

## **SECTION 79 TREES**

**79.01 General Description:** It is the purpose and intent of this section to establish standards regulating the removal, care, and planting of private and public trees. These standards serve to enhance the ecological and aesthetic benefits, which trees provide throughout the City of Hattiesburg. It is intended that these provisions shall constitute minimum requirements. Also see applicable regulations, of Section 12, Non-Conforming Uses, Section 78, Buffer Strip and Green Space Regulations, Section 89, Parking Off-Street/On-Street and Vehicle Loading, Section 91 Planned Unit Development and Section 92, Planned Residential Development. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.02 Objectives:** The following objectives are the benefits resulting from following and enforcing this section:

1. Encourage the protection and care of Hattiesburg's existing trees.
2. Aid in the prevention of erosion and sedimentation and their associated costs.
3. Help soil in retaining and distributing rainwater, thus reducing the costs of irrigation.
4. Reduce the amount of storm water runoff and associated costs.
5. Aid in the removal of carbon dioxide from the atmosphere, replenishing the atmosphere with oxygen, and filtering the air of pollutants.
6. Provide summer shade and protection from winter winds, thus reducing heating and cooling costs.
7. Encourage planting trees where the original forest cover has been removed.
8. Protect and enhance property values.
9. Protect and enhance economic prosperity by promoting the healthy appearance and character of the neighborhoods and City.
10. Aid in providing privacy, buffering views, and reducing noise.
11. Provide food and habitat for wildlife.
12. Reduce the glare from buildings, pavements, and cars and filter night lighting from adjacent sites.
13. Aid in protecting and maintaining the health and functioning of the urban forest.
14. Promote flexibility and innovation in landscape design and development.
15. Encourage the renovation and upgrading of existing structures.

16. Provide standards for the preservation of trees (private and public) as part of the land development process.
17. Regulate mass tree cutting (clear-cutting) and mass grading of land that results in the loss of mature trees, and to ensure appropriate replanting when tree loss does occur
18. Prevent a marked increase in storm water runoff and soil erosion, and the adverse impact on adjacent property owners, nearby streams, streets and drainage infrastructure.
19. Preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees and ground cover.
20. Encourage site development of public and private property, including clearing; excavation, filling and proper debris disposal in such a manner as to minimize hazards to life, health, and property.  
(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)

#### 79.03 **Tree Density for New Construction**

1. Trees shall be re-established on the project site at the rate of:
  - A. Zone R-1, R-2, R-3, R-4, and B-1 – one (1) tree required per 4,000 square feet of project area. This is approximately 11 trees per acre. (Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
  - B. Zone B-2, B-3, B-5, I-1, I-2, A-1 - one (1) tree required per 8,000 square feet of project area. This is approximately 6 trees per acre. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
2. Where there is road frontage, required trees shall be planted on private property, parallel to the road, at a minimum rate of one tree per forty (40) linear feet of road frontage; after meeting this requirement, any remaining trees required by 79.03(1) above may be planted in the interior of the site. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
3. Installation. All trees shall be planted in a sound workmanlike manner and in accordance with the tree planting plan, as finally approved. Replacement trees shall be planted if any required tree dies. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
4. Tree Locations. To be specified on tree planting plans submitted to the Site Plan Review Committee as per Section 79.06. (Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)

5. No trees other than species with a maturity height of less than 35 feet as defined by the Urban Forester/City Arborist, shall be planted under or within ten (10) lateral feet of any overhead power line. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
6. These landscaping requirements shall also apply to sites with an existing structure(s) when the total gross floor area of the presently existing structure(s) is increased by fifty (50) percent. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.04 **Tree Planting Requirements:** Size and Number: If new trees must be planted on a site to meet the requirements of these regulations, each must be a minimum of two (2) inches in diameter and meet the specifications of American Nursery Standards. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.05 **Tree Credits Toward Requirements:** Preservation of existing trees with a minimum DBH of twelve (12) inches can be credited toward the tree planting requirement of this section according to the following rationale: the number of credited trees shall be determined by measuring, at a height of 4½ feet above grade level, the diameter (in inches) of each preserved tree and dividing the sum by six (6). To be included in the computation, each preserved tree must be at least twelve (12) inches in diameter. The Urban Forester/City Arborist may give credit for existing trees on a one-for-one basis. This is to be agreed upon by both parties and made a part of the permit. Credited trees shall be uniformly encircled by a protected ground area and shall be clearly marked in the field. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

