	<b>Item</b>	<b>Quantity</b>	<b>Unit</b>
A	Total Existing Canopy Coverage of site		(Square Feet)
B	Baseline for Mitigation (Line A times 20 divided by 43,560SF)		(Mitigation Trees)
C	Existing Canopy Coverage to be Preserved		(Square Feet)
D	Preservation Tree Credit (Line C divided by 1000 SF)		(Mitigation Trees)
E	Total Mitigation Requirement (Line B minus Line D)		(Mitigation Trees)
F	Mitigation Option A - On-site Mitigation (Number of Mitigation Units Applicant prefers to use for On-site Mitigation)		(Mitigation Trees)
G	Mitigation Option B - Contribution to the In-Lieu Fund (Line E minus Line F times \$300.00)		(Dollars)
Note: Preservation, On-Site Mitigation, Contribution to the In-Lieu Fund, or a combination thereof can be used at the discretion of the Applicant to satisfy the Mitigation requirements.			

<b>Table 2: Mitigation Table for use with Sites greater than or equal to 10 acres</b>			
<b>Line</b>	<b>Item</b>	<b>Quantity</b>	<b>Unit</b>
A	Total Existing Canopy Coverage of site		(acres)
B	Baseline for Mitigation (Line A times 20)		(Mitigation Trees)
C	Existing Canopy Coverage to be Preserved		(Square Feet)
D	Preservation Tree Credit (Line C divided by 1000 SF)		(Mitigation Trees)
E	Total Mitigation Requirement (Line B minus Line D)		(Mitigation Trees)
F	Mitigation Option A - On-site Mitigation (Number of Mitigation Units Applicant prefers to use for On-site Mitigation)		(Mitigation Trees)
G	Mitigation Option B - Contribution to the In-Lieu Fund (Line E minus Line F times \$300.00)		(Dollars)
Note: Preservation, On-Site Mitigation, Contribution to the In-Lieu Fund, or a combination thereof can be used at the discretion of the Applicant to satisfy the Mitigation requirements.			

## **Section 9 Appeal**

If the Applicant is aggrieved by the refusal of the permit or by the terms imposed by the permit, the decision of the Mayor and Board of Aldermen may be appealed in the manner allowed by Mississippi law.

## **Section 10 Enforcement and Penalty**

The Planning Department Director or director's designee will enforce the provisions of this Ordinance. Any owner, occupant, lessor, lessee, tenant, manager, licensee, or other person having control over or use of a building, structure, or parcel of land who causes, permits, facilitates, or aids or abets any violation of any provision of this Ordinance or fails to perform any act or duty required by this Ordinance shall be guilty of a misdemeanor and may be fined in an amount not exceeding One Thousand Dollars (\$1,000) and/or imprisoned for a term not exceeding ninety (90) days. Any violator found guilty of a second or subsequent violation of this ordinance shall be fined a minimum of Two Hundred Fifty Dollars (\$250) for each such violation. Each day a violation of any provision of this Ordinance or a failure to perform any act or duty required by this Ordinance exists shall constitute a separate offense or violation.

If the violation of this Ordinance is found to be done willfully or in reckless disregard of its requirements, no building permit shall be issued for any improvements to the property nor shall any preliminary plat approval be granted until the requirements of the Tree Ordinance are met.

## **Section 11 Temporary Waiver following disaster**

Under any state of emergencies, such as windstorms, ice storms, fire or other disasters, the Mayor and Board of Aldermen may waive the requirements of this article during the emergency period so the requirements of this ordinance would not hamper private or public work to restore order in the city. This shall not be interpreted as a license to circumvent the intent of this ordinance.

## **Section 12 Conflicts**

Should any section, clause, or provision of this Ordinance be found in conflict with any other law or Ordinance, the provisions of this Ordinance shall prevail.

## **Section 13 Severability**

If any subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

**CITY OF HORN LAKE  
TREE CUTTING PERMIT**



**SITE LOCATION:** \_\_\_\_\_ **CONTACT** \_\_\_\_\_

**CONTRACTOR** \_\_\_\_\_ **ADDRESS** \_\_\_\_\_

**PROPERTY OWNER** \_\_\_\_\_ **CONTACT** \_\_\_\_\_

<b>Table 1: Mitigation Table for use with Sites less than 10 acres</b>			
<b>Line</b>	<b>Item</b>	<b>Quantity</b>	<b>Unit</b>
A	Total Existing Canopy Coverage of site		(Square Feet)
B	Baseline for Mitigation (Line A times 20 divided by 43,560SF)		(Mitigation Trees)
C	Existing Canopy Coverage to be Preserved		(Square Feet)
D	Preservation Tree Credit (Line C divided by 1000 SF)		(Mitigation Trees)
E	Total Mitigation Requirement (Line B minus Line D)		(Mitigation Trees)
F	Mitigation Option A - On-site Mitigation (Number of Mitigation Units Applicant prefers to use for On-site Mitigation)		(Mitigation Trees)
G	Mitigation Option B - Contribution to the In-Lieu Fund (Line E minus Line F times \$300.00)		(Dollars)
<p>Note: Preservation, On-Site Mitigation, Contribution to the In-Lieu Fund, or a combination thereof can be used at the discretion of the Applicant to satisfy the Mitigation requirements.</p>			



<b>Table 2: Mitigation Table for use with Sites greater than or equal to 10 acres</b>			
<b>Line</b>	<b>Item</b>	<b>Quantity</b>	<b>Unit</b>
A	Total Existing Canopy Coverage of site		(acres)
B	Baseline for Mitigation (Line A times 20)		(Mitigation Trees)
C	Existing Canopy Coverage to be Preserved		(Square Feet)
D	Preservation Tree Credit (Line C divided by 1000 SF)		(Mitigation Trees)
E	Total Mitigation Requirement (Line B minus Line D)		(Mitigation Trees)
F	Mitigation Option A - On-site Mitigation (Number of Mitigation Units Applicant prefers to use for On-site Mitigation)		(Mitigation Trees)
G	Mitigation Option B - Contribution to the In-Lieu Fund (Line E minus Line F times \$300.00)		(Dollars)
Note: Preservation, On-Site Mitigation, Contribution to the In-Lieu Fund, or a combination thereof can be used at the discretion of the Applicant to satisfy the Mitigation requirements.			

**CONTRACTOR SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_

**PROPERTY OWNER SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_

**APPLICATION FEE: \$100.00**

**APPLICANT IS RESPONSIBLE FOR COMPLETING THE ABOVE INFORMATION IN TOTAL BEFORE SUBMITTING TO THE OFFICE OF PLANNING AND DEVELOPMENT. ALL PROVISIONS OF THE CITY OF HORN LAKE ADOPTED TREE ORDINANCE MUST BE FOLLOWED.**

**APPROVED BY** \_\_\_\_\_ **DATE** \_\_\_\_\_