

**CITY OF AUDUBON PARK, KENTUCKY  
ORDINANCE NO. 8, SERIES 2019**

**AN ORDINANCE UPDATING THE CITY OF AUDUBON PARK CODE OF  
ORDINANCES RELATING TO THE PROTECTION OF PUBLIC TREES, URBAN  
FOREST, TREE CANOPY, AND ENVIRONMENTAL INFRASTRUCTURE**

**SPONSORED BY:  
COUNCIL MEMBERS ANDREW KLUMP AND JENNIFER KLEIER**

**WHEREAS**, the urban forest of the City of Audubon Park is its most precious natural resource, central to the health and safety of the community;

**WHEREAS**, the citizens of the City of Audubon Park share in the benefits of its forest's natural beauty, shade, oxygen replenishment, and wildlife habitat, as well as in the risks and hazards posed by damaged, unhealthy, or declining trees;

**WHEREAS**, the shared values and burdens of the citizens of the City of Audubon Park constitute a common interest, expressed in this Title by means to preserve and enhance a common good;

**WHEREAS**, the citizens of the City of Audubon Park commit themselves to high common standards of forest preservation, management, and replenishment throughout the City; and

**WHEREAS**, the City of Audubon Park has the right to plant, prune, maintain and remove public trees 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.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF AUDUBON PARK,  
KENTUCKY:**

**PART I:** Section 1 of Ordinance Number 008, Series 2002, enacted on November 18, 2002 and entitled "An Ordinance Establishing Procedures for the Protection and Preservation of the Forest and Making Corresponding Amendments to the Code of Ordinances" is amended as follows:

**Sec. 3-4.01 General**

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(b) The offices of Clerk and Treasurer may be consolidated and the offices of Assessor, and City Engineer and City Forester are to be filled at the discretion of the Mayor. Pursuant to Title \_\_\_\_\_. Sec. \_\_\_\_\_ - 4.01, upon recommendation of the Forest Board, the Mayor shall appoint an individual as City Forester, with the advice and consent of the Legislative Body.

**PART II:** Section 2 of Ordinance Number 008, Series 2002, enacted on November 18, 2002 and entitled “An Ordinance Establishing Procedures for the Protection and Preservation of the Forest and Making Corresponding Amendments to the Code of Ordinances”, which Section 2 is entitled, “Title X: Forest Management Code”, is hereby repealed in its entirety. A new Title of the Code of Ordinances for the City of Audubon Park is hereby enacted as follows:

## **CHAPTER 1. GENERAL PROVISIONS**

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### **Section 1.1. Short Title.**

This enactment will be known and may be cited as the “City of Audubon Park Forest Code.”

### **Section 1.2. Authority.**

This Title is enacted pursuant to the City of Audubon Park’s general police power; and all other state and local laws applicable to this Title.

### **Section 1.3. Definitions.**

For the purposes of this Title, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms not otherwise defined herein shall be interpreted first by reference to the Louisville Metro Land Development Code and the Code of Ordinances for the City of Audubon Park, Kentucky (“**City**”) if specifically defined therein; then according to common usage, unless the context clearly indicates otherwise.

**APPROPRIATE INSURANCE.** Current and continued insurance coverage issued by an insurance company licensed to write and issue policies of insurance within the Commonwealth of Kentucky, with the applicant applying for a permit under Chapter 6 of this Title having insurance coverage in the minimum amounts of \$300,000.00 for bodily injury and \$1,000,000.00 for property damage, per occurrence, and indemnifying the City and any person who may be injured or suffer damages resulting from the conduct, activities, and the pursuits of the applicant, and Worker’s Compensation insurance for all agents or employees of the service provider in the amounts required by law. The Certificate of Insurance presented to the City must list the Certificate Holder as “City of Audubon Park, 3340 Robin Road, Audubon Park.” Appropriate Insurance requirements shall not apply to employees, assigns, and agents of the City nor to any public service company doing such work in the pursuit of their public service endeavors or City employment.

**CALIPER.** The diameter in inches of a tree trunk taken six inches (6”) above the ground for up to and including four inch (4”) caliper size, and twelve inches (12”) above the ground for larger sizes.

