

**AN ORDINANCE TO AMEND AND RESTATE CHAPTER 65  
OF THE MOBILE CITY CODE**

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Sponsored by: Mayor Stimpson

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, as follows:

**SECTION ONE.** That Chapter 65 of the Mobile City Code, entitled Tree Protection and Management, is hereby amended and restated in its entirety as follows:

**Chapter 65 – Tree Protection and Management**

**Article I. General Purposes and Application.**

1. *Purposes.* This Chapter is intended:
  - a. To promote environmental and ecological awareness;
  - b. To improve the city's image and aesthetic charm and beauty;
  - c. To protect property values from the adverse aesthetic and ecological effects of imprudent tree removal, pruning, or lack of maintenance;
  - d. To promote water quality and ground and surface water stabilization and decrease the adverse impact of water table fluctuations caused by imprudent tree removal;
  - e. To protect against greater noise and light pollution which is increased by the imprudent removal of buffer trees;
  - f. To protect structures and existing vegetation from greater wind velocities resulting from the imprudent removal of buffer trees;
  - g. To promote air quality which is significantly affected by the natural clearing of the atmosphere by the trees through particulate matter interception and the release of oxygen into the atmosphere as a byproduct of photosynthesis;
  - h. To stabilize the urban wildlife habitat and ecosystem balance;
  - i. To provide for the public health, safety and welfare through a systematic process used to identify, analyze, and evaluate the likelihood of tree failure and associated consequences, and the application of policies, procedures, and practices to identify, evaluate, mitigate, monitor, and communicate tree risk;
  - j. To support the provisions of the Mobile Tree Act
  - k. To provide uniform standards in the removal and replacement of trees on public and private property within the corporate limits of the City of Mobile in accordance with both municipal and state laws;
  - l. To educate the public in the economic, aesthetic and historic benefits of preserving trees, including conserving energy, reducing soil erosion, and protecting trees and the ecosystem;
  - m. To preserve the economic base attracted to the City of Mobile by such factors.

2. *Application.* The requirements of this Chapter shall apply to all land located within the corporate limits of the City of Mobile, except single-family and two-family lots with an existing habitable structure, which are not located in an Historic District subject to the rules and regulations of the Architectural Review Board. Single-family and two-family lots which are located within a locally designated Historic District are subject to the requirements of this Chapter.

## Article II. Definitions.

1. As used in this Chapter, the following words and terms shall have the following meanings:

*American National Standards Institute (ANSI):* A private non-profit organization that oversees the development of voluntary consensus standards by accredited representatives of government agencies, industry, and other stakeholders.

*ANSI A300:* The industry-developed, national consensus standards of practice for tree care in the United States.

*Arborist:* A person trained in the proper care and maintenance of trees who has passed an independent exam administered by the International Society of Arboriculture, and maintains the credential through continuing education.

*Bona Fide Agriculture:* A land used to derive income from growing plants or trees on land, including but not limited to, land used principally for timber production, and not including land used principally for another use and incidentally for growing trees or plants for income.

*Commercial Nursery or Tree Farm:* A licensed plant or tree nursery or farm in relation to those trees planted and growing on the premises of the licensee, which are planted and growing for sale or intended sale to the general public in the ordinary course of said licensee's business.

*Critical Root Zone (CRZ):* The area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. Per ANSI A300 (Part 5), these roots are located within 6 to 18 times the trunk diameter (DBH) depending on species tolerance to root loss, tree age and health.

*Diameter at Breast Height (DBH):* The measurement of the width of the trunk of the tree at four and one-half (4½) feet above the existing grade. For multi-trunk trees the DBH shall be the sum of the diameter of the trunks.

*Drip Line:* The circumference of the tree's natural, unaltered canopy extended vertically to the ground.

*Grubbing:* The effective removal of understory vegetation such as, but not limited to, palmetto from the site. As herein defined, no tree greater than three (3) inches DBH will be removed.

