

**ORDINANCE 2004-01**

AN ORDINANCE RELATING TO THE MAINTENANCE AND PROTECTION OF THE TREES ON PUBLIC PROPERTY; PROVIDING DEFINITIONS; ESTABLISHING A COMPREHENSIVE PLAN AND TREE BOARD WITH CITY COUNCIL REVIEW/APPEALS; PROVIDING RULES AND REGULATIONS REGARDING TREES; PROVIDING FOR A REPEALER CLAUSE, SEVERABILITY CLAUSE, PENALTY CLAUSE AND AN EFFECTIVE DATE

WHEREAS, the City Council for the City of Russellville, Kentucky, deems it to be in the best interests of the health, safety and welfare of the citizens of Russellville to enact a new Ordinance relating to the trees,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

**SECTION ONE - DEFINITIONS.**

1. "City Tree Official" is the Certified Arborist employed by the City to implement this Ordinance. The City Tree Board will act as the "City Tree Official" until such time as a Certified Arborist might be available.
2. "Street Trees" shall mean all woody vegetation on land lying between a sidewalk and a street.

**SECTION TWO - COMPREHENSIVE TREE PLAN.**

The Tree Board shall have responsibility for implementing the goals and policies of the Comprehensive Tree Plan, subject to final approval by the City Council.

**SECTION THREE - CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.**

There is hereby created and established a City Tree Board for the City of Russellville, Kentucky, which shall consist of five (5) voting members, citizens and residents of the City, at least one of whom shall be a business owner in the downtown business district of the City, and four (4) non-voting members.

1. Non-voting members shall consist of: a designated representative of the City departments of Parks and

Recreation; Streets; Cemeteries; and a representative of the Russellville Electric Plant Board.

2. The Mayor with approval of the Council shall appoint the five (5) voting members.

#### **SECTION FOUR - TERM OF OFFICE.**

The term of the voting members appointed to the Tree Board shall be three (3) years. Each member may be eligible to serve two (2) consecutive three-year terms, if reappointed. When two consecutive full terms have been served, there must be a one-year interval in service before a reappointment can be made. In the event that a vacancy occurs during the term of any member, his or her successor shall be appointed to serve the unexpired portion of the term.

#### **SECTION FIVE - COMPENSATION.**

Members of the Board shall serve without compensation but with protection from individual liability.

#### **SECTION SIX - DUTIES AND RESPONSIBILITIES.**

1. It shall be the responsibility of the Board, at least every three years, to develop a written Comprehensive Tree Plan. Such will be presented to the Council and, upon acceptance and approval, shall constitute the official Comprehensive Tree Plan of the City of Russellville.
2. The Comprehensive Tree Plan shall, at a minimum, include a set of specifications for the selection of species, preparation of site, planting, care and maintenance of trees to be planted in the public places of the City.

#### **SECTION SEVEN - OPERATION.**

1. The Board shall choose its own officers and establish their own procedural rules and keep a record of its proceedings. A majority of the voting members shall be a quorum.
2. All recommendations of the Board shall be reduced to writing within seventy-two (72) hours of the meeting wherein the recommendation was made.
3. The recommendation shall be reviewed by the chairperson of the Board and forwarded to the City Council within forty-eight (48) hours of preparation.

**SECTION EIGHT - REVIEW BY CITY COUNCIL.**

1. Any person may appeal any decision of the Tree Board to the City Council, which may hear the matter and make a final ruling.
2. Any aggrieved party shall file an appeal within thirty (30) days of the recommendation's presentment to the Council.
3. Any notice of appeal shall be filed with the City Clerk. A copy of said notice of appeal shall be delivered to the Tree Board in the person of its Chair.
4. Any recommendation that is presented to the City Council and upon which there is no notice of appeal shall lie over for a period of thirty (30) days from the date of presentment. If the Council takes no action regarding the same, then, and in that event, the recommendation shall be an act of the City and have the force of law and shall be binding.
5. A hearing shall be conducted in open session of a Council meeting upon any recommendation in which an appeal is filed. The date and time of the Council's meeting shall be delivered to the appealing party and the Chair of the Tree Board.