**CERTIFIED ARBORIST.** An arborist certified by the International Society of Arboriculture.

**CITY FORESTER.** The City official appointed by the Mayor and confirmed by the Legislative Body pursuant to Chapter 4 of this Title.

**COMPACTION.** The process of compressing soil structure by foot or vehicle or by construction such that existing roots of a tree are damaged and roots can no longer penetrate soil to support growth and maintain health.

**CRITICAL ROOT ZONE.** The minimum area surrounding a tree considered essential to support its viability. The dimensional measurement of the Critical Root Zone is equal to a radius of one foot (1') per one inch (1") of trunk DBH (defined below). Thus, in the instance of a twenty inch (20") DBH tree, the tree's Critical Root Zone would consist of a twenty foot (20') radius projecting in all directions from the tree as measured from the center of its trunk; or in terms of full diameter, a critical root zone of a forty foot (40') diameter spread across the full root system of the tree.

**DBH (Diameter at Breast Height).** The main stem of a tree trunk measured in inches at a height of four and one-half feet ( $4 \frac{1}{2}$ ') above the natural grade of the ground at its base. Whenever a branch, limb, defect or abnormal swelling of the trunk occurs at this height, the DBH shall be measured at the nearest point below four and one-half feet ( $4 \frac{1}{2}$ ') at which a normal diameter occurs. If a tree splits into multiple trunks below four and one-half feet ( $4 \frac{1}{2}$ '), then the trunk is measured at its most narrow point beneath the split. In determining the DBH for purposes of calculating the value of a tree which has been illegally cut or removed, DBH shall be the top diameter of the stump less than four and one-half feet above the ground.

**DEAD (TREE OR LIMB).** A tree or tree limb that is dead or has been damaged beyond repair or where insufficient live tissue, green leaves, limbs, or branches exist to sustain life.

**DESTROYED TREE.** A tree which through an intentional or negligent act or lack of protection is more likely than not to die within a period of five years, as determined by a Certified Arborist employed or retained by the Forest Board.

**DYING TREE.** A tree in an advanced state of decline because it is injured, diseased, or infested by insects and cannot be saved by reasonable treatment or Pruning, or must be removed to prevent spread of infestation or disease to other trees, or is likely to become a danger.

**FOREST BOARD.** Those individuals appointed by the Mayor and confirmed by the Legislative Body pursuant to Chapter 2, Section 1 of this Title.

**IMMINENT THREAT.** Sudden and unexpected instability or collapse of a tree or major limb that may cause harm to persons or property, or block vehicular traffic, which requires

professional equipment to move, and is approved by the City police as an “imminent threat.”

**PROPER ARBORICULTURAL PRACTICES.** A reference to the methods employed during tree planting or cutting or removing any part of the branching structure of a plant in the crown, trunk, or root areas in accordance with the most recent edition of the American National Standards Institute (ANSI) “A-300 Standards” and published “Best Management Practices” of the International Society of Arboriculture.

**PROPERTY OWNER.** Any person who is the owner of record of real property located within the City, as well as any person who is an Owner within the meaning of Title 1, Chapter 1, Section 1-1.010(j) of the Code of Ordinances for the City.

**PRUNING.** The removal or reduction of parts of a tree which are not requisite for growth or production, or are injurious to the health or development of a tree.

**PUBLIC TREE.** A tree with a base wholly, or in part, situated on City owned or controlled land or in public rights-of-way controlled by the City, excluding parks and parkways that are under the jurisdiction of Louisville Metro Parks or other governmental jurisdictions.

**PUBLIC TREE NUISANCE.** Causing or suffering any tree, stack, or other object to remain standing upon any premises within the City in such condition that it shall, if the condition is suffered to continue, endanger the life, limb, or property or cause hurt, damage, or injury to persons or property upon the streets or public ways of the City adjacent thereto, by the falling thereof or of parts thereof.

**PUBLIC UTILITY.** An organization that provides a utility service for the use and benefit of the public, including but not limited to electricity, natural gas, water, sewage, storm water, cable, telephone and telecommunications service, and maintains infrastructure for the provision of such service. A Public Utility may be publicly, privately, or cooperatively owned, and may or may not be regulated by the Kentucky Public Service Commission.