*Heritage live oak tree:* A live oak tree which is at least eighteen (18) inches DBH.

*Heritage Tree, existing:* Any of the following list of trees which is at least 18 inches DBH: hickory (*Carya* spp.); Longleaf Pine (*Pinus palustris*); Magnolia (*Magnolia* spp.); Oak (*Quercus* spp.), excluding

water oak (*Quercus nigra*); river birch (*Betula nigra*); sweet gum (*Liquidambar styraciflua*); sycamore (*Platanus occidentalis*); and yellow poplar (*Liriodendron tulipifera*). In Historic Districts, Heritage Trees include the species previously noted, but have a minimum size of at least eight (8) inches DBH.

*Heritage Tree, credit or compliance:* any tree planted or claimed for credit for compliance with the UDC or tree planting and landscaping requirements of the City.

*Historic District:* A geographic area designated by the city council as a historic district, including all historic districts existing as of the date of this ordinance and future districts designated by the Mobile City Council.

*Land Clearing:* Those operations where trees and vegetation are removed and which occur previous to the construction of building; e.g., road right-of-way excavation or paving, lake and drainage system excavation, utility excavation, grubbing, and any other necessary clearing operations.

*Landscape Material:* Living plant material which shall include, but not be limited to, trees, shrubs, flowers, vines, lawn grass and other ground cover; natural features and areas; and nonliving durable material commonly used in landscaping which shall include, but not be limited to, rocks, pebbles, sand, mulch, wood chips, exterior lighting fixtures, planters, fountains, reflecting pools, works of art, walkways, fences, walls, benches and other types of appropriate outdoor furniture. Nonliving landscape material shall not include artificial or synthetic material in the form of trees, flowers, shrubs, vines, or ground cover.

*Landscape Plan:* a drawing representing existing and proposed tree and landscape elements for a site, and drawn to either a standard architectural or engineering scale.

*Landscaped Area:* An area which shall consist of landscape material, as defined, such that the use of living landscape material predominates over the use of nonliving landscape material.

*Mobile Tree Act:* The common name of the local law enacted by the Alabama State Legislature (Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended) for the purpose of protecting the trees on both public and private property within the City.

*Mobile Tree Commission:* The entity (hereafter referred to as the "Commission") created by the Alabama State Legislature and specifically charged with the responsibility and duty of fostering the planting, growth and protection of trees on private property and publicly owned areas in accordance with the provisions of the Mobile Tree Act.

*Overstory Tree:* A tree whose mature canopy height is at least 35-feet.

*Protective Barrier:* A physical structure limiting access to a protected area, composed of wood or other suitable materials which assures compliance with the intent of this article. Variations of these methods may be permitted by the urban forester upon written request if they satisfy the intent of this ordinance.

*Public Tree:* A tree located on any property owned by the City of Mobile, Alabama.

*Selective Root Pruning:* A process consisting of soil excavation using supersonic air tools, pressurized water, or hand tools, followed by cutting individual roots conducted under the supervision of an ISA certified arborist as set forth in ANSI A300 (part 8) Best Management Practices.

*Streetscape:* The appearance or view of the street including trees, lighting fixtures, and street furnishings such as benches and trash receptacles.

*Tree:* Any self-supporting, woody plant of a species suitable for growing in the proposed environment as well as the City of Mobile.

*Understory Tree:* A tree whose mature canopy height is between 15 and 35 feet.

*Urban Forester:* The city employee specially trained in forestry or arboriculture tasked with the management of naturally occurring and planted trees and associated plants within the corporate limits of the City of Mobile who has passed an independent exam administered by the International Society of Arboriculture, and maintains the credential through continuing education, or his/her duly authorized designee.

