

**TOWN OF ROGERSVILLE
BOARD OF MAYOR AND ALDERMEN**

ORDINANCE NO. 4-12-05-1

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR THE
CONSERVATION, PROTECTION AND MANAGEMENT OF TREES LOCATED
WITHIN THE CORPORATE LIMITS OF THE TOWN OF ROGERSVILLE.**

WHEREAS, the Board of Mayor and Aldermen is of the opinion that trees provide unique benefits to the community both aesthetically and economically; and,

WHEREAS, the Board of Mayor and Aldermen of the Town of Rogersville is desirous of adopting an ordinance to provide for the conservation, protection and management of trees within the corporate limits of the Town of Rogersville; and,

NOW, THEREFORE, BE IT HEREBY ORDAINED:

That the following ordinance be and is hereby adopted as the Rogersville Tree Conservation, Protection and Management Ordinance as follows:

1-101. Purpose and Intent.

The purpose and intent of this ordinance is to encourage the conservation, protection and management of trees on public property within the Town of Rogersville, Tennessee because of the unique benefits they provide the community in assisting the natural control of solar heat, soil conservation, flood control, air pollution and noise; in providing a haven for birds and wildlife; in providing citizens with relief from aesthetic degradation of the man-made environment; in helping to increase the economic appeal of the community; in helping to maintain the overall aesthetic appeal of the town for both its citizens and guests; encouraging proper species planting, maintenance and care of trees and shrubs on private property; and to generally educate the citizenry on all of the above.

1-102. Definitions.

- a) Tree – a woody plant with a single trunk, or multiple trunks capable of growing to a height greater than fifteen (15) feet.
- b) Shrub – a woody plant with a multiple stem capable of growing to a height of up to fifteen (15) feet.
- c) Public Tree – a tree originating on any real property owned in fee by the town.
- d) Private Tree – a tree originating in an area owned by a private entity.
- e) Town Property: All real property that is owned or leased by the town.
- f) Town Right-of-Way: Property offered for dedication, and used or accepted as a public right-of-way.
- g) Diameter of Breast Height (DBH): A standard measure of tree size, being the diameter of a tree measured at a height of four and one-half (4.5) feet above the ground.

- h) Maintenance Standards: Generally accepted standards for maintenance of trees as set forth by the American National Standards Institute and published by the International Society of Arboriculture in the following publications:
 - i. ANSI A300 (part 1) – 2001
 - ii. ANSI A 300 (Part 2) – 1998
 - ANSI A 300 (Part 3) – 2000
 - ANSI Z133 – 2000
- i) Park: All town public parks.
- j) Planting Plan: A scaled drawing depicting all plant materials, specifications, and any other reasonable information required by the landscape specialist to evaluate permit applications.
- k) Parkway: The part of a public street or highway right of way not covered by sidewalk or other paving, lying between the adjacent property line and that portion of the public street or highway used for vehicular traffic.
- l) Property Owner: The owner of record or any person owning an interest in property including a lien holder.
- m) Public Trees: Trees growing on any real property owned in fee by the Town.
- n) Topping: The severe cutting back of limbs or trunks within the canopy of a tree so as to remove the normal canopy and disfigure the tree.
- o) Urban Forest: All trees located within the Town.
- p) Park Trees: Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and in all areas owned by the town or to which the public has free access as a park, such as a bike, jogging or walking trail or small street or civic garden.
- q) Street Trees: Trees shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the town.

1-103. Creation and Establishment of a Tree Board

There is hereby created and established a Tree Board (the “Board”) for the Town of Rogersville, Tennessee.

- a) Board Members. The Tree Board shall consist of 7 members to be nominated by the Mayor and approved by the Board of Mayor and Aldermen. The Board shall also be composed of the following ex-officio members: the Mayor, a representative of Parks and Recreation, a representative of the Street Authority, the local representative of the State Forestry Office and a representative from all utilities operating within the Town. Ex-officio members do not vote and serve only in an advisory capacity. Ex-officio membership is contingent upon maintaining the position for which the membership is created.
- b) Term of Office. The term of office for the initial members of the Board shall be staggered as follows: Three (3) members shall serve for one (1) year, two (2) members shall serve for two (2) years, and two (2) members shall serve for three (3) years. The term of office for all subsequent members shall be unlimited.

- c) Removal. Any member may be removed for any reason by a majority vote of the remaining Board members. Any member may be removed by the Board of Mayor and Aldermen through process consistent with their standard procedures.

1-104. Operation

The Board shall elect its own officers, make its own rules and regulations not inconsistent with the provisions of this ordinance and keep a record of all proceedings. A majority of members shall constitute a quorum, and a quorum must be present for the transaction of business.

1-105. Duties and Responsibilities

The duties of the Board shall include, but not be limited to, the following:

- a) Prepare a tree plan for the community, and to further modify, develop and review said plan when necessary or upon recommendation.
- b) Coordinate and assist in tree-related activities.
- c) Provide tree information to and otherwise educate the community.
- d) Maintain a recommended tree list for the community.
- e) Recognize groups and individuals completing tree projects.
- f) Coordinate publicity concerning trees and tree programs.
- g) Coordinate donations of trees or money to purchase trees.
- h) Adopt rules and regulations pertaining to the tree program.
- i) Perform other tree related duties and opportunities that vary from time to time.
- j) Recommend any ordinance to the Mayor and Board of Mayor and Aldermen that the Board finds appropriate.
- k) Hold public hearings at the request of an individual whose private tree has become subject to the authority of the Tree Board or the Town of Rogersville in accordance with this chapter.

1-106. Compensation

The Board shall serve without compensation.