**TOPPING.** The severe cutting back of limbs to stubs within a tree’s crown and thus reducing the size of the tree using heading cuts that shorten limbs or branches back to a predetermined crown limit; also referenced as “heading,” “tipping,” “hat racking,” or “rounding over.”

**TREE MAINTENANCE.** Any and all work performed on a tree and any associated costs including, but not limited to watering; structure and safety related Pruning; removing Dead or diseased limbs; treating insect infestations, fungi, diseases and pest control; and removal when a majority of a tree is Dead or is a threat to public health and safety.

**TRENCH OR TRENCHING.** A cut in the ground exceeding twelve feet in length and a

depth sufficient to damage tree roots in the area of the trench.

## **CHAPTER 2. INTENT**

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Trees are declared to be beneficial public resources. To that end, this Title provides for the promotion, management, and redevelopment of the City's urban forest. The first responsibility for maintaining and renewing the forest, however, lies with the individual citizen. It shall be unlawful to remove, top, transplant, damage, poison, or in any other manner destroy or cause to be destroyed any tree in the public ways of the City, or to fail to comply with any other provision set forth herein.

## **CHAPTER 3. FOREST BOARD**

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### **Section 1. Appointment and Constitution.**

- (A) There is hereby established a City Forest Board whose members—each of whom must be a resident or Property Owner—shall be appointed by the Mayor, and confirmed by the Legislative Body.
- (B) The Forest Board shall have no fewer than six (6) members and no more than twelve (12) members. The Mayor shall be an *ex officio* member of the Forest Board, but shall vote only in the event of a tie. A majority of the members of the Forest Board shall constitute a quorum.
- (C) A Forest Board Chairperson (“**Forest Board Chairperson**”) shall be elected by the Forest Board. The Forest Board Chairperson may delegate any duty of the Forest Board to any member or members of the Forest Board. The Forest Board Chairperson shall be elected biennially.
- (D) The Forest Board shall elect such officers as it deems appropriate for its efficient operation, including, at minimum, the Forest Board Chairperson and a recording secretary.
- (E) The Forest Board is subject to the Kentucky Open Meetings and Open Records laws.
- (F) Members of the Forest Board shall serve without compensation.

### **Section 2. Terms.**

Each member of the Forest Board shall be appointed for a term of four (4) calendar years, or until a successor is appointed and qualified; provided, however, that initial terms shall be staggered so that one-third of the members are appointed for two-year terms, one-third of the members are appointed for three-year terms, and one-third of the members are appointed for four-year terms. In

filling vacancies prior to the expiration of the stated term of Forest Board membership, the appointment of a successor shall be for only the unexpired portion of the remaining term.

### **Section 3. Forest Board Meetings.**

The Forest Board shall meet on the second Wednesday of each month at 6:30 PM at City Hall, unless changed by the Forest Board with twenty-four (24) hours public notice, or such other location as shall have been duly designated according to the Kentucky Revised Statutes. Minutes of every meeting of the Forest Board shall be kept and promptly filed with the City Clerk.

### **Section 4. Forest Board Duties.**

(A) The Forest Board shall propose criteria for the approval, or denial of, permits requested pursuant to Chapter 6, Section 1, of this Title and the Forest Board shall propose procedures for submitting applications for such permits that are consistent with Chapter 6, Section 2 of this Title. Such criteria and procedures shall include provisions to preserve and renew the City's forest resources, and shall become effective upon approval by the Legislative Body. Copies of such criteria and procedures shall be made available by the City Clerk without charge.

(B) The Forest Board is established for the following purposes:

- (i) Acting on permit applications submitted pursuant to Chapter 6 of this Title and on potential nuisance conditions or actual Public Tree Nuisances, in consultation with the City Forester as needed;
- (ii) Preparing and maintaining a forest management plan for the City, and submitting to the Mayor annual budget requests to support its implementation;
- (iii) Maintaining awareness of tree health and population diversity;
- (iv) Providing for the education of residents on planting, care, and preservation of trees;
- (v) Organizing, promoting, and overseeing community volunteer activities to further the health and maintenance of the urban forest;
- (vi) Preparing applications for grants and honorifics associated with urban forestry;
- (vii) Advising the Mayor and Legislative Body on matters pertaining to the urban forest;
- (viii) Provide assistance and guidance on matters pertaining to purchasing, planting, Pruning, and tree maintenance; and
- (ix) Such other duties as may, from time to time, be assigned to it by the Mayor.