### **Article III. Urban Forestry.**

1. *Establishment.* This Ordinance establishes an Urban Forestry Department charged with the responsibility of planning for and maintaining trees within the public rights-of-way and public parks. The Department shall be staffed with one full time Urban Forester, one or more full time arborists, and associated tree crew(s).
2. *Urban Forester.* The Urban Forester shall perform a variety of professional administrative duties involved in the study, planning, development, coordination and implementation of systems, programs, procedures, and practices in support of the City's urban forestry program. The Forester is responsible for managing the urban forest and the urban forest programs. Work involves instructing staff in the planting, cultivating, and maintenance of a variety of trees and other plant materials throughout the City, providing for an overall tree maintenance and replacement plan for trees in the rights-of-way, protection of public trees, and providing staff support to the Mobile Tree Commission. The Urban Forester, in coordination with any other involved City department(s), shall perform, or cause to be performed, the following duties and/or activities:
  - a. Direct the enforcement of this Chapter;
  - b. Coordinate and educate the various departments of the City and the general public which are affected by the provisions of this Chapter;
  - c. Develop and maintain a tree inventory for the purpose of creating a master data bank of all trees within the City's public rights-of-way and public properties;
  - d. Develop and maintain a tree disease and injury list for the purpose of establishing the most common problems which afflict trees in Mobile's urban environment; and,
  - e. Develop and maintain a tree plan for the purpose of establishing design standards for trees and other landscaping materials planted within the public rights-of-way.
3. *Arborist.* The Arborist job duties shall involve tree care operations such as planting, trimming, insect and disease control, and removal of tree limbs and debris giving careful consideration to all

surroundings before, during, and after tree care activities. Work involves the execution of specific rules, regulations, or procedures.

#### **Article IV. Mobile Tree Commission.**

1. *Establishment.* The Mobile Tree Commission is established under the authority of the Mobile Tree Act and is charged with exercising the duties specifically provided in the Act.
2. *Duties.* The Mobile Tree Commission is specifically charged with the responsibility and duty of fostering the planting, growth, and protection of trees on private property and publicly owned areas within the City of Mobile and shall take active steps to:
  - a. Educate the public as to the economic, aesthetic, health, storm protection, and historic benefits of trees to the City and its citizens, both on publicly and privately owned property;
  - b. Promote the planting and replacement of trees in the City, with the particular objective of establishing and protecting avenues of live oak trees and other trees deemed suitable by the Commission;
  - c. Promote the care, feeding, fertilization and other measures desirable for the health and growth of existing trees in street rights-of-way;
  - d. Protect trees located in street rights-of-way from damage, removal, lack of sustenance, or any other act or condition which might threaten the health and growth of such trees.
3. *Membership.*
  - a. The Commission shall consist of the same number of members as the number of members of the City Council. The City Council shall make the appointments to the Commission.
  - b. The members of the Commission shall serve at the pleasure of the City Council.
  - c. Persons appointed to serve on the Commission shall serve until a successor takes office.
  - d. Any vacancies on the Commission shall be filled by appointment made by the City Council.
  - e. Members shall serve without salary or remuneration.
  - f. The Commission shall annually elect from among its members a Chair, a Vice-Chair, a Secretary, and a Treasurer.
  - g. The Commission shall hold regular meetings at least once each month and specially as it deems necessary in a public place open to the public in a manner conducive to public comment and participation.
  - h. The Commission shall cooperate with and coordinate its activities with the Urban Forestry Department, the Public Works Department, the Parks and Recreation Department, and other City departments. All departments of the City shall cooperate with the Commission in the exercise and discharge of the Commission's duties.
  - i. The Commission is authorized to accept contributions and to expend the same for the purposes of carrying out its duties and obligations imposed by the Mobile Tree Act. All contributions and funds received by the Commission shall be held in a Trust Fund known as the Tree Planting and Preservation Trust Fund. The Commission, using nationally accepted accounting methods, shall deliver an annual report to the City Council regarding the status of the Trust Fund.
  - j. The Commission shall adopt By-Laws and Regulations for carrying out its duties and obligations imposed by the Mobile Tree Act, and in accordance with its By-Laws:

- i. May provide printed forms to be used as shall be necessary to govern its proceedings and to effectuate the provisions of the Mobile Tree Act;
  - ii. May cause studies to be made as it deems necessary;
  - iii. May perform its functions directly through its own agents or employees, or may contract with others for specific or general services to carry out its purposes; and,
  - iv. Shall keep a record of its proceedings and a register of all applications made to it and its action thereon, all of which shall be public records.
- k. Any decision of the Commission, or any decision of any officer or agent of the Commission to whom its duties are delegated, may be appealed to the City Council by any person aggrieved by the decision by filing a written notice of appeal with the Commission and the City Clerk within fifteen (15) days from the date of the decision. The notice of appeal shall specify the particular grounds upon which the appeal is taken. Upon receipt of the notice of appeal, the Commission shall transmit to the City Clerk all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed is based. Any person aggrieved by the decision of the City Council may appeal the decision in accordance with State Code.

**Article V. Tree Trails.**

1. *Designation.* The following City streets are of significant historic and aesthetic value because of the trees adjoining the land, and hereby are declared Tree Trails of the City:
  - a. Government Street
  - b. Dauphin Street
  - c. Michigan Avenue
  - d. Park Avenue
  - e. Houston Street
  - f. Old Shell Road
  - g. Springhill Avenue
  - h. The Avenue of Oaks
  - i. Dauphin Island Parkway (between Duval St. and Dog River).
2. *Designation of New Tree Trails.* Other streets, such as those in Historic Districts, may be designated as Tree Trails by the City Council upon recommendation of the Commission, the Urban Forester, or the public.
3. Tree Trails shall be clearly marked with municipal signs.
4. On all designated Tree Trails, utility companies shall work closely with both the Urban Forester and the Commission prior to performing any projects which would affect the trees along these designated streets.
5. All oversized vehicles, specifically those vehicles in excess of thirteen (13) feet, six (6) inches in height and ten (10) feet in width, and any vehicle hauling or pulling an oversized load in excess of the dimensions of an oversized vehicle, are prohibited from traversing Tree Trails without first obtaining a written permit therefor from the urban forester.

## Article VI. Tree Trimming or Tree Removal from Private Property.

1. *Permit.* Any person wishing to trim, remove or relocate a Heritage live oak tree on property zoned R-1, Single-Family Residential, or R-2, Two-Family Residential that is not located within a Historic District shall be required to obtain a Tree Permit from the Urban Forester. Any person wishing to trim, remove or relocate a Heritage Tree in a Historic District or on any property lying in a zoning classification other than R-1, Single-Family Residential, or R-2, Two-Family Residential, shall be required to obtain a Tree Permit from the Urban Forester.
  - a. Tree removal applications for a site not zoned R-1, Single-Family Residential, or R-2, Two-Family Residential, require a landscape plan identifying trees to be removed.
    - i. Pre-application inspection. In connection with applications involving extremely large tracts of property, the Urban Forester may arrange and coordinate a pre-application inspection of the site involved.
  - b. Tree trimming applications do not require a landscape plan unless otherwise deemed required by the Urban Forester.
  - c. *Fees.* Upon paying an administrative application fee of seventy-five dollars (\$75) per tree with a maximum charge of \$225 for one and two-family sites and \$675 for all other sites, to cover the costs of researching and processing the application, the application and plan shall be stamped with the date and time and forwarded to the city's Urban Forester for review and approval. All proceeds from the said processing fee shall be earmarked for the use of the City's Urban Forester for the administration of this Article.
  - d. *Permit procedure.* An application should be field checked prior to the issuance of a Tree Permit. Failure to deny the application, as provided herein, within fourteen (14) working days after the date of receipt of the application shall entitle the applicant to automatic issuance of the permit as requested in the application. The Urban Forester may request a recommendation concerning the application from any or all appropriate city departments, and/or the Tree Commission.
  - e. *Criteria for issuance of Tree Permit.* Upon receiving the field inspection report and any requested recommendations concerning the application, the Urban Forester shall issue a Tree Permit for the trimming, removal or relocation of trees if one (1) or more of the following criteria is met:
    - i. The tree is located in an area where a structure or improvement will be placed according to an approved plan;
    - ii. For one and two -family properties only, the tree is located where a swimming pool or detached carport or garage will be located;
    - iii. The tree is deemed a moderate to high level risk per ANSI A300 (Part 9) Tree Risk Assessment; or,
    - iv. The tree is, or will be after construction, in violation of federal, state, or local laws or regulations, or cause the construction to violate federal, state, or local laws or regulations, including, but not limited to, laws and regulations pertaining to government programs for financing the construction.
  - f. *Basis for denial of permit.* The Urban Forester, upon a determination that an application for tree removal does not meet the criteria for issuance, should deny the application and notify the applicant of the reason(s) therefor. Failure to deny the application, as provided herein, within fourteen (14) working days after the date of receipt of the application shall entitle the applicant to automatic issuance of the permit as requested in the application.
  - g. *Time of permit.* Tree Permits issued pursuant to the requirements of this Article shall be valid for a period of six (6) months. The Urban Forester may extend the permit for no