No credit will be allowed for any tree proposed to be retained if:

1. There is any encroachment within the drip line of the tree.
2. The tree is unhealthy or dead. If any tree being used for credit dies or fails to thrive within three years, the owner shall plant new trees equal to the number of lost trees, and the replacement trees will be the same species or variety as the credited tree(s) lost, or a type of tree agreed upon by the developer (land owner) and the Urban Forester/City Arborist. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.06 **Tree Plan Approval Process**

A tree planting plan shall be submitted to Site Plan Review Committee for approval at the time that an application for Site Plan Review is made on any land where tree requirements are applicable. Such tree plan shall be drawn at the same scale and be provided in the same number of copies as the site plan, and shall contain the following information:

1. The date, scale, north arrow, title, and the name of owner.
2. The location of existing boundary lines and dimensions of the building Site.
3. The location, species, and size of existing trees on the site.

4. The location and species of tree(s) to be planted to meet the requirements of Section 79.03 and 79.04.
5. Buffer strips and green spaces as required by Sections 78, 89, 91 and 92 of this code. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.07 **Tree Protection during Construction**

1. It shall be a violation of this code for any person in the construction of any structures or other improvements to place solvents, materials, construction machinery, or temporary soil deposits within ten feet of any protected tree. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
2. Before development, land clearing, filling or any land alteration, a permit will be required; the developer shall be required to erect suitable protective barriers, and this protection, where required, shall remain until permanent barriers have been erected. Also, during construction, no attachments shall be appended to any of said trees so protected. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
3. No person shall pave with concrete, asphalt or other impervious material within eight (8) inches per inch of DBH of any remaining tree with a minimum of six (6) feet radius. The Urban Forester/City Arborist shall have the discretion to waive this requirement. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.08 **Exemptions** The following shall be exemptions from Tree planting requirements of Section 79.04:

1. **Bona Fide Agriculture:** Land used to derive income from growing plants or trees, including but not limited to land used principally for timber production, but not including land used principally for another use and incidentally for growing trees or plants for income. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
2. **Commercial Nursery or Tree Farm:** A licensed plant or tree nursery or farm with trees planted and growing on the premises of the licensee which are for sale or intended sale to the general public in the ordinary course of said licensee's business. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
3. **Bona fide utility construction or maintenance activity within permanent utility easements or franchised areas.** *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

## 79.09 PUBLIC TREES: Removal, Relocation, and Planting Requirements

1. **Permit Procedure:** The requirements of Section 79.11 shall apply to all public land and public rights-of-way located within the corporate limits of the City of Hattiesburg. Any person wishing to remove, relocate, or plant trees on City right-of-way shall make written application with the City of Hattiesburg, Department of Urban Development and in conjunction with the Urban Forester/City Arborist. Any and all permits issued by the City as per the requirements of Section 79 shall be declared null and void if work so permitted is not started within a reasonable time, not to exceed six months. In no case will a permit be valid for more than twelve months. Permits not used within this period will become null and void, and future work will require a new application. An on site inspection may be made prior to issuance of a permit, but in no event will it be more than ten (10) working days after the date of the application is received in the office of Department of Urban Development. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  
2. The Urban Forester/City Arborist, or his designated representative, may request a recommendation concerning the application from any or all appropriate City departments and the Tree Board. The Urban Forester/City Arborist, or his designated representative, will do the field checks and work with the citizen throughout the application process and on through completion of the project. As determined by the field inspection and recommendations of city departments and boards, the Urban Forester/City Arborist, or his designated representative, shall decide on the issuance of a permit for the removal, relocation, or planting of trees based on the criteria listed below.
  - A. The location of the tree in an area where structures or other improvements will be placed according to an approved plan; its interference with existing or proposed utilities; or obstructing regulated sight triangles.
  - B. The presentation by the owner of clear and convincing evidence that he or she will suffer extraordinary hardship.
  - C. The condition of the tree as to its health and likelihood of falling and causing harm to existing structures or to persons or to utility infrastructures.
  - D. The conformity of the Tree with other City Ordinances or regulations; and with federal and state laws.*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  
3. **Emergencies.** In case of emergencies, such as hurricane, windstorm, flood, freeze, or other natural disasters, the requirements of these regulations may be waived by the Urban Forester/City Arborist, upon a finding that such waiver is necessary so that public or private work to restore order in the City will not be impeded. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