**SECTION NINE - EMERGENCY TREE REMOVAL AND MAINTENANCE.**

1. In the event of an emergency, all City Departments shall have the right to remove or perform maintenance on any Street Tree as necessary to provide for the public safety.
2. Utilities may perform tree maintenance or removal without prior authorization only when such actions are necessary to protect the safety of the public or maintain or restore utility service. The utility company must provide written notice to the City within seventy-two (72) hours of removal. The notice must include an explanation of the emergency and circumstance for the tree removal.

**SECTION TEN - ARBORIST LICENSING 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 City without first applying for, and procuring a license. The license fee shall be \$25.00 annually payable in advance, provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their employment. Before any license shall

be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$500,000.00 for bodily injury and \$1,000,000.00 property damage, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

**SECTION ELEVEN - TREE PRUNING AND MAINTENANCE.**

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 view of any street intersection so that there shall be a clear space of at least eight (8) feet above the surface of the street or sidewalk or clear the line of sight. The City Tree Board shall give thirty (30) days notice to said owners to remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. If the owner fails to remove the condition constituting a safety hazard, the City shall have the right to prune any tree or shrub on private property when it creates a safety hazard, with any cost incurred to be assessed against the property owner.
2. Private parties may have public trees pruned with written permission from the City Tree Board at the party's expense. To obtain permission, the applicant(s) shall:
  - a. Submit a written request to the City Tree Board a minimum of thirty (30) days prior to pruning;
  - b. Identify the tree(s) to be pruned and the specific work to be performed;
  - c. Submit the name of the person or firm proposed to do the work;
  - d. Pay all costs associated with the proposed pruning.
3. The City may prune, spray or otherwise maintain public trees in order to control infestations of insects or disease or to maintain public safety.

**SECTION TWELVE - TREE TOPPING.**

It shall be unlawful for any person, firm or City department to top any Street Tree, park tree, or other tree on public property or in a public easement. "Topping" is defined as the severe cutting back of limbs to stubs larger than three (3) inches in

diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or trees under utility wires or other obstructions where other continuing practices are impractical shall be exempt from this Section.

#### **SECTION THIRTEEN - TREE REMOVAL.**

1. The City may remove any public tree determined to be hazardous or dangerous by the City Tree Board, subject to the following:
  - a. Upon any request by a City agency or individual for removal of a public tree, written notice shall be given to any affected property owner, specifying the exact nature of the hazard or danger and the date, time and location of the meeting of the Tree Board when the matter will be considered.
  - b. Trees shall be replaced to mitigate the loss of the removed tree(s).
  - c. No city tree shall be removed by a private party without the express written approval of the City Tree Board.
  - d. Mitigation is required if a public tree is removed, injured or otherwise damaged by a private party. A qualified representative of the Tree Board shall determine mitigation value, or the City will require a replacement. All or a portion of this mitigation may be met by planting replacement trees on or offsite as determined by the Tree Board and as set forth in the City's Tree Board Comprehensive Plan, the terms of which are incorporated by reference as if fully rewritten herein.
2. Any public tree on which there is no green vegetation visible during growing season shall be considered to be dead and may be removed with proper documentation and notice to the Tree Board.

#### **SECTION FOURTEEN - PENALTY CLAUSE**

One who violates any provision of this Ordinance may be subject to a fine of not less than \$25 or more than \$500.

**SECTION FIFTEEN - SEVERABILITY.**

If any provision of this Ordinance is deemed by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Ordinance shall continue in full force and effect.

**SECTION SIXTEEN - REPEALER CLAUSE**

Any and all parts of Ordinances now in effect which conflict with Ordinance are hereby repealed. This Ordinance is intended to, and does, repeal in its entirety former City of Russellville Ordinance 97-1.