1-107. Trees to be Planted on Public Property

The Board will compile and have available to any citizen an exclusive list of trees to be planted on public property within the Town of Rogersville. The trees on said list shall be divided into three size species: small, medium and large. The Board reserves the right to amend or otherwise modify the list of acceptable trees in accordance with the rules and regulations adopted by the Board.

1-108. Spacing

The spacing of street trees will be in accordance with the three species size classes referenced in Section 1-107 of this ordinance, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; large trees, 50 feet. Any deviation from the foregoing must first be submitted to the Tree Board for approval.

1-109. Distance from Curbs and Sidewalks

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes referenced in Section 1-107 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 4 feet; large trees, 6 feet. Any deviation from the foregoing must first be submitted to the Board for approval.

1-110. Distance from Street Corners and Fireplugs

No street tree shall be planted within 20 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within 8 feet of a fireplug.

1-111. Utilities

No street tree other than those listed as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

1-112. Public Tree Care

The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the property lines of all streets, alleys, avenues, lanes, squares and public grounds, and any other public property within the town as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Board may remove, cause or order to be removed any tree, public or private, 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, water lines or other public improvements or is infected with any injurious fungus, insect or other pest, or for some other reason poses a threat to safety, property or other plant or wildlife.

1-113. Trees Originating on Private Property

- a) Trees overhanging public property and obstructing view at intersection. The owners of trees originating on private land and overhanging public property shall maintain their trees in such a condition that they present no public safety hazard. The Board or the Town of Rogersville may require tree owners to adequately remedy any potential public safety hazard presented by their tree. If the tree owner refuses or neglects to take the prescribed and appropriate action, or the action taken fails to remedy the potential public safety hazard, the Board or the Town of Rogersville may unilaterally remedy or cause to be remedied the potential public safety hazard in accordance with the procedures outlined in 1-113 c), d) and e).

- b) Dead or Diseased Trees. The Board or the Town of Rogersville shall have the right to cause the removal of any trees that are dead or diseased on private property within the town when such trees constitute a hazard to life, property or public trees.
- c) Notice; Procedure for Remedy/Removal; Costs. In the instances described in sections 1-113 a) and b), the Board or the Town of Rogersville shall determine which tree or trees are to be pruned, trimmed or removed. The owner of the trees will be notified in writing of such proposed removal, stating the reason for trimming or removal and the location of said tree or trees to be trimmed or removed. If the owner desires to contest the proposed action, he shall, within ten (10) days from the date of notice, request in writing a hearing before the Board. If it is determined by the Board after said hearing that the tree or trees are to be trimmed or removed, the removal shall be done by said owner at the owner's expense within sixty (60) days after the Board's decision.
- d) Failure to Comply With Decision. In the event the owner fails to comply with the decision of the Board, the Town of Rogersville shall have the authority to carry out the prescribed action. The cost of the necessary action, plus 15% for inspection and other incidental costs in connection therewith, shall be paid by the owner of said lot or parcel of land. If the bill is not fully paid within one hundred twenty (120) days after the mailing of said bill, a ten percent (10%) penalty shall be added and placed on the tax rolls of the Town of Rogersville as a lien upon the property and collected in the same manner as other town taxes are collected.
- e) Trees Presenting an Immediate Threat to Public Safety. The Town of Rogersville may take any necessary action, without notice to the owner, to fully and adequately remedy an immediate threat to public safety imposed by any tree within the town limits, public or private.

1-114. Right to Appeal Decision of Tree Board.

Any interested party shall have the right to appeal the decision of the Board. If the party wishes to contest the decision of the Tree Board, he shall, within ten (10) days from the date of the decision, request in writing a hearing before the Board of Mayor and Aldermen. The Board of Mayor and Aldermen shall hear the mattered nova; however, the Board may be represented at the hearing.

1-115. Removal of Stumps

All stumps of trees on public property shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

1-116. Town Permit and Bond

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 town or otherwise performing any task within the town that could reasonably be assumed to affect in any way the public trees therein without first applying for and procuring a town permit. The permit

application shall be submitted to the Board and shall contain a description of the intended activity, a plan for the implementation of said activity, and a description of the hypothesized affect said activity will have on public trees. The permit fee shall be twenty-five dollars (\$25) in advance and shall extend only to the activity described in the permit application; provided, however, that no permit shall be required of any public service company or town employee doing such work within the scope of his or her employment. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000 for bodily injury and \$100,000 property damage indemnifying the town or any person injured or damaged resulting from the execution of action proscribed by the town or any other action herein described. Permit applications may be denied if the application is not complete, if the intended activity or outcome conflicts with any part of this ordinance or would otherwise endanger public safety or interfere with the use of town property by the town or its citizens. Any activity conducted without the scope of the permit shall be remedied at the applicant's/permit holder's expense, and said entity will be further subject to section 1-119 of this ordinance.

1-117. Tree Topping

It shall be unlawful as a normal practice for any person, firm or town department to top any public tree. Trees severely damaged by storms or related causes, certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance. The public utilities serving the Town of Rogersville are exempted from this ordinance so long as their trimming practices are rationally related to safety and the practical end of their service.

1-118. Interference with Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the Board or any of its agents while they are involved in carrying out the duties authorized in this ordinance.

1-119. Penalty

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$50.00. Each day such violation or failure or refusal to comply continues shall constitute a

This ordinance shall take effect on its final passage, the public welfare requiring it.

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| Passed on First Reading | <u>April 12, 2005</u> |
| Passed on Second Reading | <u>May 10, 2005</u> |
| Public Hearing | <u>June 14, 2005</u> |
| Passed on Third Reading | <u>June 14, 2005</u> |

Jim Sells, Mayor

City Recorder

Approved as to legal form:

City Attorney