4. Public Trees: Removal, Prune, Cut, Abuse, or Mutilation: No person shall damage, prune, cut, carve, transplant, mutilate, abuse or remove any Public Tree; attach any rope, wire, nails, advertising posters or other contrivance to any Public Tree; allow any gaseous liquid, or solid substance which is harmful to such trees come in contact with any such tree, including roots damaged during curb cuts, sidewalk, and driveway installation and repair. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
- A. Utility line clearing and removal of dangerous trees in conformance with International Society of Arboriculture, National Arborist Association Standards and the National Electrical Safety Code clearances does not constitute abuse. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
- B. No curb cuts that involve right-of-way trees shall be allowed without prior coordination with the Urban Forester/City Arborist. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
- C. No action in removing trees due to lightning, hurricanes, or other natural disasters shall be considered abuse of trees. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
- D. This Section shall not prohibit the removal of trees for which permits have been issued. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.10 Types of Trees to Be Planted See Section 78.05 Types should be referenced to lists to be provided by the Urban Forester/City Arborist dependent on changes and availability of plant stock. Also See Article 6, Land Subdivisions, Section 117, Optional Improvements. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.11 NON-PUBLIC (PRIVATE) Tree Removal A tree removal permit shall be required for the removal of one (1) or more trees over twelve (12) inches DBH, except on properties exempted under Section 79.11.1. The terms and provisions of this Ordinance shall further apply to any residential or non-residential development that requires the issuance of a development permit or building permit that would require tree removal except as provided in Section 79.08. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

Trees cannot be removed after the issuance of the certificate of occupancy for residential, commercial, and industrial properties, when such trees have been preserved or planted by the developer or builder in order to meet the tree density requirements of this ordinance without a removal permit from the city. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

1. TREE REMOVAL PERMIT AND APPROVAL REQUIRED

No trees, as defined by Section 5.178.1(k), shall be removed without first obtaining a tree removal permit.

Permits are not required for tree removal on existing single-family and two-family residential properties. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

A. The application for a tree removal permit shall include:

1. Description of tree(s) to be removed
2. Proposed start date
3. Name of individual/company cutting trees
4. Debris disposal plan
5. Plan for guarding protected trees  
*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98 )*

B. Tree removal for the purpose of land development and commercial tree harvest, shall require the following additional information:

1. Haul Route
2. Erosion Control Plan.
3. Adjacent properties' zoning classifications.
4. Required buffer and green space restrictions, if applicable.
5. Tree removal/replacement plan to be submitted to the Site Plan Review Committee along with the development site plan.  
*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

2. A tree removal permit shall be granted by the Urban Forester/City Arborist or his/her designated representative, except under the following circumstances:

- A. The subject tree(s) are public trees, and therefore are not owned by the applicant;
- B. The subject tree(s) are required under the tree density provisions of Section 79.03, or are located within a buffer strip or green space as prescribed under Section 78 of this code, unless a plan is approved to replant required trees within the next planting season; or

- C. The subject tree(s) are not located on the applicant's property.