more than an additional six (6) months, but in no case will a permit be valid for more than twelve (12) months.

- h. *Historic Districts*. In Historic Districts, Heritage Trees have a minimum size of at least eight (8) inches DBH.
  - i. No Heritage Tree can be removed, nor can land be cleared or grubbed, in any local Historic District except under a permit issued by the Urban Forester after application as provided above, which shall be granted only upon a showing that the said Heritage Tree is:
    1. The tree is deemed a moderate to high level risk per ANSI A300 (Part 9) Tree Risk Assessment; or,
    2. Certified by the Architectural Review Board to be removed for the purpose of renovating an historic structure or enhancement of the aesthetic quality of the property; or,
    3. The owner of the property on which the Heritage Tree is located has demonstrated, by way of an ISA certified arborist evaluation, clear and convincing evidence, meeting the standards set forth in ANSI A300 (Part 9) standards, that the owner will suffer extreme and extraordinary hardship unless the permit is granted.
  - ii. In all cases where removal is permitted, the said tree shall be relocated if deemed feasible by the Urban Forester and the cost of relocation does not exceed five hundred dollars (\$500.00). Otherwise said tree shall be replaced in coordination with and approval by the Urban Forester.
2. *Appeal of grant or denial of permit*. Appeals of either a grant or denial of a permit by the Urban Forester shall be to the City Council and may be taken by the applicant, by any officer, department or board of the city affected by any decision, or by any person aggrieved by the decision by filing a written notice of appeal with the Urban Forester and the City Clerk within fifteen (15) days from the date of the decision. The notice of appeal shall specify the particular grounds upon which the appeal is taken. Upon receipt of the notice of appeal, the Urban Forester shall transmit to the City Clerk all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed is based. Any person aggrieved by the decision of the City Council may appeal the decision in accordance with State Code.

## **Article VII. Trimming or Removal of Public Trees.**

1. No tree shall be removed, cut, trimmed or damaged from any public right-of-way except as provided by the Mobile Tree Act, in accordance with the rules and regulations of the Mobile Tree Commission.
2. No Public Tree located on any City property other than a public right-of-way shall be removed without first filing a notice of intent with the Tree Commission at least two (2) weeks prior to obtaining a Resolution of Authority from the City Council. Said resolution and notice of intent requirements shall be in lieu of obtaining a permit from the Urban Forester. The foregoing provision shall not apply to public trees whose removal is authorized by the Urban Forester.