## **CHAPTER 4. CITY FORESTER**

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### **Section 1. Appointment.**

Upon recommendation of the Forest Board, the Mayor shall appoint an individual as City Forester, with the advice and consent of the Legislative Body.

### **Section 2. City Forester Responsibilities.**

The City Forester shall provide professional counsel to the Forest Board in fulfillment of its forest management and development responsibilities. In particular, the City Forester shall:

- (A) Consult with the Forest Board (i) upon the request of the Forest Board Chair or designee; (ii) upon the request of a majority of the members of the Forest Board; or (iii) when the Forest Board is asked to act on an application pursuant to Chapter 3, Section 4(B)(i) of this Title;
- (B) Endeavor to ensure that any work for which a permit is required under this Title is completed in a professional manner using Proper Arboricultural Practices, and to ensure that the residents, property, and vegetation in the work area will be protected;
- (C) Identify and report to the Forest Board any Public Tree Nuisance, and work with the Mayor and Code Enforcement Officer to initiate a written notice of required abatement to the Property Owner or resident of the property where such Public Tree Nuisance is situated;
- (D) In the performance of the duties assigned to him or her in this section, have the authority to enter upon any lot within the City after providing reasonable notice to the resident and/or Property Owner of his or her intention to do so, the reason for such entry, and the time when such entry shall occur;
- (E) Provide input and recommendations for the City's forest management plan and implementing budget requests prescribed by Chapter 3, Section 4(B)(ii) of this Title, including needs for structural maintenance of existing trees, and preferred sites and species for reforestation; and
- (F) Participate in maintaining awareness of tree health and diversity as prescribed by Chapter 3, Section 4(B)(iii) of this Title.

## **CHAPTER 5. MAINTENANCE OF AND STANDARDS FOR PUBLIC TREES**

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### **Section 1. Maintenance of Public Trees.**

Tree Maintenance of Public Trees shall be the responsibility of the abutting Property Owner.

### **Section 2. Standards for Public Trees.**

- (A) The Forest Board shall establish policies and standards for planting, Tree Maintenance, tree treatment, tree encroachment, and for the removal and replacement of Public Trees. In no event shall the Forest Board require planting a tree larger than one and one-half inch (1.5") in Caliper.
- (B) All Public Trees that are removed, including Public Trees removed by the City, are required to have the stump ground within three months of the removal at the expense of the Property Owner unless the Forest Board provides a written waiver of this requirement. This provision shall not require a Public Utility to grind the stump of a tree removed by the Public Utility, at the request of the Forest Board, from right-of-way not abutting the Public Utility's property.
- (C) All Public Trees that are removed are required to be replaced in accordance with the Forest Board's standards, as prescribed in paragraph (A) of this Section 2, within one year, unless the Forest Board provides a written waiver of this requirement. This requirement shall not apply to exempt activities under Chapter 6, Section 3 of this Title or to public utilities operating under a Public Utility permit agreement with the Forest Board pursuant Chapter 7 of this Title. If the City Forester and the Forest Board Chair agree that a replacement tree cannot be placed in the right-of-way area, then either (i) the one-year timeframe to replace the Public Tree may be extended by the Forest Board Chair, or by a majority vote of the Forest Board, to no more than five years; or (ii) upon the consent of the Property Owner, a replacement tree may be placed on the Property Owner's private property in a location agreed to by the Forest Board Chair, the City Forester, and the Property Owner, in fulfillment of the requirement to replace the Public Tree.
- (D) Without limiting rights pursuant to any easement, only trees that grow to a mature height of at least forty feet (40') or more will be considered for planting within the public right-of-way.
- (E) All driving and parking of vehicles, including construction equipment, that could cause Compaction is prohibited.
- (F) No tree or other item is permitted which causes a Public Tree Nuisance.
- (G) Trenching, including for sidewalks, within the Critical Root Zone is prohibited.
- (H) The Forest Board may, by majority vote, waive any standard or requirement placed on the Property Owner under this Section.

