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ORDINANCE NO. 15, 2016

AN ORDINANCE OF THE CITY OF PARK HILLS, KENTUCKY, AMENDING § 30.043 OF THE PARK HILLS CODE OF ORDINANCES TO ESTABLISH A NEW SUBSECTION THAT IMPOSES REQUIREMENTS FOR DEVELOPMENT PLANS

WHEREAS, the City of Park Hills is a Tree City USA and is committed to maintaining, increasing, and improving its tree canopy and to maintaining the beauty and quality of life in the City, while reducing energy costs and increasing property values;

WHEREAS, the City of Park Hills City Council determines that in order to protect and improve its tree canopy, the City must impose tree plan requirements on development projects;

BE IT ORDAINED BY THE CITY OF PARK HILLS, KENTUCKY:

Section 1

Section 30.043 of the Park Hills Code of Ordinances shall be amended as follows:

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGREGATE DIAMETER INCHES. Sum of all tree trunk diameters (in inches DBH) for all native trees on a property that are 6 inches DBH or greater.

CALIPER INCHES. The standard diameter measurement of tree nursery stock measured at 6 inches above the root ball.

CANOPY TREE. A tree species that is capable of growing to such heights that its branches form the upper level of a forest.

CITY TREE. A tree located on property owned by the City or in the public right-of-way.

DIAMETER AT BREAST HEIGHT (DBH). The diameter in inches of a tree measured at 4 1/2 feet above the existing grade.

DISTURBANCE LIMITS. Any portion of the property that will be cleared, filled, trenched, or disturbed in any way for the purpose of developing the property.

DRIP LINE. The vertical projection onto the ground of the tips of the outermost branches of a tree.

LANDMARK TREE. Any tree designated and identified as such by the Tree Board.

DRAFT

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city or to which the public has free access as a park.

PROTECTIVE BARRIER. A barrier constructed to protect the root system, or trunk of a tree, from damage during construction, or from equipment or soil or material deposits.

STREET TREES. Trees, shrubs, bushes, and other woody vegetation on land lying in rights-of-way on either side of all streets, avenues, or ways within the City.

(B) *City Tree Board.* There is hereby created and established a Tree Board which shall have a membership of five persons, each of whom shall be a citizen and resident of the city. A Chairperson and four members shall be appointed by the Mayor with the approval by the Council.

(C) *Term of office.* The term of office of the members of the Tree Board shall be two years. In the event a vacancy occurs during the term of any member, a successor shall be appointed for the unexpired portion of the term by the Mayor with the approval of Council.

(D) *Compensation.* Members of the Tree Board shall serve without compensation.

(E) *Plan.*

(1) It shall be the responsibility of the Tree Board to study, investigate, counsel, develop, and update annually, and administer a written plan for the care, preservation, pruning, replanting, removal, or disposition of park trees and street trees.

(2) Such plan will be presented annually to the City Council and, upon its acceptance and approval, shall constitute the official comprehensive tree plan for the city.

(3) The Board, when requested by the city, shall consider, investigate, make findings, report, and recommend upon any special matter or question coming within the scope of its work.

(F) *Procedure and rules.*

(1) The Board shall, with the exception of the office of Chairperson, choose its own officers, make its own procedural rules and regulations, and keep a journal of its activities.

(2) A majority of the members shall be a quorum for the transaction of business.

DRAFT

(G) *Maintenance.*

(1) The city shall have the right, but not the duty to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to ensure public safety or preserve or enhance the symmetry and beauty of such public grounds.

(2) The Tree Board may remove or cause or order to be removed 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, injurious fungus, insects, or other pests.

(H) *Topping.*

(1) It shall be unlawful as a normal practice 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 of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

(2) Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this section at the determination of the Tree Board.

(I) *Owner's duties.*

(1) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches, so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk.

(2) Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

(3) The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

(J) *Removal.* The city shall have the right to cause the removal of any dead or diseased trees on private property including within abutting rights-of-way within the city when such trees constitute a hazard to life and property, or harbor insects or disease constituting a potential threat to other trees, property, or persons within the city. The

trees constitute an imminently dangerous condition and may be removed pursuant to the provision set forth in § 91.25(A).

(K) *Interference prohibition.* It shall be unlawful for any person to prevent, delay, or interfere with the Tree Board or any of its agents or servants while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street tree, park trees, or trees on private grounds as authorized in this section.

(L) *License required.*

(1) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for an occupational license.

(2) No license shall be required of any public service company or city employee doing such work in the pursuit of his, her, or its public service endeavors.

(3) Before any license is issued, each applicant shall first file evidence or possession of liability insurance in the minimum amounts of \$25,000 for bodily injury and \$10,000 property damage indemnifying the city of any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(M) *Review.* The Council shall have the right to review the conduct, acts, and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the Council who may hear the matter and make the final decision.

(N) *Requirements for Development Plans in All Zoning Districts in the City.* The following requirements shall apply for all development plans submitted for a development.

(A) (1) In conjunction with any development plan, an applicant shall submit an initial supplement that contains: a map, a tree inventory, a narrative, and a tree planting plan if applicable. This supplement shall be submitted to city staff to review for completeness. Following submission of an initial plan the City or the Tree Board may request further supplementation consistent with the purposes of this chapter.

(a) The map shall:

(i) show the approximate location of each tree on the property over six (6) inches DBH; and

(ii) assign an identification number to each tree shown; and

(iii) indicate the disturbance limits of the proposed development; and

(iv) specify which of the identified trees are to be saved and which will be lost due to construction; and

(vi) be drawn at a scale not exceeding one inch to fifty feet; and

(vii) show topography (not less than 5' increments), existing and proposed utilities, existing and proposed easements, buildings, property lines, the forest or existing vegetation edge (if applicable), a north arrow, and a graphic scale.