## Article VIII. Tree Protection

1. Tree protection during construction.
  - a. It shall be unlawful for any person in the construction of any structure or other improvement to conduct non-selective root pruning within the Critical Root Zone (CRZ) as described in ANSI A300 (Part 5) of any tree retained on a land development or improvement, and selective root pruning shall be conducted under the supervision of an ISA certified arborist as described in ANSI A300 (part 8) Best Management Practices.
  - b. It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery, or temporary soil deposits within the Critical Root Zone (CRZ) as described in ANSI A300 (Part 5) of any tree retained on a land development or improvement.
  - c. 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 or wires shall be attached to any of said trees so protected.
  - d. Except for sidewalks, driveways, and streets, no person shall pave with concrete, asphalt, or other impervious material within eight (8) inches per one (1) inch of DBH of any remaining Heritage Tree, not to exceed five (5) feet. The Urban Forester shall have the discretion to waive this requirement.
2. *Emergencies.* In case of emergencies, such as hurricane, windstorm, flood, freeze, or other disasters, the requirements of these regulations may be waived by the Urban Forester, upon a finding that such waiver is necessary so that public or private work to restore order in the City will not be impeded.
3. *Exemptions.* The provisions of this Article shall not apply to any land recognized by the City upon which Bona Fide Agriculture or a Commercial Nursery or Tree Farm are being conducted, which land exceeds ten (10) acres. This exception shall not be interpreted to include timber harvesting incidental to imminent development of the land.

## Article IX. Tree Trimming/Removal Companies.

1. *Applicability.* All provisions of this Chapter shall apply to any person removing trees on behalf of any other person, including tree removal companies, construction companies, or persons in the business of removing or trimming trees.
2. *Display of permit; inspection.*
  - a. The applicant shall prominently display on the site the permit issued.
  - b. Such permit shall be displayed continuously while trees are being trimmed, removed, or replaced, or work is being done as authorized on the permit, and for ten (10) days thereafter.
  - c. It shall be unlawful for any person or company to trim, remove, or cause to be trimmed or removed, any tree, or undertake any work for which a permit is required pursuant to this Chapter, unless a valid permit therefor is in effect and is displayed in accordance with the provisions of this Article.

- d. If any such work or removal is performed without the permit being displayed as required in this Article, such removal or work shall constitute a violation of this Chapter and shall subject the person or company violating this Chapter to all penalties provided for herein.
  - e. As a condition for the issuance of the permit, the applicant shall agree in writing to entry onto his premises by representatives of the city and all law enforcement officers to inspect at any time the permit and all work being done pursuant to the permit, and such entry shall be lawful. Failure to allow such entry shall be unlawful, shall constitute a violation of this Chapter and shall constitute failure to display the permit as required under this Chapter.
- 3. *Arborists' license and bond.* It shall be unlawful for any person, individual, corporation, institution, or agent of such, to engage principally in the business or occupation of trimming, pruning, fertilizing, or removing trees within the corporate limits of the City of Mobile, without first applying for and procuring the appropriate business license from the City. All arborists must abide by all relevant State laws and requirements.
- 4. *Trimming or removal of trees in public rights-of-way or City parks.*
  - a. Trimming or removal of trees in public rights of way or city parks by private companies, corporations or individuals must be done under the supervision of a properly certified, licensed and bonded arborist. Trimming or pruning shall comply with ANSI A300 standards.
  - b. Where federal, state, and local laws require the certification of any person, individual, corporation, institution, or agent of such, to utilize the services of workers certified to practice arboriculture, said certification shall apply, in addition to having a business license from the city.
  - c. Before any permit is issued for work within the public right-of-way, public parks or other City properties, the applicant shall:
    - i. Provide a performance bond to the Urban Forester, either in the amount of ten thousand dollars (\$10,000.00), or in the minimum amount specified by the City for the type of development activity being performed, whichever amount is the greater of the two:
    - ii. Furnish the City with a Certificate of Insurance evidencing that the applicant has insurance coverages acceptable to the City with a company licensed and qualified to do business in the State of Alabama, including comprehensive general liability, bodily injury protection, indemnity, completed operations, personal injury protection, and worker compensation, in compliance with requirements mandated by the City's Legal Department. All policies of insurance must have Additional Insured provisions and be endorsed to provide coverage to the City and its officers and employees as additional insureds, and the Certificate of Insurance shall evidence that the City and its officers and employees are additional insureds under all policies. The Certificate of Insurance shall further provide that the City must receive sixty (60) days written notice of cancellation, non-renewal, or change in the insurance coverage before the effective date of any such cancellation, non-renewal, or change in the insurance coverage. Any cancellations or lapses of such insurance shall be deemed a material breach of contract.
    - iii. Agree in a writing acceptable to the City Legal Department to indemnify and hold the City, its officers and employees, whole and harmless from and against all