## **CHAPTER 6. PERMITS AND EXCEPTIONS TO PERMIT REQUIREMENTS**

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### **Section 1. Regular Permits.**

(A) A permit shall be obtained from the Forest Board, and issued by the City Clerk, prior to planting, tree maintenance, tree encroachment, tree removal, or replacement of a Public Tree in accordance with this Title, except as stated in Section 3 of this Chapter. Permits involving public utilities are addressed in Chapter 7 of this Title and are not subject to this Section.

(B) Instances requiring a permit:

- (i) Tree Removal. Circumstances in which a permit for the removal of a Public Tree shall be issued include, but are not limited to the following:
  - a. the Public Tree is a threat to public safety;
  - b. the Public Tree is a threat to the health of other trees in the community; or
  - c. If a tree planted after the effective date of this Title is in violation of the policies and standards of the Forest Board, said Public Tree shall be replaced by a tree in compliance with the policies and standards of the Forest Board.

Unless waived by the Forest Board, approval of a tree removal permit will be conditioned upon the replacement of the tree in accordance with the standards of the Forest Board at a location approved by the Forest Board, which may be in a different location than the removed tree. If the permit recipient or Property Owner fails to replace the tree, the Forest Board may fulfill the replacement requirements and recover its costs in doing so from the Property Owner or other entity that removed the tree.

- (ii) Pruning. A permit for the Pruning of a Public Tree shall be issued for Pruning of limbs pruned in accordance with standards set forth by the Forest Board when said limb is:
  - a. Interfering with normal flow of pedestrian traffic;
  - b. Obstructing cross-visability at any street corner or intersection;
  - c. Obstructing visibility of traffic control devices, signals, or permanent signs;
  - d. Touching a home or structure; or

- e. Pruned to remove dead wood in the crown of the tree or pruned to thin the crown when approved by an arborist in compliance with Proper Arboricultural Practices.
- (C) The party seeking the permit shall indemnify and hold harmless the City, its officers and employees, from any loss, liability or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person as a result of the work to be done pursuant to the permit.
- (D) Permits under this Title, other than Public Utility permits under Chapter 7 of this Title, are to be issued by the City Clerk without charge.
- (E) All activity authorized by a permit shall be performed in compliance with the Forest Board standards and Proper Arboricultural Practices.

## **Section 2. The Permit Process.**

- (A) Permit Request. The Property Owner wishing to seek a permit shall call the City Hall Clerk or visit the website for the City in order to obtain and complete a permit application.
- (B) Right of Way Determination. Once a permit application filed, the City's Code Enforcement Officer shall determine whether the subject tree is a Public Tree and thus subject to the provisions of this Title.
- (C) Consultation. If the City Code Enforcement Officer determines that the tree subject to the permit application is a Public Tree, the Forest Board Chairperson or designee shall contact the Property Owner to arrange a time to visit and evaluate the tree, further evaluate the permit application, and, if required by this Title, determine a site for future re-planting and the type of tree to be re-planted.
- (D) Pre-approval Conditioned on Proof of Insurance or Denial. The Forest Board Chairperson or designee, in consultation with the Mayor, shall decide whether to conditionally pre-approve or deny the permit application under the provisions of this Title. Such decision will be provided in writing by the Forest Board Chairperson or designee to the Property Owner and the City Clerk. If the Forest Board Chairperson or designee, in consultation with the Mayor, denies the permit application, the Property Owner may appeal under Section 5 of this Chapter.
- (E) Proof of Insurance. If the permit application is conditionally pre-approved, the Property Owner may engage an entity with Appropriate Insurance to perform the tree service related to the permit. Before the permit may be approved, the Property Owner must first obtain written confirmation from the City Clerk that the entity contracted to perform the tree service related to the permit has Appropriate Insurance.

(F) Issuance. The City Clerk shall issue the permit in writing. Upon issuance, the permit must be displayed at the job site in such a manner that the permit is visible from the street.

### **Section 3. Exceptions to the Regular Permit Process.**

Permits issued under Section 1 of this Chapter shall not be required for:

- (A) Trees that are within the scope of a commercial development plan or landscape plan which has received final approval from the Louisville Metro Planning Commission or authorized committee or staff thereof;
- (B) Actions to be performed by the City, or a contractor for a Louisville Metro Government agency, provided any trees removed as part of these actions are replaced pursuant to the provisions contained herein;
- (C) Emergency repairs by or at the direction of public utility providers that have entered into a public utility permit agreement with a Louisville Metro Government agency; and
- (D) Routine tree watering and mulching.

