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ORDINANCE NO. 278



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Book 2368 Page 807 Thru 810
Tommy Joe Harvey, Chancery Clerk
Simpson County Mississippi

ORDINANCE REQUIRING A LICENSE FOR PERSONS OR BUSINESSES TRIMMING, CUTTING OR REMOVING TREES FOR A FEE.

WHEREAS, the Mayor and Board of Aldermen of the City of Magee, Mississippi have determined that certain businesses within the City of Magee, Mississippi are trimming, cutting or removing trees for a fee.

WHEREAS, it has been determined that said businesses should be licensed for the protection of the citizens of the City of Magee, Mississippi.

WHEREAS, the Mayor and Board of Aldermen of the City of Magee, Mississippi, have determined the need to establish regulations regarding the trimming, cutting and removal of trees within the city limits of the City of Magee, Mississippi; and therefore adopt the following regulations and penalties.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF MAGEE, MISSISSIPPI, THAT THE FOLLOWING BE ADDED TO AND MADE A PART OF THE MAGEE CODE OF ORDINANCES, TO-WIT:

Section 1. DEFINITION: A tree trimmer and cutter means any person who, for a fee, engages in any manner in trimming, cutting or removal of trees that are a minimum of 10 inches in diameter or 30 feet in height.

Section 2. LICENSE REQUIRED: It shall be unlawful for any person or business to act or operate as a tree trimmer and cutter in the City of Magee, Mississippi, without obtaining a license prior thereto.

Section 3. APPLICATION: Any person desiring to become a tree trimmer and cutter in the City of Magee, Mississippi shall apply to the Building Inspector in writing for a license. The application shall state the name and address of the applicant; whether the applicant is an individual, partnership, LLC or corporation; and the number, make and style of vehicles to be used by the applicant in carrying on the business of tree trimmer and cutter.

Section 4. INSURANCE:

A. No person shall be issued a license required by this Ordinance until the applicant furnishes the City with the following insurance policies or certificates of insurance;

1. A public liability insurance policy in the sum of at least two hundred thousand dollars (\$200,000.00) for bodily injury to each person, five hundred thousand dollars (\$500,000.00) for bodily injury for each accident and two hundred thousand dollars (\$200,000.00) for property damage for each accident. Said

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123 MAIN AVEN.
Magee, MS
39111

insurance shall cover all operations including the applicant's own direct work, work performed by subcontractors, and all equipment used in the business.

- B. Such policy or certificate shall provide that it may not be cancelled by the insurer except after ten (10) days written notice to the Building Inspector, and if such insurance is so cancelled and the licensee shall fail to replace the same with another policy conforming to the provisions of this Section, said license shall also be automatically suspended until such insurance shall have been replaced.

Section 5. REMOVAL OF DEBRIS: Within 15 days of ending of any work on public or private property, licensee shall clean the work site and remove all wood and debris from the property and public rights-of-way. Licensees are responsible for the legal disposal of all debris. Debris resulting from the work of a licensed tree trimmer or cutter may not be left on private or public property for pick up and disposal by the City. Debris infected with any disease must be disposed of according to DEQ or Department of Agriculture guidelines.

Section 6. TERM AND FEE: A tree trimmer and cutter license shall be operative and valid, unless first terminated, suspended or revoked, for a term of one (1) year commencing on January 1 of the year of issuance and terminating on December 31 of the same year. The annual license fee shall be \$25 payable to the City of Magee upon application for a license. Any license obtained in 2017 shall be valid until Dec. 31, 2018.

Section 7. RENEWAL: A tree trimmer and cutter license may be renewed by filing a license renewal form with the Building Inspector, on or before December 10 of each year, and payment of the \$25.00 license fee. Such form shall supply any changes in information supplied by the initial registration form.

Section 8. LICENSE – SUSPENSION OR REVOCATION:

- A. The Building Inspector is authorized to suspend or revoke a tree trimmer and cutter license in conformity with the provisions of this Section.
- B. No tree trimmer and cutter license shall be suspended until after an administrative hearing before the Building Inspector. The licensee shall be given no less than five (5) days written notice of the hearing. Such notice shall contain the time, date, and place of the hearing and a list of the alleged violations which will be considered at the hearing. Notice may be sent by certified mail to the address on the license application. The Building Inspector shall conduct the hearing, dispose of procedural requests, motions and similar matters, continue the hearings from time to time when necessary, and rule on the admissibility of evidence. Witnesses may be sworn, but the strict rules of evidence shall not apply.

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C. The Building Inspector may, after notice and hearing, suspend or revoke a tree trimmer and cutter license for any of the following reasons:

1. The licensee has violated any state or federal laws or violated any City ordinance regulating or relating to tree servicing business;
2. The willful making of any false statement as to a material fact in the license application or renewal;
3. The permitting of any violation of state law or city ordinance by the licensee;
4. Failure to conduct the licensed business in compliance with all applicable City, County, or State laws, and all regulations and lawful orders of any regulatory bodies;
5. Suspension or revocation of the license of the licensee by state governing body;
6. Suspension or revocation of the legal status of the licensee, such as, but not limited to, suspension or revocation by the Secretary of State of the right to transact business in Mississippi;
7. Failure to pay any fee or tax due to the City of Magee.
8. Any appeal will be to the Board of Alderman and then to Simpson County Chancery Court. A Notice of Appeal must be filed, in writing, with the City Clerk within ten (10) days of any decision.

Section 9. PENALTY: Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) and not more than one thousand dollars (\$1,000.00), plus the cost of cleanup or other expenses incurred by the City of Magee, for each offense, as a result of the violation. Each day that any such violation or failure continues shall be considered as a separate, distinct offense and shall be punishable as such.

Section 10. PUBLICATION: That the City Clerk shall cause this Ordinance to be published at least one (1) time in the Magee Courier, a newspaper authorized by law to publish legal notices in the City of Magee, Mississippi.

Section 11. EFFECT: This Ordinance shall take effect and be in force as provided by law.

THE ABOVE AND FOREGOING ORDINANCE was first reduced to writing and read, considered and approved, section by section, and approved as a whole and in its entirety at the regular public meeting of the Mayor and Board of Aldermen on the 15th day of August, 2017 at the City Hall in the City of Magee, Mississippi, the regular meeting place of the Mayor and Board of Aldermen of said City, and the vote on its final passage was taken by "yeas" and "nays".

A motion to adopt the forgoing Ordinance was made by Alderman Brister and said motion was duly seconded by Alderman

Hickman. Whereupon, the motion was put before the Board of Aldermen who voted as follows:

	YEA	NAY
Angel Brister	<u>X</u>	_____
Whitney Baker	<u>X</u>	_____
Matthew Hickman	<u>X</u>	_____
Patrick Brown	<u>X</u>	_____
Lane Steele	<u>Abstained</u>	

The Ordinance having received the affirmative vote of a majority of the members of the Board of Aldermen of the City of Magee, Mississippi, Mayor Dale Berry declared said Ordinance to have been fully adopted and to be in full force and effect according to its provisions.

SO ORDERED, this the 15th day of August, 2017.

Dale Berry
DALE BERRY, MAYOR

ATTEST: *Lane Yearby*
LANE YEARBY,
CITY CLERK