

ORDINANCE NO. 488-1992

AN ORDINANCE OF THE CITY OF DRY RIDGE, KENTUCKY, RELATING TO THE PROTECTION OF TREES ON PUBLIC PROPERTY WHICH SERVE THE PUBLIC INTEREST BY PROVIDING OXYGEN, STABILIZATION OF THE SOIL, PREVENTION OF EROSION, SHELTER FOR WILDLIFE, CONSERVATION OF ENERGY BY PROVIDING SHADE, FILTERING AIR AND ADDING TO THE BEAUTY AND BETTERMENT OF THE CITY OF DRY RIDGE, KENTUCKY.

WHEREAS, trees provide a setting with a variety of color unsurpassed in shade and hue;

WHEREAS, trees are invaluable and a physiological counterparty to the man-made urban setting;

WHEREAS, trees absorb a high percentage of carbon dioxide and return oxygen, a vital ingredient to life;

WHEREAS, trees are a valuable asset that can affect an area economically;

WHEREAS, the City Council of the City of Dry Ridge, Kentucky has determined that the protection of trees on public property within the City of Dry Ridge is not only desirable, but essential to the present and future health, safety and the welfare of all citizens; and

WHEREAS, the City Council of the City of Dry Ridge, Kentucky recognizes that trees on public property are valuable contributors to the city's environment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRY RIDGE, KENTUCKY, FOR AND ON BEHALF OF THE CITY AS FOLLOWS:

Section 1. Definitions

A. Street Trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or right-of-ways within the City of Dry Ridge.

B. Park Trees: "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City of Dry Ridge or to which the public has free access as a park.

Section 2. Creation and Establishment of a City Tree Board

There is hereby created and established a City Tree Board for the City of Dry Ridge, Kentucky, which shall consist of seven members being citizens and residents of the City of Dry Ridge, Kentucky, who shall be appointed by the Mayor upon the approval of the Dry Ridge City Council.

Section 3. Term of Office

The term of the seven persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first Board shall be for one (1) year only, and the term of two of the members appointed to the first Board shall be for two (2) years only, and the remaining three members appointed to the first Board shall be appointed to a term of three (3) years. In the event of a vacancy during the term of any member, his successor shall be appointed for the unexpired portion of the term.

Section 4. Compensation

Members of the Board shall serve without compensation.

Section 5. Duties and Responsibilities

It shall be the responsibility of the Board to study, investigate, counsel, develop and annually update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan is to be presented annually to the Dry Ridge City Council and, upon their acceptance and approval, shall constitute the official comprehensive tree plan for the City of Dry Ridge, Kentucky.

The Board, when requested by the Dry Ridge City Council, shall consider, investigate, make findings, report and recommend upon any special matters of concern or question coming within the scope of its work, duties and responsibilities.

Section 6. Operation

The Board shall choose its own officers, make its own rules and regulations and keep a journal, record or minutes of its findings. A majority of the members of the entire Board shall be a quorum for the transaction and conduct of business.

Section 7. Street Tree Species to be Planted

The Tree Board will formulate an official Street Tree species list for the City of Dry Ridge, Kentucky. The list of allowable species shall be broken down into categories of small, medium and large trees. No species other than those included upon this list may be planted as Street Trees without written permission of the City of Dry Ridge Tree Board.

Section 8. Spacing

The spacing of street trees shall be in accordance with the three species classifications referred to within Section 7 of this ordinance; and no trees may be planted closer together than the following: small trees -- 30 feet; medium trees -- 40 feet; and large trees -- 50 feet, except in special plantings so designed or approved by a landscape architect.

Section 9. Distance from Curbs, Sidewalks and Powerlines

The distance trees may be planted from curbs or curblines and sidewalks shall be in accordance with the three species size classification listed in Section 7 of this ordinance, and no tree shall be planted closer to any curb or sidewalk than the following: small trees -- 2 feet; medium trees -- 3 feet; and large trees -- 4 feet. Small trees only shall be planted within 15 feet of powerlines.

Section 10. Distance from Street Corners and Fireplugs

No street tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curblines; and no street tree shall be planted closer than 10 feet of any fireplug.

Section 11. Public Tree Care

The city shall have the right 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 insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City 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, water lines, or any other public improvements or which is affected or infected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners provided, however, that the selection and location of said trees is in accordance with Section 7 through 11 of this ordinance.

Section 12. Tree Topping

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. Top-

ping 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 certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance upon the determination of the City Tree Board.

#### Section 13. Pruning, Corner Clearance.

Every owner of any tree overhanging any street or right-of-way within the City of Dry Ridge 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 (8) feet above the surface of the sidewalk, street or right-of-way. Said owners shall remove all dead, diseased or dangerous trees or broken or decaying limbs which constitute a menace to the safety of the public. 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 which interferes with visibility of any traffic control device or sign.