(b) The tree inventory shall be in tabular form and shall:

(i) list each tree over six inches DBH on the property identified on the map; and

(ii) include the identification number of each tree corresponding to the map; and

(iii) include the scientific name, common name, and DBH of each identified tree; and

(iv) indicate whether the identified tree is a native or non-native species; and

(v) indicate whether the identified tree will be saved or will be lost due to construction; and

(vi) provide the aggregate diameter inches of identified, native trees on the property, the total diameter inches of identified, native trees to be saved, and the total diameter inches of identified, native trees to be removed.

Without limiting the requirements of this section, a tree inventory may take substantially the following form.

Example table:

<u>Identificati on Number</u>	<u>Species</u>	<u>Common Name</u>	<u>DBH</u>	<u>Native</u>	<u>Saved</u>
1	<i>Quercus bicolor</i>	swamp white oak	45	Yes	Yes
2	<i>Acer rubrum</i>	red maple	15	Yes	No
3	<i>Fagus grandifolia</i>	American beech	8	Yes	No
4	<i>Ailanthus altissima</i>	tree of heaven	28	No	No

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<u>Native aggregate diameter total:</u>	68	
<u>Native aggregate diameter to be lost:</u>	23	34%
<u>Native aggregate diameter to be saved:</u>	45	66%

(c) The narrative shall:

- (i) state the aggregate diameter inches of identified, native trees on the property;
- (ii) explain how the proposed development will meet these requirements
- (iii) explain what measures will be taken during construction to protect those identified trees that will be saved.

(d) If the applicant proposes to meet the requirement in 3(a) by planting trees, the initial supplement shall include a tree planting plan which shall:

- (i) include a schematic that indicates the location, tree species, and size of each tree to be planted in relation to the development improvements, utilities, hardscape (includes access drives, parking lots, buildings, retaining walls, sidewalks, etc), grading, and saved trees; and
- (ii) graphically show at least 200 square feet of contiguous rooting space per tree to support long-term growth for each proposed tree.

(2)(a) All supplements shall be prepared by a qualified professional such as landscape architect, arborist, forester or other appropriate pre-approved professional acceptable to the Tree Board.

(b) Subject to the authority of the City, the Tree Board shall:

- (i) review each supplement for compliance.
- (iii) provide the Planning Commission with comments and recommendations with respect to the applicant's submission, including the applicant's proposal for permanent protection of a forest and/or existing trees identified to remain.

(3)(a) Except as otherwise provided in this paragraph, any proposed development shall preserve sixty percent (60%) or more of the aggregate diameter inches of the identified, trees and native trees on the property.

(b) If it is impracticable to preserve 60% or more of the aggregate diameter inches of trees on the site, the excess aggregate diameter inches removed may be replaced at a ratio of one and one-half (1.5) caliper inches of replacement for every one (1) inch DBH removed. Any replacement tree shall be native to the region, selected from the Reforestation column on the City of Park Hills Preferred Tree List. Replacement tree locations shall be shown on the tree planting plan. The City of Park Hills Tree Board must approve any plan causing the removal of trees and native trees. The City of Park Hills and the Tree Board have the responsibility to protect the Tree Canopy of the City and maintain the requirements to be a Tree City USA.

(B) (1) Any protected trees located near the disturbance limits shall be conspicuously marked with suitable protective tree barriers. Protective tree barriers shall be installed prior to construction. They shall be a minimum height of four feet above ground level around the outermost dripline (at a minimum) of the tree protection zone. Tree protection zones shall be delineated with typical temporary construction fencing or continuous rope or flagging. In either case, the tree protection barrier shall be accompanied by "Tree Save Area" signage, placed around the tree protection zone not more than every 20 feet.

(2) The layout of development improvements, utilities, access drives, grading, and the like of a site shall not be installed within tree protection zones/barriers. If the applicant determines that public improvements and/or utilities must be placed within a tree protection zone, their installation shall occur by way of tunneling rather than trenching.

(3) Construction site activities including, but not limited to grading, material storage, parking, or concrete washout shall not encroach upon any protected tree's drip line.

REQUIREMENTS PERTAINING TO ALL ZONING DISTRICTS AND ALL PROPERTY OWNERS IN THE CITY OF PARK HILLS

(1) Any trees removed in the City of Park Hills by the City or the property owner must be replaced by trees on the City's list of approved trees. All stumps of dead trees must be removed by the property owner.

(2) Dead trees must be removed by the property owner at the property owner's expense. Any dead tree threatening the right-of-way or life safety must be removed by the property owner at the property owner's expense.

(3) Developers or property owners removing three or more trees either protected or not protected must have prior approval of the City of Park Hills Tree Board. Any tree removed must be replaced at the developer's or property owner's expense.

DRAFT

(4) Removing trees that support endangered species are strictly prohibited and must have the prior approval of the City of Park Hills.

Section 2

Any and all ordinances in conflict with this Ordinance shall be, and hereby are, repealed to the extent of said conflict.

Section 3

That should any section or part of any section or any provision of this Ordinance be declared invalid by a Court of competent jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Ordinance.

Section 4

That this Ordinance shall take effect and be in full force when passed, published and recorded according to the law.

PASSED by the City Council this _____ day of _____, 2016.

CITY OF PARK HILLS, KENTUCKY

BY: _____
Matthew Mattone, Mayor

First Reading: _____

Second Reading: _____

Attest:

Julie Alig, City Clerk