

The Mayor and Board of Aldermen of the City of Long Beach, Mississippi, took up the matter of providing for the protection and removal of trees within said City. Whereupon Alderman

Walker introduced in writing the following Ordinance.

ORDINANCE 364

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 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 and 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 assist 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.

"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 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 shrub, shrubs, tree or trees.

"Street Tree" or "street shrub" shall mean any tree or shrub in a public place.

"Tree Worthy of Preservation" shall mean any tree which can reasonably be determined by the Planning 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 Commission, subject to the approval of the Governing Body of the City, shall have exclusive 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 direction of the Planning Commission, shall have the duty to plant, trim, spray, treat, preserve, remove trees, shrubs and grassy areas in public places to insure 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 Commission, the Public Works Department, or any agent or employee thereof, in the exercise of 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 the Harrison County Park Commission.

(d) All actions of the Planning Commission and/or the Public Works Department in carrying out the provisions of this Section are subject to the prior approval of the Governing Body of the City which may provide for such actions, at its 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 1/2) 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 \$10.00 for each tree proposed to be removed. 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 diseased 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, recreation 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 a 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 applicant and/or owner to replenish the flora 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 COMMISSION REVIEW OF PERMIT APPLICATION.

The Zoning Enforcement Officer shall refer the application for tree removal permit and supporting documents to the Planning Commission of the City for review and determination whether the permit should be granted or denied and appropriate recommendations 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 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 allow 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 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 source 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 accomodate 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 any other visual affront.

(k) Whether the continued presence of the tree or trees is likely to cause danger to a person or property.

(l) Whether the topography of the area in 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 of the land.

(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 rights-of-ways.

(c) The removal of a tree which has become or threatens to become a danger to human life or property.

(o) In submitting its recommendations to the Governing Body of the City, the Planning 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 REQUIRE FOR TREE REMOVAL PERMIT.

(a) At its next regular meeting following the receipt 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 findings 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 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.

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 fined not less than \$500.00 nor more than \$ 1000.00 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 shall remove 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 shall revoke such permit for construction, remodeling or demolition of any building, improvement or structure on such property or for the subdivision of such property; and such person so violating the provisions of this ordinance shall not be granted any new permit for the construction, remodeling or demolition of any building, improvement or structure on 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 sub-section 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. SEPARABILITY.

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 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 hereby declared to be severable.

SECTION 12. EFFECTIVE DATE.

For good cause shown, and the public health and safety being the intent and purpose of this ordinance, and the immediate preservation of order and public welfare so requiring it, this Ordinance shall be in full force and effect from and after its adoption, the same nevertheless to be published and enrolled as required by law.

The above and foregoing Ordinance No. 364 having been introduced in writing, was first read and considered section by section and then as a whole. Alderman Walker moved the adoption of the ordinance and Alderman Lawless seconded the motion to adopt the same; and after discussion, the question being put to a roll call vote, the result as to each section and as to the whole of said ordinance was as follows:

Alderman Sal Giuffria	voted	<u>Yea</u>
Alderman Miriam Graves	voted	<u>Yea</u>
Alderman Mike Lawless	voted	<u>Yea</u>

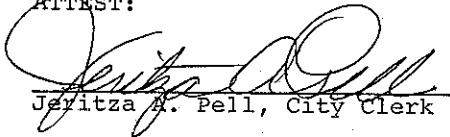
†	Alderman Donald Logan	voted	<u>Yea</u>
	Alderman Wayne O'Neal	voted	<u>Absent</u> and not voting
	Alderman Michael Rutledge	voted	<u>Yea</u>
	Alderman Fred Walker	voted	<u>Yea</u>

The motion having received the affirmative vote of a majority of the aldermen present, the Mayor declared the motion carried and said Ordinance No. 364 adopted and approved this 21st day of October, 1986.

APPROVED:


Glenn W. Mitchell, Mayor

ATTEST:

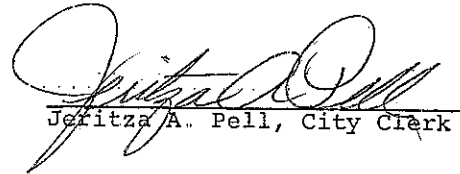

Jayitza A. Pell, City Clerk

CERTIFICATE

STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

I, the undersigned, Jeritza A. Pell, 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 Ordinance #364 adopted by the Mayor and Board of Aldermen of the City of Long Beach at a regular meeting duly convened and held on the 21st day of October, 1986, as the same appears of record in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 22nd day of October, 1986.


Jeritza A. Pell, City Clerk

(SEAL)

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, determine, 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

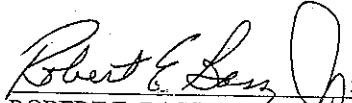
This ordinance shall take effect and be and force thirty (30) days after its adoption, publication and enrollment thereof as provided by law

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

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. Schruff, 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 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 21st 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 22nd day of October, 2003.

(SEAL)


 Rebecca E. Schruff, City Clerk

ORDINANCE NO. 491

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, AMENDING ORDINANCE NO. 364, AS AMENDED, 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 REDUCE PERMIT FEES FOR TREE REMOVAL WHERE REMOVAL IS REQUIRED BY DAMAGE CAUSED BY THE SUBJECT TREE OR TREES TO PERMANENT IMPROVEMENTS ON THE PARCEL OF LAND WHERE THE SUBJECT TREE IS SITUATED, 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, particularly in those instances where removal of a tree or trees is necessitated by material damage caused by such tree or trees to permanent improvement or improvements on the parcel where such tree or trees are situated, it is necessary to amend the 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 7 of said 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" as amended, 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:

1) For Removal of a tree or trees where such removal of such tree or trees is necessitated by material damage caused by such tree or trees to permanent improvement 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"

SECTION 2. 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 3 Effective Date

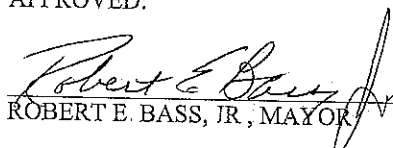
This ordinance shall take effect and be and force thirty (30) days after its adoption, publication and enrollment thereof as provided by law

The above and foregoing Ordinance No 491 was introduced in writing by Alderman Rouse who moved its adoption. Alderman Ponthieux 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	Aye
Alderman Jerry Rouse	voted	Aye
Alderman Gary Ponthieux	voted	Aye
Alderman Richard Bennett	voted	Aye
Alderman Billy Skellie	voted	Aye
Alderman Allen D Holder, Jr	voted	Aye
Alderman Joseph McNary	voted	Aye

The question having received the affirmative vote of all the Alderman present and voting, the Mayor declared the motion carried in the said Ordinance adopted and approved this the 17th day February, 2004

APPROVED:


ROBERT E. BASS, JR., MAYOR

ATTEST:


REBECCA E. SCHUFF, CITY CLERK

CERTIFICATE**STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH**

I, the undersigned, Rebecca E. Schruff, 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 #491 of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on March 17, 2004, as the same appears of record in Ordinance Book #6, Pages 502-504, inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 18th day of March, 2004.

(SEAL)



Rebecca E. Schruff, City Clerk