#### Section 14. Dead or Diseased Tree Removal on Private Property

The city shall have the right to cause the removal of any dead or diseased trees on private property within the limits of the city when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The City Tree Board shall notify in writing the owners of such trees requiring removal under this section of this ordinance. Any removal shall be done and effected by the said owners at their own expense within sixty (60) days after the date of service of the written notice referred to herein. In the event a noticed owner fails to comply with the removal provisions herein, the city shall so have the right and authority to remove such trees and charge the cost and expenses of such removal being a lien upon the person of the owner/owners and a lien upon the real property upon which said tree/trees be situated which lien may be enforced and collected by permitted legal action and, further, the cost and expenses of removal shall be listed and included upon the owner's tax bill for the year of removal and so paid by the owner in addition to taxes listed thereupon.

Section 15. Interference with City Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents, servants or employees while engaged in or about the planting, cultivation, mulching, pruning, spraying or removal of any street trees, park trees, or trees on public grounds as authorized within this ordinance.

Such interference or other unlawful action of any person enumerated above, shall constitute a Class B misdemeanor having a fine of \$250.00, confinement in the county jail for 90 days, or both confinement and fine.

Section 16. Arborists License 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 limits of the City of Dry Ridge, Kentucky, without first applying for and obtaining a separate permit or license for such activity which license/permit shall be in addition to the occupational license/permit required of the city for business and activities engaged in within the incorporated limits of the city pursuant to due ordinance of the city.

The arborist license/permit referred to herein shall be applied for annually at a cost of \$28.00 paid to the Clerk of the City of Dry Ridge at the time such application is made upon the form provided by the city clerk; and such applicant for an arborist license/permit shall file evidence that such applicant has current and continued insurance coverages issued by insurance companies licensed to write and issue policies of insurance within the Commonwealth of Kentucky with the applicant having insurance coverages in the minimum amounts of \$25,000.00 for bodily injury and \$25,000.00 for property damage indemnifying the City of Dry Ridge and any person who may be injured or suffer damages resulting from the conduct, activities and the pursuits of the applicant.

The herein requirements of separate arborist license/permit and insurance coverages shall not apply to employees, assigns and agents of the City of Dry Ridge nor to any public service company doing such work in the pursuit of their public service endeavors or city employment.

Section 17. Review by the Dry Ridge City Council

The Dry Ridge City Council shall have the right and authority to review the con-

duct, acts, actions, determinations and decisions of the City Tree Board. Any person may appeal from any ruling, decision, entry or order of the Tree Board to the Dry Ridge City Council who may hear the matter and make the final determination.

Such appeals shall be in writing made within 30 days of the date of the entry, decision or ruling of the City Tree Board. Such appeal shall be filed with the Dry Ridge City Clerk, state the reasons or grounds for the appellant's grievance or complaint and have attached thereto a photocopy duplicate of the City Tree Board's entry, decision or order giving rise to an appeal. Upon receipt of the foregoing, the clerk shall note thereon, the date and time of receipt and notify the Mayor and the members of the Dry Ridge City Council of such appeal. Thereafter, the matter shall be set for a public hearing within thirty (30) days of the receipt of the appeal, or set upon the agenda at council's next, Regular Meeting or upon the agenda of a Special Meeting called to hear the matter raised by an appeal. Within thirty (30) days of the date of the hearing set for hearing an appeal, council shall, in writing, make its decision and ruling which shall be deemed a final order allowing all parties in interest and having standing to take an appeal of the decision of council to the circuit court as provide by law and statute.

#### Section 18. Penalties

Any person violating any provisions of this ordinance except as heretofore provided for in Section 15 hereof, shall be subject to a fine of \$500.00, confinement in the county jail for a term of 12 months, or at both confinement or fine.

#### Section 19. Severability of Provisions

The provisions of this ordinance are deemed and declared to be severable and if any section or part hereof be found to be unconstitutional or unenforceable by entry of a court having jurisdiction, the parts or portions hereof not found to be unconstitutional or unenforceable, shall remain in full force and effect and duly enforced by the City of Dry Ridge, Kentucky.

#### Section 20. Effective Date of Ordinance

This ordinance shall be come effective when the same is duly ordained and en-

acted according to law.

First Reading: September 14, 1992

Second Reading: October 5, 1992

PASSED, APPROVED, ORDAINED AND ORDER PUBLISHED THIS THE 5th DAY OF  
OCTOBER, 1992.

  
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NORMAN FERGUSON, MAYOR

ATTEST:

  
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CINDY L. HARRIS, CITY CLERK