### **Section 4. Emergency Permit Approval.**

A Property Owner may be eligible for an emergency permit under this Title without complying with the regular permit requirements of Sections 1 and 2 of this Chapter, upon the occurrence of the following:

- (A) A tree is designated by the City police department as an Imminent Threat, as defined in Chapter 1 of this Title;
- (B) The City police department documents and approves an emergency application;
- (C) After the City police is notified and documents and approves an emergency application, a regular permit application is completed under Section 2 of this Chapter within twenty-four (24) hours; and
- (D) The proof of insurance required under Section 2(E) of this Chapter is provided to the City Clerk within forty-eight (48) hours of the completed permit application referenced in paragraph (C).

### **Section 5. Appeals.**

Upon denial of a permit application under the above Sections, the Property Owner may request that the Legislative Body grant a variance to the provisions of this Title under Section 15-2.09 of the Code of Ordinances for the City.

### **Section 6. Posting Permits.**

No work requiring a permit hereunder shall commence until the permit holder or Public Utility shall have posted a permit card in the work area. Such card shall be preserved and remain posted until the work is completed.

## **CHAPTER 7. PUBLIC UTILITY PERMIT AGREEMENTS**

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**Section 1.** Except in the case of emergency repairs, it shall be unlawful for any Public Utility to trim any tree, whether or not located along such Public Utility's right-of-way or easement, without first having met with the City Forester and having obtained a permit to do so. The permit shall be issued in accordance with Section 11-8.01.

**Section 2.** The City may enter into tree permit agreements with Public Utilities for activities involving similarly situated trees or groupings of trees which permit Pruning of trees, directional boring, tree encroachment and/or tree removal, to allow reasonable construction activities or to avoid a threat to the continuous provision of Public Utility services. The permit agreement shall include clearly expressed standards describing the specific situations where Pruning, directional boring, tree encroachment and/or tree removal is permitted to assure reasonable Public Utility construction activities or to avoid a threat to the continuous provision of Public Utility services. Such standards shall not interfere with the Public Utility's obligation or ability to provide service and shall be in accordance with and not prohibit activity consistent with the Public Utility's written Pruning and Trenching specifications reviewed by and filed with the Kentucky Public Service Commission, which shall be submitted to the City, or in the absence of such specifications as mutually agreeable to the City and the Public Utility. The permit agreement shall further include provisions for replacement of public trees that are removed as a result of the Public Utility activities, which may include a fee to be paid periodically to the City for stump grinding, tree replacement and maintenance of trees removed by the Public Utility, in which case the City and not the Public Utility would be responsible for such actions. With respect to any Public Utility providing multiple types of services which by their nature have the potential to affect trees differently, such Public Utility may obtain separate tree permit agreements for each such type of service. Enforcement actions under Chapter 9 of this Title may be taken against any Public Utility with a valid Public Utility permit agreement, or against any employee, agent, or representative of such a Public Utility, only for violation of this Title caused by the gross negligence or intentional actions of the Public Utility, employee, agent, or representative. The Forest Board may charge a Public Utility a fee for the issuance of a permit under this Section, provided that such fee shall not exceed \$2,400 per year. Any entity or person that performs any work on trees as described in this Title, may not park equipment in a manner that may cause Compaction.

## **CHAPTER 8. PROHIBITED ACTIONS TO PUBLIC TREES.**

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### **Section 1. Prohibited Actions.**

Except as expressly permitted pursuant to a permit issued under Chapter 6, Sections 1 and 2

of this Title; as authorized in a Public Utility permit agreement under Chapter 7 of this Title; and exempt activities under Chapter 6, Section 3 of this Title, the following actions shall be prohibited:

- (A) Intentional injury to a Public Tree, including but not limited to carving, defacing, breaking, using climbing spikes or irons (except for purposes of permitted tree removal), burning, attaching ropes, wires, insulators, nails, screws, chains, posters, signs, or other objects, disturbing or interfering with the root system, or allowing any harmful gaseous, liquid, chemical, or solid substance to come into contact with any portion of a Public Tree;
- (B) Endangerment of a Public Tree by the creation of or the allowing of the existence of situations which endanger Public Trees, as defined in the Forest Board's policies and standards;
- (C) Topping, severely Pruning, or otherwise disfiguring, any Public Tree;
- (D) Pruning a Public Tree for the purpose of increasing visibility of commercial outdoor signage, off-premise advertising, or building facades;
- (E) Destruction of a Public Tree by causing its physical removal by any means or causing its effective removal by any means which creates a situation that will more than likely lead to the imminent Death of a Public Tree;
- (F) Changing the natural surface grade within the drip line of a tree;
- (G) Excessive paving or installing of an impervious surface over a substantial portion of the drip line of a tree;
- (H) Substantially changing natural drainage patterns in a manner which would reasonably be expected to kill a tree; or
- (I) All driving and parking of vehicles, including construction equipment that could cause Compaction.

## **Section 2. Administrative Fees for Prohibited Actions.**

If the prohibited action poses a serious threat to the public health, safety or welfare, or if the consequences of continued violation would cause irreparable damage to one or more Public Trees, the Mayor may, without further notice, proceed to abate the condition caused by the prohibited action. In such cases, the Mayor may, in addition to any monetary penalty imposed by this Title, charge the responsible person or persons with the cost of the abatement, including equipment expense and a disposal fee, if any, as well as an administrative fee. The fee schedule for administrative fees shall be approved by the Legislative Body, posted at City Hall, and published on the City of Audubon Park's website.

## **CHAPTER 9. ENFORCEMENT AND PENALTIES**

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### **Section 1. Enforcement.**

- (A) The Forest Board, City Forester, and the City Code Enforcement Officer shall have the right of entry onto all lands within the City at reasonable times for purposes of determining whether a tree presents a Public Tree Nuisance, subject to constitutional restrictions on unreasonable searches and seizures.
- (B) When work or another activity affecting Public Trees is being conducted in violation of this Title, is not authorized by any applicable permits, and poses irreparable damage to trees or threatens public safety, the Code Enforcement Officer and Police are authorized to issue a stop work order requiring the person or entity to cease work until a review of the activity can be conducted by the Forest Board.

### **Section 2. Penalties.**

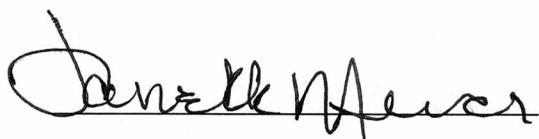
- (A) A violation of this Title shall be classified as a civil offense and public nuisance and shall be enforced as provided in Title VII, Sections 7-2.03, 7-2.05, 7-2.07, and 7-2.09 of the Code of Ordinances of the City.
- (B) The civil penalty for violations under this Title shall be not less than \$50 nor more than \$1,000. Each tree in an offense involving multiple trees shall constitute a separate offense, and each day of a violation that is continuing in nature after a deadline for compliance has passed shall constitute a separate offense but in no case shall the total fine exceed \$10,000.
- (C) The City shall possess a lien on the property of the person committing the violation for all fines, penalties, charges and fees imposed pursuant to this section. The lien shall be superior to and have priority over all other subsequent liens on the property except state, county, School Board, and Louisville Metro Government and City taxes.
- (D) In addition to the foregoing monetary penalties set out in this Section, when a violation of this Title results in the injury, mutilation, or death of a live Public Tree, the cost of repair or replacement, and/or the appraised dollar value of such tree shall be borne by the person who violated the Title.
- (E) In addition to the civil enforcement mechanism provided for the correction of violations under this Title, the City Attorney may institute an action for the recovery of any penalties and costs otherwise authorized in this Title, and bring an action for an injunction against any person violating or threatening to violate any provision of this Title or any standard established by the Forest Board pursuant thereto.

This ordinance was adopted at a meeting of the City Council of Audubon Park, Kentucky, held on the 21st day of October, 2019, having first been read at a meeting of said Council held on the 16<sup>th</sup> day of September, 2019.



TONY WILLIAMS, Mayor

ATTEST:



JANETTE MERCER, City Clerk

Action by the Council:      Aye      Nay      Abstain      Absent

Bozeman				✓
George	✓			
Gorter	✓			
Kleier	✓			
Klump	✓			
Schwenker				✓