If application for tree removal is being submitted in conjunction with an application for a grading permit, building permit, or site plan review, such applications may be submitted concurrently. The tree removal permit shall be valid for six (6) months from date of issuance. Applicant shall notify the Urban Forester/City Arborist when removal is complete. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

3. **EXCEPTIONS:**

A. Public utilities having the right to maintain and protect power or transmission lines on public areas pursuant to valid certificates of public convenience and necessity from the public service commission are authorized to remove trees as necessary, that will interfere with the lines. Said public utilities shall communicate with the Urban Forester/City Arborist to facilitate proper maintenance of urban trees as well as utility transmission lines. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

B. No permit is required if a tree has been identified by the city as hazardous; prior to removal, the property owner shall submit to the Urban Forester/City Arborist or his/her designee the name of the tree contractor and proposed method of debris removal. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.12 **EROSION CONTROL PLAN** An Erosion Control Plan shall be required when more than fifty percent (50%) of the land area of any lot is disturbed; such land disturbance includes the removal or disturbance of trees, vegetation and/or topsoil. Said plan shall be submitted to the Site Plan Review Committee for review and approval. Disturbed lands shall be stabilized and re-vegetated within thirty calendar days. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.13 **REMOVAL OF HAZARDOUS TREES** The purpose of this ordinance is to protect the health, safety and welfare of the citizens of Hattiesburg by requiring homeowners and property owners to properly maintain trees located on their properties so as not to unduly pose a safety risk to people, to motor vehicles, to adjacent homes, or other structures, or to city streets and alleys. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

Property owners shall promptly remove a tree that has been identified by the city as hazardous and a public risk. Code enforcement officers in consultation with the Urban Forester/City Arborist will determine if such tree poses a risk. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.14 **BUFFERS**



1. Natural Stream Buffers:
  - A. Perennial streams, defined as streams that contain water in their channels at all times, shall maintain an undisturbed natural buffer for a minimum of 25 feet measured from the edge of the bank. A buffer of greater width may be required as outlined in Section 78, Buffer Strip Regulations of the Land Development Code.
  - B. Intermittent streams, defined as streams that contain water in their channels for only a part of the year, shall maintain an undisturbed natural buffer for a minimum of 10 feet measured from the edge of bank. A buffer of greater width may be required as outlined in Section 78, Buffer Strip Regulations of the Land Development Code. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  - C. Property that requires a buffer strip as outlined in Section 78.03, who's property line is in the channel of water of a stream, shall measure the buffer beginning from the edge of the bank. *(Added by Ord. 2974, Sec. 1, 10/2/07)*
2. Protection During Land Disturbance Activities
  - A. During authorized land disturbance activities, natural stream buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.
  - B. The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the Urban Forester/City Arborist *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
3. Detention and Retention Areas
  - A. Retention and Detention areas shall be landscaped. A vegetated green space shall be placed and maintained around storm water run off storage areas. Landscaping materials shall meet requirements of Section 78.05. *(Added by Ord. 2974, Sec. 1, 10/2/07)*
  - B. Retention and Detention areas smaller than 1,000 Sq. Ft. shall have a five foot (5') vegetated green space around the perimeter and a ten foot (10') vegetated green space around the perimeter of areas larger than 1,000 Sq. Ft. *(Added by Ord. 2974, Sec. 1, 10/2/07)*

**79.15 TREE CONTRACTORS TREE CONTRACTORS** Tree Contractors, as defined by this ordinance, shall be licensed with the Construction Board of Examining, Adjustments and Appeals, City of Hattiesburg.

1. In order to be licensed the following shall be required:

- A. General liability insurance in an amount of not less than \$100,000.
  - B. \$2,000 Surety Bond naming City of Hattiesburg as beneficiary.
  - C. Workman's Compensation Insurance, if applicable.
2. Persons performing the following activities are exempt from the requirements of this section:
- A. Bona fide commercial timber harvest or logging operations on a tract containing an acre or more of land, and
  - B. Site clearance in connection with a development for which site plan approval and/or a grading permit has been issued.
- (Amended by *Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06*; Added by *Ord. 2646, Sec. 1, 6-16-98*)