

CITY OF KINGSLEY, KENTUCKY
ORDINANCE NO. 5, SERIES 2018

AN ORDINANCE REGULATING THE REMOVAL AND PRUNING OF TREES
AND OTHER PLANTS

WHEREAS, the Mayor and Commissioners of the City of Kingsley, Kentucky, have the authority to enact Ordinances relating to the City pursuant to KRS 82.082, and

WHEREAS, the Mayor and Commissioners of the City of Kingsley, Kentucky, desire to insure the health, safety, conservation, and protection of the city's natural resources, and

WHEREAS, a well-managed community forest functions to the benefit of the community as an integral component of the public infrastructure, and provides benefits to all community citizens with respect to air quality, stormwater management, temperature amelioration, property values, community aesthetics and general quality of life,

NOW THEREFORE, be it ordained by the City of Kingsley that:

SECTION 1. PURPOSE

1.1 The City Commission of the City of Kingsley finds and declares that the purpose of this ordinance is to:

- (1) provide for the protection and management of the city's urban forest,
- (2) promote the use of trees in the conservation of energy, the reduction of noise pollution, and the mitigation of air quality degradation,
- (3) promote the use of trees in the protection and enhancement of property values and the general quality of life in the city.

1.2 Accordingly, the City Commission of the City of Kingsley finds it necessary to implement regulations that protect existing trees, aesthetics, ambiance, property values, and the health, safety and welfare of its citizens.

SECTION 2. REPEAL OF PRIOR ORDINANCES

2.1 The City Commission of the City of Kingsley does hereby repeal the following ordinances related to the removal of trees:

- (1) Ordinance #6, Series 2002; Ordinance #4, Series 2004; Ordinance #1, Series 2009

SECTION 3. TREE REMOVAL FROM EASEMENTS

3.1 Any property owner or person intending to remove from the front or side easement abutting the property a tree (or trees) greater than or equal to fifteen (15) feet in height, or any tree (or trees) of any height that is a replacement for a former easement tree that had itself been subject to the replacement requirements of this ordinance, shall comply with the following:

3.2 Pre-Removal Requirements

- (1) Any property owner or person intending to remove a tree (or trees) that is subject to the provisions of 3.1 shall first submit, on forms provided by the City, a written application, together with a refundable deposit of three hundred dollars (\$300), to a member of either the City Tree Board or the City Commission. Only one application and one deposit are required for all trees to be removed at the same time.

3.3 Post-Removal Requirements

- (1) Unless otherwise specified, the following requirements shall be met immediately after the removal of any tree (or trees) in easements, at the property owner's expense:
 - (a) All debris related to tree and tree stump removal shall be removed.
 - (b) All tree stumps greater than or equal to six (6) inches in diameter shall be completely ground out. Tree stumps less than six (6) inches in diameter shall be removed or cut to ground level.
 - (c) A hole left by the stump removal shall be filled in with sufficient topsoil to restore the grading and drainage of the area.
- (2) Unless otherwise specified, the following requirements shall be met within nine (9) months of the removal of any tree (or trees) in easements, at the property owner's expense:
 - (a) If the tree stump is removed from a lawn area, the part of the lawn where the stump was removed shall be reseeded or otherwise replanted.
 - (b) Any property owner or person who removes a tree (or trees) that is subject to the provisions of Section 3.1 shall plant a replacement tree (or trees) whose height is a minimum of six (6) feet as measured from the soil line.

3.4 Additional Responsibilities

- (1) The property owner or person removing a tree (or trees) is responsible for ensuring that the existing drainage, sidewalk, curb, or street is not disturbed or damaged in any way by such tree removal.

SECTION 4. TREE PRUNING

- 4.1 Tree pruning is defined as the selective trimming, cutting, or sawing of tree limbs or branches for the purpose of public safety, tree health, and/or aesthetic appearance of the tree.
- 4.2 All debris related to tree pruning shall be immediately removed.
- 4.3 No permit is required for tree pruning

SECTION 5. DEAD AND DYING TREES

- 5.1 Any tree, shrub, groundcover, or other plant (or any portion thereof), whether growing or standing on private property or an abutting easement, which is dead, diseased, harbors insects, and/or presents a safety hazard, shall constitute a public menace and must be removed. Such removal must comply with all applicable provisions of this ordinance.

SECTION 6. CLEARANCE OVER STREETS AND SIDEWALKS

- 6.1 Trees shall not obstruct a motor vehicle's view of an intersection.
- 6.2 Any tree with branches overhanging any street, sidewalk, or right of way shall be pruned by the resident to a clearance of twelve (12) feet above street surface and eight (8) feet above the sidewalk surface.

SECTION 7. DAMAGE TO PUBLIC PROPERTY

- 7.1 Any damage to the existing drainage, curbs, sidewalks, streets or other public property occurring in the performance of any tree removal or pruning shall be properly repaired at the property owner's expense within 120 calendar days.

SECTION 8. PENALTIES

- 8.1 Failure to comply with any provision of this ordinance shall constitute a civil violation, and such civil violation is punishable by a fine of one hundred dollars (\$100.00).
- 8.2 The notice of penalty shall be served in writing via U.S. mail. The notice shall be mailed to the property owner at the last known address of the owner of property as it appears on the current tax assessment roll. Such notice shall describe in reasonable detail the civil violation allowed to occur on, in, or originate from the property, shall advise the amount of the fine, and shall demand payment within 30 days of date of notice.
- 8.3 If attorneys' fees and/or costs are incurred by the City in enforcement of this ordinance, the violator shall be responsible for all attorneys' fees and/or costs.

SECTION 9. UNPAID DAMAGES AND FINES

- 9.1 Any unpaid damages that become a cost to the City, and/or any fines unpaid, shall become a lien against the property, and the City may also add the cost of filing and recording the lien.

SECTION 10. APPEALS

- 10.1 Any action taken by the City Commission to enforce this ordinance may be appealed to the City Commission by any person cited hereunder. Such appeal must be in writing, stating with specificity the grounds of the appeal. The appeal must be filed with the City Clerk or a member of the City Commission within the same time allowed for abatement or payment of fine, which shall not be less than thirty (30) days. Extensions are not allowed. Such appeal shall be heard by the City Commission within sixty (60) days of its filing. While such appeal is pending, notices of fine and/or abatement related to the specific offense for which the appeal has been filed may be held in abeyance, but only if a cash bond is posted with the City Treasurer in the amount of the fine. An aggrieved party may appeal an adverse and final written decision of the City Commission to a Kentucky court of competent jurisdiction within thirty (30) days after the final decision has been mailed to the aggrieved party. The date of mailing shall appear on the face of the final decision and it shall be mailed on that date.

SECTION 11. SEVERABILITY

- 11.1 If any provision, clause, sentence, paragraph, or phrase of this ordinance or the application thereof to any person or circumstance is held, for any reason by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of other provisions or applications of the provisions of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable. The City Commission of the City of Kingsley declares that it would have passed this ordinance, and every section, subsection, sentence, and clause thereof, irrespective of the fact that any one or more sections, subsections, sentences, or clauses were to be held invalid or unconstitutional by such court.

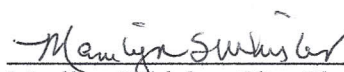
This ordinance shall take effect immediately upon its passage and publication.

First reading: 10/4/18 Second reading: 11/1/18

Passed and approved this the 1st day of November, 2018


Rebecca Beld, Mayor, City of Kingsley

Attest:


Marilyn Whisler, City Clerk, City of Kingsley