costs, liabilities, and claims for damages of any kind (including judgments, interest, attorney's fees, and costs of investigation and defense) arising out of the performance of any work under the permit or within the public right-of-way, public parks or other City properties.

- iv. Provision of proper certification that an ISA (International Society of Arboriculture) certified arborist will be responsible for the work.

## **Article X. Tree Abuse.**

1. *Removal, abuse or mutilation of Public Trees or Heritage Trees.* No person shall:
  - a. Damage, cut, carve, transplant, mutilate, abuse, poison or remove any Public Tree or Heritage Tree;
  - b. Attach any rope, wire, nails, advertising posters, or other contrivance to any Public Tree or Heritage Tree;
  - c. Allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with any such tree;
  - d. Damage roots within the critical root zone (CRZ) through non-selective root pruning as opposed to selective root pruning as described in ANSI A300 (part 8) Best Management Practices, including roots damaged during curb cuts, sidewalk and driveway installation and repair.
2. Utility line clearing in conformance with International Society of Arboriculture, National Arborist Association Standards and the National Electrical Safety Code clearances does not constitute tree abuse.
3. No action in removing or trimming trees due to lightning, hurricanes, or other natural disasters shall be considered tree abuse.
4. The removal of trees for which permits have been issued shall not be prohibited by this Article.
5. No curb cuts which involve Public Trees or Heritage Trees shall be allowed without prior coordination with the Urban Forester.
6. Notwithstanding the foregoing, Heritage Trees may be removed pursuant to a properly filed and approved landscape plan.

## **Article XI. Enforcement.**

1. *Interference with the Urban Forester.* No person shall hinder, prevent, delay, or interfere with the Urban Forester, the Tree Commission, or any other duly authorized individual, while engaged in carrying out the execution or enforcement of this Chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality.

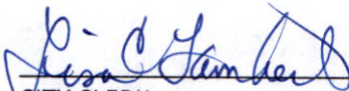
2. *Punishment.* Any person found guilty of violating any of the provisions of this Chapter shall be punished as prescribed in Chapter 1, Article II, Division 2, Mobile City Code, with a fine not to exceed five hundred dollars (\$500) per violation, plus court costs and restitution as may be ordered by the Court, and/or by imprisonment for a period not exceeding three (3) months, and/or by community service for a period not exceeding three (3) months, or by a combination of any of the foregoing, all at the discretion of the judge. It is recommended that any such restitution be based on the most current version of the American Society of Consulting Arborists (ASCA) Tree and Plant Appraisal Process, should sufficient evidence of such process be presented.

**SECTION TWO.** The provisions of this Ordinance are supplemental and shall not be construed to repeal any other ordinance or law except to the extent of any conflict, in which case the provisions of this Ordinance shall prevail.

**SECTION THREE.** The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

**SECTION FOUR.** This Ordinance shall be in full force and effect within the City of Mobile from and after its adoption and publication as required by law.

ADOPTED:      **MAR 16 2021**

  
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CITY CLERK