

ORDINANCE NO. 2, 2019

AN ORDINANCE OF THE CITY OF PARK HILLS, IN KENTON COUNTY, KENTUCKY, AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES TO REQUIRE THE TREE BOARD TO DEVELOP AN ANNUAL PLAN FOR THE CARE, PRESERVATION, PRUNING, REPLANTING, REMOVAL, OR DISPOSITION OF PARK TREES AND STREET TREES.

WHEREAS, the City Council recognizes that the City of Park Hills does not have the budgetary capacity to monitor the health of every single City tree;

WHEREAS, the City Council, nevertheless, desires to implement a tree inventory process to develop a prioritized list of trees that must be removed for the safety of Park Hills residents;

WHEREAS, the City Council, supports the values of being A Tree City USA and is committed to maintain, increase and improve the Tree Canopy of the City. A healthy Tree Canopy supports the beauty and quality of life in the City, while reducing energy costs and increasing property values;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PARK HILLS, KENTUCKY, AS FOLLOWS:

SECTION 1

§30.043 CONSERVATION/TREE BOARD, 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.

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.

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 up to seven persons, each of whom shall be a citizen and resident of the city. A Chairperson and the 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.* A plan submitted to council by the Tree Board for review and approval. The City provides the Plan funding.

(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 with budget 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.

(4) The Board shall authorize periodically an inventory utilizing a certified arborist to identify as many park trees and street trees as allowed by time and budget, for the purpose of creating a list of park trees and street trees to be removed and replanted based on priority (the “Tree Inventory”). The Board’s annual plan shall include the Tree Inventory. The Tree Inventory shall identify the problem(s) associated with the park and/or street tree(s) as follows:

Tree Problem Key	
1	Dead or Dying
2	Cavity or Decay
3	Pest Problem
4	Poor Structure
5	Exotic Invasive Species
6	Other

(5) The Tree Board shall have the ability to contract with consultants, experts and certified arborists to assist the Tree Board in identifying tree problems and to assist in the development of the comprehensive plan.

The City Council’s acceptance and approval of the Board’s annual plan shall include a determination, based on the budget and the recommendations of the Board, as to what park and/or street tree(s), if any, shall be removed during the following year.

(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.

(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. The enforcement of such removal, replanting, pruning will be the responsibility of the City, a city employee, officer or other official, and not the Tree Board.

(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 at the owner's expense 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.

(4) The City shall have the right to cause the planting of a new tree to replace a dead or diseased tree on any street or right-of-way which has been removed for any reason. The planting of any tree must comply with the City Tree Board's list of approved trees. Park Trees and Street Trees removed must include all parts of the tree including the removal of the tree stump. The replacement tree must be planted no closer than five feet from the removed Park or Street Tree, or whatever is recommended for best growth.

(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). Park Trees and Street Trees removed must be replanted within one year and replanted from the Tree Board's list of approved trees. The City shall have the right to cause the replanting of such trees.

(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. Any Public service company or City employee must comply with this or any City ordinances.

(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.

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

If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

SECTION 4

That this ordinance shall become effective upon its passage and shall be published under KRS §83A.060(9) and other applicable law.

Passed by City Council on April 8, 2019.

CITY OF PARK HILLS, KENTUCKY

By: _____
Kathy Zembrodt, Mayor

ATTEST:

Julie Alig, City Clerk

FIRST READING: _____

SECOND READING: _____

PUBLICATION: _____