**SECTION SEVENTEEN - EFFECTIVE DATE.**

This Ordinance shall become effective upon publication.

**FIRST READING WAS CONDUCTED February 3, 2004.**

**SECOND READING BEING CONDUCTED on the 2<sup>nd</sup> day of March, 2004.**

Ayes: Barrett, Ken; Bell, Patricia; Hankins, Jean; Jones, Russell; Sweatt, Marie; Wren, Howard

Nays: none

Abstaining: none

Absent: none

  
SHIRLEE YASSNEY, MAYOR

ATTEST:

  
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**From:** "C. Robert Hedges" <rhedges@bellsouth.net>

**To:** "Jan Robbins" <asstclerk@vci.net>

**Subject:** Tree Ordinance Summary

All attac

Attached is Tree Ordinance Summary you requested.

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Attachment 2: Summary of 2004-01 (Tree Ordinance).doc (34KB) 0-1 a

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Encoding: base64

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The City Council of Russellville, Kentucky, has enacted Ordinance 2004-01 entitled "AN ORDINANCE RELATING TO THE MAINTENANCE AND PROTECTION OF THE TREES ON PUBLIC PROPERTY; PROVIDING DEFINITIONS; ESTABLISHING A COMPREHENSIVE PLAN AND TREE BOARD WITH CITY COUNCIL REVIEW/APPEALS; PROVIDING RULES AND REGULATIONS REGARDING TREES; PROVIDING FOR A REPEALER CLAUSE, SEVERABILITY CLAUSE, PENALTY CLAUSE AND AN EFFECTIVE DATE".

In accordance with KRS 83A.060(9), the undersigned, a licensed, practicing attorney in the Commonwealth of Kentucky, summarizes this Ordinance as follows:

This Ordinance provides for Definitions, a Comprehensive Tree Plan, creation and establishment of a City Tree Board with a term of office for Board members, and further provides for Board members' compensation (none), duties, responsibilities, and operating rules for the Board.

This Ordinance further sets forth the procedure for Appeal of Tree Board decisions to the City Council of Russellville, Kentucky; the Ordinance provides for emergency tree removal and maintenance; the Ordinance establishes an annual \$25 Arborist Licensing Bond; the Ordinance regulates Tree Pruning and Maintenance; Tree Topping; and Tree Removal.

One who violates this Ordinance may be given a penalty of neither less than \$25 nor more than \$500.

This Ordinance repeals prior City Ordinance 97-1 in its entirety, and it contains a Severability clause.

The full text of this Ordinance is available for copying and inspection at City Hall, Russellville, Kentucky, during normal business hours.

The City Council of Russellville, Kentucky enacted this Ordinance after a first reading conducted on February 3, 2004 and a second reading conducted on March 2, 2004.

This Ordinance is in effect immediately upon publication.

**CERTIFICATION OF COUNSEL**

I hereby certify that the foregoing is an accurate summary of City of Russellville Ordinance 2004-01.

C. Robert Hedges  
Russellville City Attorney



**CITY OF RUSSELLVILLE**  
**COMPREHENSIVE TREE PLAN**

Since 1998 the National Arbor Day Foundation has recognized the City of Russellville as a "Tree City USA". This designation underscores the City's efforts to plant and maintain trees throughout the community. The City Council has further recognized the value of trees by enacting a Tree Ordinance (Ordinance 97-4, replaced by Ordinance 2004-1), which establishes a Tree Board. This Comprehensive Plan is in addition to the Tree Ordinance, pursuant to Section Two of said ordinance; shall be reviewed on an annual basis; and may, from time to time, be amended and expanded as conditions warrant. A goal of the City of Russellville, through its Tree Board, is to cause to be prepared and maintained an inventory of all trees located on public property within the City.

