

**AN ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF  
THE CITY OF HERNANDO, MISSISSIPPI PROVIDING FOR PLANNING  
AND MANAGEMENT OF THE PLANTING AND MAINTENANCE OF  
TREES AND OTHER PLANTS IN CERTAIN PUBLIC PLACES, AND  
FOR PENALTY FOR VIOLATIONS OF SUCH PROVISIONS**

**SHORT TITLE:     HERNANDO URBAN FORESTRY ORDINANCE.**

An Ordinance in pursuit of promoting the health, safety, and general welfare, and to protect the tree and plant resources of the City of Hernando, Mississippi by establishing policies, regulations and standards necessary to ensure that the City of Hernando will continue to realize the benefits of shade, beauty, and other environmental benefits of its urban trees, plants and forests; and to maintain such trees, plants and forest in a healthy and non hazardous condition through good arboricultural practices.

NOW THEREFORE BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Hernando, Mississippi as follows to wit:

SECTION 1. This Ordinance shall be known and may be cited as the Hernando Urban Forestry Ordinance, which is identified as the “short title” above.

SECTION 2. Nothing in this Ordinance shall be deemed to impose any liability upon the City, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon any street area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, boulevard, alley or public place within the City.

SECTION 3. No person, firm or corporation shall interfere with the Tree Advisory Board, or persons acting under its authority or under other authority of this City, while engaged in planting, mulching, pruning or removing any tree in any street right-of-way or public place, or overhanging hazardously there onto within the City.

SECTION 4. No person, firm or corporation shall cut any tree in any street right-of-way or on public property within the City without the written permission of the Tree Advisory Board and/or the Planning Department.

SECTION 5.

- A. Violation of any provision of this Ordinance shall be a basis for injunctive relief, if the Hernando Planning Department should elect to do so.
- B. Violation of any provision of this Ordinance may be subject to the imposition of a fine or fines in the following amounts:

- I. 1<sup>st</sup> Offense \$50.00 per incident.
- ii. 2<sup>nd</sup> Offense \$100.00 per incident.
- iii 3<sup>rd</sup> Offense \$500.00 per incident.

An incident shall is defined as an individual tree or other plant which is the subject of this ordinance. That nothing in Section B shall prohibit the Hernando Planning Department from issuing an injunction or seeking additional injunctive relief.

SECTION 6. Any person, firm, partnership, corporation, or other legal entity who violates any provision of this Ordinance is guilty of a misdemeanor, punishable by fine or imprisonment as provided by law, or both. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance.

SECTION 7. The Planning Department for the City of Hernando is hereby charged with the responsibility for the enforcement of this Ordinance, and any person acting under its direction, may serve notice to any person believed to be in violation hereof and/or to institute such legal proceedings as may be appropriate.

SECTION 8. There is hereby created a Tree Advisory Board, which shall consist seven members and for such term of office as shall be designated by resolution of the Mayor and Board of Aldermen of the City of Hernando. Such members shall be appointed by the Mayor, subject to approval by majority vote of the Board of Aldermen, and shall serve until their successors are appointed and qualified; they shall serve without compensation. The Mayor shall may make an effort to have a member on the advisory board from each aldermanic ward if at all possible. The Mayor and Board of Aldermen may remove any appointed member of said Advisory Board from office prior to the expiration of term, with or without cause, by a majority vote. Vacancies on the Tree Advisory Board shall be filled by appointment by the Mayor, subject to the approval of the Board of Aldermen.

SECTION 9. The Tree Advisory Board shall hold regular meetings at least every 6 months and may hold such additional meetings as it deems necessary. A majority of the board shall constitute a quorum for the purpose of transacting the business of the Board. A record shall be kept of all proceedings, resolutions, findings, determinations, and transactions of the Board. A copy of the record shall be filed with the City Clerk within ten days following each meeting.

SECTION 10. The Tree Advisory Board shall present recommendations to the Mayor and Board of

Aldermen for the adoption of additional ordinances or amendments, which:

Will promote and specify cooperation among departments, entities, agencies, or utilities in matters pertaining to tree resources;

- May develop a comprehensive management plan;
- Will assist citizens in meeting mandated requirements;
- Will prevent abuse, improper cutting and trimming; and
- May regulate and prescribe the types and locations of trees to be planted on public property.

SECTION 11. Any person may appeal to the Board of Aldermen of the City of Hernando from any action of the Planning Department in regard to any injunctive action the Planning Department may take pursuant to this ordinance.

SECTION 12. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part held to be invalid.

SECTION 13. The Tree Advisory Board shall have the right to recommend to the City that it plant, prune, maintain, and remove trees, shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Tree Advisory board may recommend that the City remove or cause or order to be removed (if on public property), or order to be removed from any private property, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest.

SECTION 14. It shall be unlawful for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back to limbs to stubs, larger than three inches in diameter within the tree's crown to such a degree so as to remove normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wire or other obstructions where other pruning practices are impractical may be exempted from this Ordinance at the discretion of the Tree advisory Board.

SECTION 15. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after publication hereof.

SO Adopted, on this the 16<sup>th</sup> day of June 2010.

VOTE:	<u>YEA</u>	<u>NAY</u>
ALDERMAN LAUDERDALE	YEA _____	_____
ALDERMAN BRYANT	YEA _____	_____
ALDERMAN HIGDON	YEA _____	_____
ALDERMAN HOBBS	YEA _____	_____
ALDERMAN MANNING	YEA _____	_____
ALDERMAN MILLER	_ YEA _____	_____
ALDERMAN TIPTON	YEA _____	_____

By:

/s/ Chip Johnson

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MAYOR CHIP JOHNSON

ATTESTED TO:

/s/ Jannett Riley

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JANNETT RILEY, CITY CLERK

(SEAL)