**SECTION ONE – DEFINITIONS:**

- A. "Certified Arborist" shall mean someone who has passed the International Society of Arboriculture's extensive certification exam covering all aspects of tree care in addition to the education and experience required to receive the certification.
- B. "City Tree Official" is the Certified Arborist employed by the City to implement this Plan. The City Tree Board shall act as the City Tree Official until such time as a Certified Arborist might be available.
- C. "Community Urban Forest" shall mean the aggregate of public and private trees and plants located within the City.
- D. "City Tree" or "Public Tree" shall mean any tree located on property either owned by the City of Russellville, including Street Trees as defined in the Ordinance, or through which the City of Russellville has a right-of-way or easement.
- E. "Danger Tree" shall mean any tree with a combination of structural defect and/or disease that makes its subject to a high probability of failure according to the current International Society of Arboriculture's Tree Hazard Evaluation Standards for Hazard Tree Rating, and a proximity to persons or property that is immediately threatening.

- F. "Heritage Tree" shall mean a tree or stand of trees that is particularly desirable, because it has valued, unique characteristics that set it apart from other similar trees. Valued, unique characteristics include uncommon genus, species, form, size, location, historic significance or other desirable features.
- G. Trees are classified by size as follows:
1. "Large tree" shall mean any tree species which normally attains a mature growth in excess of fifty (50) feet.
  2. "Medium tree" shall mean any tree species which normally attains a mature growth between twenty-six (26) feet and fifty (50) feet.
  3. "Small tree" shall mean any tree species which normally attains a mature growth under twenty-six (26) feet.

#### SECTION TWO – APPLICABILITY:

The provisions of this Section shall apply to the planting, maintenance, removal, preservation and protection of all public trees and plants as defined in this Plan. Planting of trees and plants shall be considered in all City construction and land use projects. The City Tree Board shall participate in the development of maintenance programs and all tree removal and planting, subject to the following:

- A. Trees and plants on City park lands managed by the City Parks and Recreation Departments shall also be subject to review and approval by the Parks and Recreation Director.
- B. Trees and plants on lands managed by the City for storm water management and street purposes shall also be subject to review and approval by the Director of the Street Department.
- C. Trees and plants on lands included in the City cemeteries shall also be subject to review and approval by the Sexton.

#### SECTION THREE – TRIMMING OF ROOTS:

Dealing with sidewalks and tree roots that are already tangled can be a difficult matter. The solution may require compromises, such as narrowing the sidewalk, jogging the curb or sidewalk around the tree, using pavers and/or grates, or accepting an uneven surface. Because there are so many solutions of this problem, each situation will be individually reviewed and dealt with.

together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet.

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three size classes referred to in Section One (G) of this Plan, and no tree may be planted closer to any curb, street or sidewalk than the following: small trees, two (2) feet; medium trees, four (4) feet; and large trees, eight (8) feet. New or replacement trees may be planted closer to the curb, street or sidewalk than the above standards only after the Tree Board has approved a written request after consideration of the specific circumstances of the application.

No Street Tree shall be planted closer than twenty (20) feet to any street corner, measured from the point of the nearest intersection curbs and curb lines.

No Street Tree shall be planted closer than ten (10) feet to any fire hydrant.

#### SECTION SIX – REMOVAL OF STUMPS:

All stumps of City trees shall be removed below the surface of the ground so that the top of the stump shall not project about the surface of the ground.

#### SECTION SEVEN – TREE PROTECTION:

- A. Authorization must be given by the Tree Board before anyone:
  - 1. Attaches or installs any metal materials, cables, wires or other objects foreign to the natural structure of trees;
  - 2. Excavates into the root zone within the drip line of any public tree; or
  - 3. Treats the soil within the root zone of any public tree with a sterilant.
- B. No person shall abuse, destroy or mutilate any public tree. This includes breaking stakes of supports to the tree, or causing or encouraging any burning near of around the trunk. No person shall deface or injure a public tree by attaching any sign or notice, nails, screws or other such devices to it.
- C. Public trees shall be protected at all times during construction.
- D. Violation of the provisions of this Plan shall be subject to the penalties set forth in Section Fourteen of Ordinance 2004-01.